



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Regular Meeting - May 5, 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
Mark Thornton, Community Services Director
Paul Reble, Police Chief
Paul Sireci, Police Captain
Janet Cason, City Clerk
William Harrison, Finance Director
John Cole, Chief Planner
John Hanney, Plant Operator IV
George Henderson, Sergeant At Arms
Marilyn McCord, Deputy City Clerk

Sue B. Smith
Craig Dunlap
Werner W. Haardt
Dudley Goodlette
Kim Kobza
Robert Noble
Penelope Taylor
Mary Morgan
Chuck Mohlke
John Paulich, Esq.
George Law
Donald Pickworth

Media:

Eric Staats, Naples Daily News
Traci Griffith, WNOG

Other interested citizens and visitors

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ITEM 1

INVOCATION AND PLEDGE OF ALLEGIANCE

Reverend Susan W. Diamond
First Christian Church

ITEM 3

ITEMS TO BE ADDED

Item 24 Discussion with Supervisor of Elections
Mary Morgan

Item 25 Bid Award - four submersible water
pumps

Item 26 Discuss possibility of contracting for an
engineering study dealing with the
unbilled water matter.

MOTION: To add Items 24, 25 and 26 to the agenda.

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

ITEM 4

ANNOUNCEMENTS

City Manager Woodruff recognized John Hanney III, Plant Operator IV, Wastewater Plant Division, Public Works/Utilities Department, who designed the City of Naples' t-shirt which was entered in the annual "Most Unique T-Shirt" contest held in conjunction with the annual March of Dimes "Walk America" held on April 17, 1993. Mr. Hanney was presented with a certificate and a check for his efforts. Dr. Woodruff thanked everyone who had participated in the "Walk America" event. Almost \$4,000.00 was raised for the March of Dimes.

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

ITEM 19

APPROVAL OF MINUTES

City Council Workshop Meeting April 19, 1993
City Council Regular Meeting April 21, 1993

RESOLUTION NO. 93-6907

ITEM 20

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, BETWEEN THE CITY OF NAPLES AND CHARLES LEE ASSOCIATES, INC. FOR MAINTENANCE AND COLLECTION OF COINS FROM APPROXIMATELY 745 EXISTING PARKING METERS, AND ADDITIONAL METERS WHICH MAY BE ADDED IN THE FUTURE, ON A DAILY BASIS; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 93-6908

ITEM 21

A RESOLUTION RATIFYING AND CONFIRMING ARTICLE 16 AND ARTICLE 27 OF THE CONTRACT BETWEEN THE CITY OF NAPLES AND THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, LOCAL 2017, DISTRICT COUNCIL #79; AND PROVIDING AN EFFECTIVE DATE.

ITEM 23

AUTHORIZATION TO PURCHASE TWO UTILITY REFUSE VEHICLES FROM FLORIDA STATE CONTRACT: REPLACEMENT OF TWO UTILITY REFUSE VEHICLES; PURCHASING THE VEHICLES FROM THE FLORIDA STATE CONTRACT

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ITEM 25

BID AWARD - FOUR (4) SUBMERSIBLE WATER PUMPS WITH MOTORS (BID #93-50) UTILITIES

MOTION: To **APPROVE** the consent agenda, consisting of Items 19, 20, 21, 23, and 25.

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		

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

ORDINANCE NO. 93-6909

ITEM 5

AN ORDINANCE OF THE CITY OF NAPLES, FLORIDA, SUPPLEMENTING ORDINANCE NO. 1451 OF THE CITY ENACTED ON MARCH 5, 1969, AS AMENDED AND SUPPLEMENTED, AUTHORIZING THE REFUNDING OF CERTAIN PRESENTLY OUTSTANDING OBLIGATIONS OF THE CITY; PROVIDING FOR THE ISSUANCE OF NOT EXCEEDING \$6,500,00 PUBLIC SERVICE TAX REFUNDING REVENUE BONDS, SERIES 1993, OF THE CITY TO REFUND SUCH OBLIGATIONS; PROVIDING FOR THE PAYMENT OF THE 1993 BONDS FROM THE PROCEEDS OF THE PUBLIC SERVICE TAX COLLECTED BY THE CITY; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

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Finance Director Bill Harrison reported that this ordinance represented refunding of existing City Debt and would take advantage of current low interest rates. A secondary benefit will be to restructure the existing debt of the Moorings Bay Special Taxing District. Mr. Harrison assured Council that the bond issues had been reviewed by the City's Financial Advisors, Evensen Dodge, Inc. Mr. Craig Dunlap, of Evensen Dodge, Inc., described the bidding process that would take place.

Public Input: None.

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

Anderson		Y
Hermes	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		

RESOLUTION NO. 93-

ITEM 7

A RESOLUTION GRANTING VARIANCE PETITION 93-V8 FROM SUBSECTION 7-4-4(F) (3) (b) OF THE COMPREHENSIVE DEVELOPMENT CODE TO ALLOW A SCREEN ENCLOSURE TO BE ERECTED APPROXIMATELY 6.5 FEET INTO THE REQUIRED 15 FOOT SETBACK FROM THE REAR PROPERTY LINE, AT THE RESIDENCE LOCATED AT 1500 BONITA LANE; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

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Chief Planner John Cole reviewed the request for variance and told Council that both the PAB (Planning Advisory Board) and staff had recommended denial.

Public Input: None.

MOTION: To **DENY** Variance Petition 93-V8.

Council Member Herms said that he would have preferred to table this item.

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

RESOLUTION NO. 93-6910

ITEM 8

A RESOLUTION GRANTING NONCONFORMITY PETITION 93-N FROM SUBSECTION 3-84-2 OF THE COMPREHENSIVE DEVELOPMENT CODE TO ALLOW THE ENCLOSURE OF AN EXISTING SCREENED PATIO WITHIN A REQUIRED REAR YARD SETBACK AT THE SOUTHEAST CORNER OF MERRIMAN'S WHARF RESTAURANT, LOCATED AT 1200 FIFTH AVENUE SOUTH, ON PROPERTY MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner Cole reviewed the item, noting that there would be no increase in seating capacity. Staff had found that the criteria for granting changes to nonconformities had been met and recommended approval. The PAB voted unanimously to recommend approval of the petition request.

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

Anderson		Y
Herms		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		

RESOLUTION NO. 93-6911

ITEM 9

A RESOLUTION GRANTING CONDITIONAL USE PETITION 93-CU7 FROM SUBSECTION 7-4-23 OF THE COMPREHENSIVE DEVELOPMENT CODE, TO ALLOW THE GRACE LUTHERAN CHURCH TO OPERATE A CHILD CARE PROGRAM AT 859 BANYAN BOULEVARD, WITH THE ENROLLMENT OF A MAXIMUM OF 80 CHILDREN, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner Cole reviewed the item, noting that the proposed play area would encroach slightly into the water retention basin. Staff had recommended approval subject to approval by the Engineer of the water retention area. The PAB had recommended approval and complimented the church on its facility. The PAB had suggested that some landscaping be included between the fence between the church and U.S. 41.

Council discussed the need for easements on the church property. Dr. Woodruff stated that he would direct staff in the future to review all petitions on the standpoint of any future needs the City may have.

Council Member Herms requested that a needs analysis be done on the Naples Beach Club property bordering U.S. 41.

Public Input: None.

MOTION: To **APPROVE** Conditional Use Petition 93-CU7 contingent upon the granting of any necessary easements.

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

RESOLUTION NO. 93-6912

ITEM 10

A RESOLUTION GRANTING CONDITIONAL USE PETITION 93-CU6 TO ALLOW THE ARTHUR MURRAY DANCE STUDIO TO OPERATE AT ITS

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PRESENT LOCATION, 1250 TAMIAMI TRAIL NORTH, IN A "HC" HIGHWAY COMMERCIAL ZONING DISTRICT, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING EXPIRATION AND EFFECTIVE DATES.

Title read by City Attorney Chiaro.

Chief Planner Cole reviewed the petition request. Council discussed the changes which had been required by the Fire Department. Council Member Herms requested that discussion of the Fire Code be scheduled for a Workshop Meeting. Council Member Van Arsdale suggested that a handout be designed for people opening a business in the City so that requirements will be clearly understood. Staff was directed to contact the Chamber of Commerce to ascertain whether such a handout is available from their office.

Public Input: None.

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

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

ORDINANCE NO. 93-

ITEM 11

**AN ORDINANCE APPROVING REZONE PETITION 93-R5, REZONING
PROPERTY AT THE SOUTHWEST CORNER OF 3RD AVENUE SOUTH**

**AND 10TH STREET FROM "PD", AS A PORTION OF THE TRAIL'S END
PLANNED DEVELOPMENT, TO "C3", HEAVY COMMERCIAL;
AMENDING THE LEGAL DESCRIPTION OF THE TRAIL'S END
PLANNED DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Item 11 was reviewed by Chief Planner Cole, who told Council that both staff and the PAB had recommended approval of the rezone petition. The requested zoning will be consistent with adjacent properties and with the land use designation for the property.

Public Input: None.

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

Anderson		Y
Hermes		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		

Council Member Korest commented that it was important to provide maximum flexibility for redevelopment efforts, noting that the Trail's End Motel was in the redevelopment area.

NOTE: Mr. John Paulich, III requested that Council reconsider Item 7 because there had been some misunderstanding with regard to the scheduled time of agenda items. Dr. Woodruff said, for the record, that one other petitioner had also questioned the schedule. City Attorney Chiaro suggested that Council reconsider the item and limit the discussion.

MOTION: To reconsider Item 7.

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

BREAK: 10:45 a.m. - 10:50 a.m.

RESOLUTION NO. 93-6913

ITEM 12-a

A RESOLUTION GRANTING VARIANCE PETITION 93-V7 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 ABUT ANY LAND ZONED RESIDENTIAL, IN ORDER TO ALLOW AN ADDITION TO THE REAR OF THE PUBLIX SUPERMARKET IN NAPLES SHOPPING CENTER THAT WILL ENCROACH TO WITHIN 20 FEET OF THE REAR PROPERTY LINE, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner Cole reviewed Variance Petition 93-V7 and Nonconformity Petition 93-N5 (Item 12-b). He explained the proposed changes noting that with regard to the vestibule addition, staff found that the guidelines listed for the expansion of nonconformities had not been met, that a traffic problem could be created and that appropriate walks had not been proposed. Staff therefore recommended denial of Nonconformity Petition 93-N5 (Item 12-b). The PAB also voted unanimously to recommend denial of Petition 93-N5 for the vestibule addition. Mr. Cole informed Council that since the PAB meeting, plans for the vestibule had been revised. He noted that he did not want to diminish the improvements which the applicants had made.

Council discussed the revised plans and suggested minor changes. Architect for the project, Nazar Shaninian of Forsythe Architects, Inc., made the necessary changes on the plans.

Public Input: None.

MOTION: To **APPROVE** Variance Petition 93-V7 based on plans revised on May 5, 1993.

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

RESOLUTION NO. 93-6914

ITEM 12-b

A RESOLUTION GRANTING NONCONFORMITY PETITION 93-N5 TO ALLOW A 500 SQUARE FOOT ADDITION TO THE VESTIBULE OF THE PUBLIX SUPERMARKET LOCATED IN THE NAPLES SHOPPING CENTER AT 1981 9TH STREET NORTH; AND PROVIDING AN EFFECTIVE DATE.

Titles read by City Attorney Chiaro.

Chief Planner Cole told Council that the total square footage of the project will be less than what Council had approved in 1992. With respect to landscaping, Mr. Cole said that difficulties had been encountered because of the Department of Transportation requirements for landscaping in a right-of-way. Council Member Korest requested staff to obtain an update from Net Realty with respect to the landscaping at Naples Shopping Center, and report to Council.

MOTION: To **APPROVE** Nonconformity Petition 93-N5 based on the revised plans dated May 5, 1993.

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		

RESOLUTION NO. 93-

ITEM 13

A RESOLUTION GRANTING VARIANCE PETITION 93-V9 FROM SUBSECTION 8-1-7(2) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH PROHIBITS PORTABLE OR SANDWICH TYPE SIGNS, IN ORDER TO ALLOW A PORTABLE MENU BOARD IN THE SHAPE OF A CHEF TO BE DISPLAYED OUTSIDE OF WYNN'S MARKET, 745 5TH AVENUE SOUTH, DURING THE HOURS THE STORE IS OPEN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

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City Manager Woodruff explained that the PAB had not been opposed to the sign as it is designed, but recommended denial of the variance because currently the City does not have standards for sandwich board signs. In light of the fact that the Third Street Association is currently working on a proposal to allow portable signs, staff suggested that this sign be permitted until such time as regulations are established.

Council Member Korest emphasized the fact that Wynn's Market is in the redevelopment area, an area which is experiencing difficult economic times. Vice Mayor Sullivan commended Wynn's for creating a friendly environment, noting, "The chef sign has become almost a trademark."

Public Input: None.

MOTION: To **CONTINUE** Item 13, to be reconsidered by Council after discussion and establishment of sandwich sign standards at a Workshop Meeting.

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

(7-0)

M=Motion S=Second

Y=Yes N=No A=Absent

RESOLUTION NO. 93-6915

ITEM 14-a

A RESOLUTION GRANTING NONCONFORMITY PETITION 93-N4 TO ALLOW A 1,500 SQUARE FOOT ADDITION TO WYNN'S MARKET, LOCATED AT 745 5TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

City Manager Woodruff pointed out that parking next to Wynn's Market would not be eliminated as a result of the planned expansion. Staff and the PAB agreed that the expansion would not create any adverse impacts and recommended approval. Dr. Woodruff reviewed staff's findings, as follows:

- . No additional retail space will be added.
- . No additional employees will be hired.
- . Wynn's will be adding three more parking spaces, through restriping.
- . The parking analysis done in 1991 by the City indicates that the lot directly behind

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- Wynn's is never more than 40% full.
- . A large percentage of Wynn's business is walk-in delicatessen business, requiring no parking.
 - . The additional kitchen area is required in order to meet State health standards.

Council Member Korest commented, "Frankly, I'd like to see some parking problems on Fifth Avenue. When the area becomes revitalized, perhaps we'll have a parking problem. We're going through a lot here to allow a fairly modest expansion. I hope we can work on something so in the future a business doesn't have to go through such a convoluted path of variances, etc."

The parking situation was discussed and Vice Mayor Sullivan reminded everyone that at one point certain businesses along Fifth Avenue did contribute funds to the purchase of the area which is now a public parking area. Wynn's was one of those businesses, said Mr. Sullivan, which had taken steps to remedy the parking situation.

Public Input: None.

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

Council Member Herms said that in his opinion this was a very confusing issue. He expressed the opinion that there should be some sort of a monetary commitment to a parking garage. Mr. Herms said, however, that he had no problem with the plans.

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

RESOLUTION NO. 93-6916

ITEM 14-b

A RESOLUTION GRANTING VARIANCE PETITION 93-V11 FROM SUBSECTION 7-4-14 (F) OF THE COMPREHENSIVE DEVELOPMENT CODE TO ALLOW A FRONT YARD SETBACK OF 9.9 FEET AND A REAR YARD SETBACK OF 15 FEET FOR AN ADDITION TO WYNN'S MARKET, LOCATED AT 745 5TH AVENUE SOUTH, MORE

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PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

Anderson		Y
Herns		N
Korest		Y
Pennington	M	Y
Sullivan		Y
VanArsdale	S	Y
Muenzer		Y
(6-1)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 93-6917

ITEM 14-c

A RESOLUTION GRANTING CONDITIONAL USE PETITION 93-CU8, APPROVING A PARKING NEEDS ANALYSIS FOR A PROPOSED 1,500 SQUARE FOOT ADDITION TO WYNN'S MARKET, LOCATED AT 745 5TH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner Cole distributed copies of the City's parking needs analysis criteria and told Council that Wynn's had met those criteria. Owner/operator Tim Wynn told Council that he presently rents twenty-five parking spaces from the City and would commit to maintain that number. Mr. Wynn also told Council that neighboring property owners had expressed support for the proposed plans.

Public Input: None.

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

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

MOTION: To **APPROVE** the resolution as presented, based on Wynn's Market's commitment to continue to lease twenty-five parking spaces from the City.

RESOLUTION NO. 93-6917

ITEM 22

A RESOLUTION GRANTING NONCONFORMITY PETITION 93-N2 WHICH AMENDS RESOLUTION 92-6792 BY ADDING A FIVE-YEAR PHASING SCHEDULE TO ALLOW THE REBUILDING OF THE NONCONFORMING BOAT STORAGE RACK AT PORT-O-CALL MARINA WHICH HAD BEEN DAMAGED BY HURRICANE ANDREW, SUBJECT TO CALL MARINA WHICH HAD BEEN DAMAGED BY HURRICANE ANDREW, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner Cole reviewed the nonconformity petition and told Council that approval had been recommended by staff. The PAB also recommended approval, with the condition that the removal of the existing boat storage rack take place within ninety days of Council approval. The five-year phasing schedule was discussed.

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MOTION: To **APPROVE** the nonconformity petition with a November 4, 1995 completion date.

The motion was made by Council Member Herms and died for lack of a second.

Petitioner George Law requested the full five years because of economic conditions. He said, "In light of the Waterfront District trying to encourage the saving of marinas, I feel the request is not unreasonable.

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

Anderson	S	Y
Herms		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 7 CONTINUED

VARIANCE PETITION 93-V8 - 1500 BONITA LANE

Mr. John Paulich III, representing the petitioner, told Council that the purpose of this request was for safety, pool cleanliness and aesthetics. He asked Council to at the minimum grant the variance to allow the hand hold portion, if not the entire deck. Mr. Paulich said that the subject property was for sale and he believes there is a pending contract contingent on enclosing the pool. City Manager Woodruff suggested continuing discussion of this item until further information can be obtained.

MOTION: To **DELAY** Item 7 until the May 19, 1993, or until such time that the petitioner provides additional data and a survey of the property.

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

BREAK: 1:15 p.m. - 1:40 p.m.

ITEM 24

DISCUSSION WITH SUPERVISOR OF ELECTIONS MARY MORGAN

City Manager Woodruff reminded Council that on May 3, 1993 Council had given staff direction to handle the City's elections. Dr. Woodruff said however that he had called the State Division of Elections to obtain information relative to the mail ballot process. Mike Cochran, a staff attorney with the Division of Elections reviewed the State law relative to mail ballots and made the following points:

- Sections 601.101 - 601.107 specify the regulations for the conduct of a mail ballot election.
- These sections of the State law apply to all jurisdictions within the State, except where a charter for a county or a charter for a city specifically sets forth other standards for the conduct of a mail ballot election.
- The Supervisor of Elections is mandated to conduct all mail ballot elections. Neither the City Council nor the Supervisor of Elections can opt out or select someone else to conduct mail ballot elections.
- Because it is a Special Election, the Supervisor has the legal authorization to recover all expenses incurred in the conduct of the special mail ballot election.
- All other elections which are Special Elections, but not utilizing the mail ballot, and all general elections, are not mandated to be conducted by the County Supervisor of Elections. In those elections, it is optional on both the part of the City and the Supervisor of Elections.

Dr. Woodruff told Council that it was his understanding and Supervisor of Elections Mary Morgan's advice to him that all elections must be pre-cleared. Dr. Woodruff suggested that staff should proceed as previously directed but to do additional legal research.

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Council Member Herms informed Council that Attorney Jack Ryan had been retained by the Naples Civic Association to research this issue. Attorney Ryan had reported to Mr. Herms that based on an old Federal law, the Supervisor of Elections could be held liable for violation of the law. It may effect the City Clerk if the City handles its own elections, cautioned Mr. Herms.

In response to Council Member Korest's question about the necessity of obtaining a written opinion, City Attorney Chiaro said that whenever she requests opinions from the Attorney General's office, it is made clear that those opinions have no enforcement effect. Since Mrs. Morgan has agreed that she must conduct a mail ballot election, there is no need to obtain a written opinion.

Public Input:

Sue B. Smith, 15 11th Avenue South

Mrs. Smith questioned when this item was placed on the agenda, noting that citizens had requested they be made aware of changes to the agenda. Mrs. Smith said, "Seeing this on the agenda today and reflecting on other concerns and who is indeed in charge...frankly I think Richard (Woodruff) gives you your decisions. I don't believe he was hired to be someone to formulate your decisions." Mrs. Smith commented that Supervisor of Elections Morgan was the community's professional in the area of elections and that she handles that responsibility well. In conclusion, Mrs. Smith said, "We give Council recompense and benefits and all we've ever asked is that we come here with pride and comfort. You've said over and over 'We won't look back.' Since December 19, 1990, our trip forward has been quite a show and it's not going in the right direction."

MOTION: Any Special Election held within the City between this date and December 31, 1993 will be conducted by mail ballot and will be conducted by Collier County Supervisor of Elections Mary Morgan.

Mayor Muenzer said that he hoped Council could gain Mrs. Smith's confidence.

Anderson		Y
Herms		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. 93-6919

ITEM 6

RESOLUTION ACCEPTING BID AND AWARDING PUBLIC SERVICE TAX REFUNDING REVENUE BONDS, SERIES 1993, OF THE CITY OF NAPLES, FLORIDA, TO THE SUCCESSFUL BIDDER; APPROVING AND ACCEPTING THE COMMITMENT FOR A POLICY OF MUNICIPAL BOND INSURANCE; APPROVING THE PRELIMINARY OFFICIAL STATEMENT FOR THE BONDS; DESIGNATING THE BOND REGISTRAR AND PAYING AGENT FOR THE BONDS AND ESCROW HOLDER; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Representing Evensen Dodge, Inc., Craig Dunlap reported that rates had come in extremely aggressively, which speaks well for the City. He said that it proves that the investment community pays a very high price for the City of Naples. Mr. Dunlap told Council that as the City's Financial Advisor he was prepared to recommend approval of the bid, noting that more savings than originally anticipated had been achieved. Gross savings will be approximately \$20,000.00 per year.

For the record, Mayor Muenzer said, "These are genuine savings. By keeping up with the bond market we are realizing savings." Finance Director Harrison reported that the cost of issuance was approximately \$65,000.00.

Public Input: None.

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

Mayor Muenzer expressed his pleasure with the rates, noting, "I think that the increase in our ratings reflects

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

(7-0)

M=Motion S=Second

Y=Yes N=No A=Absent

upon the financial community's confidence in our City government and our leadership, contrary to what some individuals may think about City government and leadership. I think these financial people are reflecting their true value of the direction that we're getting. So, I do appreciate this information and I do think that there is something right going on within the City. Dr. Woodruff, Mr. Harrison, I have to commend you for being a major part of the things that are right and also of the reflection and vote of support from our grading agencies which reflect this. I'd like to go on record saying that there are some things right and I do think our leadership is responsible for this."

ORDINANCE NO. 93-

ITEM 15

AN ORDINANCE AMENDING SUBSECTION 9-2-4, BOAT AND TRAILER STORAGE IN DWELLING DISTRICTS, OF THE COMPREHENSIVE DEVELOPMENT CODE BY CHANGING THE TITLE OF THE SUBSECTION TO "BOAT, PERSONAL RECREATION VEHICLES, AND TRAILER STORAGE IN DWELLING DISTRICTS" AND BY PROHIBITING THE STORAGE OF TRAILERS OF ANY KIND IN RESIDENTIAL DISTRICTS; PROVIDING A SEVERABILITY CLAUSE AND REPEALER; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner Cole reviewed the proposed amendment, noting that staff had recommended approval. The PAB voted unanimously to recommend approval of the text change. City Manager Woodruff stated that application of this rule must be very clearly indicated. Dr. Woodruff told Council that the rule could be applied to specific areas, rather than City-wide, to allow for those neighborhoods where lawn maintenance people live and park their trailers.

Public Input: None.

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

Council Member Pennington voiced concern that this might cause a hardship for some residents. Dr. Woodruff told Council that staff would continue to enforce this regulation on a complaint basis. Council Member Anderson voted in the negative, saying that she did not believe this was a problem and was unhappy with the

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

(4-3)
M=Motion S=Second
Y=Yes N=No A=Absent

manner in which the ordinance was worded.

ORDINANCE NO. 93-

ITEM 16

AN ORDINANCE AMENDING SUBSECTION 9-1-23 OF THE COMPREHENSIVE DEVELOPMENT CODE OF THE CITY OF NAPLES PROVIDING FOR CLARIFYING LANGUAGE FOR STORING BOATS ON THE BEACH; PROVIDING STORM/EMERGENCY CONDITION NOTIFICATIONS FOR THE REMOVAL OF BOATS FROM THE BEACH; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

City Manager Woodruff reviewed the primary changes to the ordinance, as recommended by the Police Department after a six-month review:

- . There will be only one owner/boat allowed to each space.
- . Emergency storm conditions are established in the ordinance with specific activities required of the boat owner, varying from checking the tie-downs to physical removal from the beach depending on the storm conditions.
- . If a space is vacant for sixty days or longer, the space will be considered abandoned, and will be reassigned.

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Captain Paul Sireci told Council that boats that must be towed are stored at the Police Department. The owner must pay for towing and storage in order to recover his boat and is not given his space back. Council Member Van Arsdale requested that when a citizen registers to park a boat on the beach, he should be given a list of specific restrictions as well as a copy of the governing ordinance.

Public Input: None.

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

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

ORDINANCE NO. 93-6920

ITEM 17

AN ORDINANCE AMENDING SECTIONS 23-7; 23-9(b); 23-12.2(a) (2); 23-12.2(a)(5); 23-12.2(a)(6); 23-16(a) AND 24-1(d) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES AND DELETING SECTION 23-12.2(b) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES TO PROVIDE FOR AN ESCALATING FEE SCHEDULE FOR VIOLATIONS OF BEACH PARKING, BASED ON TIMELINESS OF PAYMENTS; 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			A
Korest		Y	
Pennington	S	Y	
Sullivan	M	Y	
VanArsdale		Y	
Muenzer		Y	

(6-0)
M=Motion S=Second
Y=Yes N=No A=Absent

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ORDINANCE NO. 93-

ITEM 18-a

AN ORDINANCE AMENDING SECTION 1A-167(a) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO PERMIT PUBLIC EMPLOYEES RELATIONS COMMISSION MEMBERS AND PERC BLUE RIBBON PANEL MEMBERS TO SERVE ON ANY OTHER BOARD OF THE CITY AT THE SAME TIME; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

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

ORDINANCE NO. 93-

ITEM 18-b

AN ORDINANCE AMENDING SECTION 1A-201(b) OF ARTICLE XI, APPOINTED BOARDS, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, FOR THE PURPOSE OF AMENDING THE DEFINITION OF DUAL OFFICE HOLDING; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

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

ITEM 26

DISCUSS NEED FOR ENGINEERING STUDY - UNBILLED WATER MATTER

Council Member Korest, who had requested this discussion, said that in his opinion it would be desirable to devise a program with respect to unbilled water. He suggested contacting Hartmann & Associates for their advice. City Manager Woodruff agreed that it was important to erase any doubt that the City is running a good water system. He reported that Utilities Director Dan Mercer had put a request for this type of engineering study into next year's Capital Improvement Program budget. Although staff has done an excellent job handling the water problem, said Dr. Woodruff, he was not opposed to an independent person determining where the unaccounted water is going.

Council Member Hermes asked about the new meters which have been installed. He stated that if all

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of the City's meters were functioning properly staff could determine where any leaks exist. he suggested repairing all of the meters before hiring a consultant.

Staff was directed to begin writing a scope of services for a consulting engineer to deal with the unbilled water matter. Council Member Herms requested that before hiring an engineer, all of the City's meters be repaired.

CORRESPONDENCE AND COMMUNICATIONS

Mayor Muenzer asked that staff survey other governmental bodies for information with respect to their policy for public input at meetings, including time allowed for such input.

Mr. Richard Layman thanked Council for its support of The Great Political Race. He said that the goal of \$10,000.00 in charitable contributions was exceeded. Mayor Muenzer commented for the record, "I was second in my heat."

OPEN PUBLIC INPUT

None.

ADJOURN: 4:30 p.m.

PAUL W. MUENZER, MAYOR

Janet Cason
City Clerk

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Marilyn McCord
Deputy City Clerk

These minutes of the Naples City Council were approved on May 19, 1993.



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May 5, 1993
Convened 9:00 a.m. / Adjourned 4:30 p.m.

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