



City Council Chamber  
735 Eighth Street South  
Naples, Florida 33940

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**City Council Workshop Meeting - January 3, 1994 - 9:00 a.m.**

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Mayor Muenzer called the meeting to order and presided.

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**ROLL CALL**

**ITEM 1**

**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  
Kevin Rambosk, Asst. City Manager  
Maria J. Chiaro, City Attorney  
John Cole, Chief Planner  
Missy McKim, Comm. Development Dir.  
Mark Thornton, Comm. Services Dir.  
David Lykins, Rec. & Ent. Supt.  
Nick Long, Dock Master  
Dan Mercer, Utilities Director  
Jon Staiger, Ph.D., Natural Resources Mgr.  
George Henderson, Sergeant-At-Arms  
Marilyn McCord, Deputy City Clerk  
Katie Gibson-Jones, Recording Secretary

Justyna Ford  
Werner Haardt  
Sue B. Smith  
Charles Andrews  
Peggy Sealfon  
Ken Fuchs

Other Interested Citizens and Visitors

**ITEM 2**

**ITEMS TO BE ADDED**

Item 5 - REVIEW OF THE CITY DOCK LEASE FOR COMMERCIAL VESSELS

Item 6 - REQUEST TO USE CITY LOGO FOR COMMERCIAL PURPOSES

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**ITEM 5**

**REVIEW OF THE CITY DOCK LEASE FOR COMMERCIAL VESSELS**

Dr. Woodruff reviewed the handout relevant to the City Dock lease (Attachment #1). He explained that according to City code, the lease for a boat slip could extend for up to five years and initial requirements mandate first and last months rent, plus a security deposit. Dr. Woodruff said that the lease also includes an annual CPI (Consumer Price Index) adjustment factor. He noted that the issue to be discussed at this workshop concerned assignment of the lease, particularly in cases where someone sells their business and must move.

City Attorney Chiaro said that by adding this privilege into the lease the City must realize that it is giving away some control of the boat slip. She pointed out that the argument has been made that the original tenant has the right to that slip for five years, even if the City does not approve of the tenant's assignment.

Council Member Pennington pointed out that if the assignment amendment is left out and the boat slip is sold, then the buyer would go to the bottom of the waiting list. Ms. Chiaro stated that the rules and regulations could be amended and a provision included in the lease that provides an exception to the waiting list in the event a business is sold or the lessee dies.

Community Services Director Mark Thornton stated that in his meetings with the tenants, they had expressed their desire to have assignment included, however, he believed that amending the rules and regulations would satisfy the tenants. In response to Council Member Anderson, City Attorney Chiaro stated that the rules and regulations can be amended to include that the new owner does not have to go to the bottom of the list. She also stated that amendments could include that the new lessee must be approved by the City and/or that a new lease be renegotiated.

Dock Master Nick Long, stated that the tenants had agreed to assignability, however, he recommended that the landlord have the right to approve the assignee. Dr. Woodruff noted that in

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addition to assignment, in the future staff will bring a proposal to City Council requiring tenants to pay a portion of the utilities. Some discussion ensued concerning whether or not the City should provide signs for its commercial customers. Dr. Woodruff pointed out that in Section 14 of the Administrative Code, language in no way implies that when the lease is signed, the rules will remain the same. He stated that this language leaves the City clearly in charge of operating the Dock.

Discussion ensued concerning changes to Section 15, Code of Ordinances, regarding renewal notice. Mayor Muenzer brought up the subject of wake violations and the possibility of numerous violations leading to cancellation of a dock space lease. Discussion also included the revocation of a captain's license in such cases where drug and/or alcohol abuse was evident. Dr. Woodruff stated that staff would present a revised lease at the City Council meeting on Wednesday, January 5, 1994, and that the first reading of the ordinance to change the administrative code including new rules and regulations will be ready two weeks from now.

Dr. Woodruff commended Dock Master Long and his staff for an outstanding job on the Christmas decorations at the City Dock.

Dock Master Long reported that the pile wrapping work is completed as well as the bracing of the office. He explained that the two main docks were chosen to be wrapped since expansion plans include new floating docks to replace the existing finger docks. Mr. Long reported that the bathrooms would be renovated next.

Dr. Woodruff stated that the issue of diesel fuel would be presented to City Council shortly. Mr. Long noted that as of January 1, 1994, the Federal Government raised the tax on diesel fuel for non-commercial boats. He explained that fuel to be sold to commercial vessels would be dyed and that if a recreational boater is caught with the wrong color fuel, a penalty can be applied. However, if a commercial boat buys taxed fuel, he can apply for a refund. Mr. Long further explained that the City currently had only one fuel tank and he recommended the addition of another tank as well as a computer program to accommodate the commercial boat owners with fuel-tax refunds. Mr. Long pointed out that an additional tank was a priority since 60% of his fuel business comes from commercial vessels.

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### ITEM 6

#### REQUEST TO USE CITY LOGO FOR COMMERCIAL PURPOSES

Mayor Muenzer stated that this request for the use of the City logo came to him on December 30, 1993. He explained that the owner of a printing company had asked permission to use the City logo

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on a few items, coffee mugs and hats, etc.

Dr. Woodruff noted that staff is researching as to whether or not a trademark of the City Pier can be used and that the Community Services Department was considering that idea as a fund raiser to help offset the price of repairing the Pier. Dr. Woodruff stated that staff had expressed no objection to this idea.

City Attorney Chiaro stated that if the City allows use of the City Seal as a source for capital, then anyone can use it for any reason. She recommended that the City retain some control if a decision is made to allow public use of the logo.

The consensus of the Council was not to allow use of the City Seal, although the Pier logo can be used.

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**BREAK: 10:25 P.M. - 10:35 P.M.**

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Mayor Muenzer announced for the Council's information that the Herbst/Thomas issue had been settled.

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**ITEM 3**

**UPDATE: THIRD STREET SOUTH FARMER'S MARKET**

Peggy Sealfon reported that the farmer's market was attended by approximately eight to twelve vendors each week. She further reported no problems had resulted and that the market concept had been well received by visitors and residents.

Dr. Woodruff announced that Third Street Activities would appear on the next regular meeting agenda on January 5, 1994. Ms. Sealfon added that the Old Naples Association had been briefed as to the projected activities and appeared to understand that the events planned will in no way have negative effects.

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**ITEM 4**

**REVIEW OF ITEMS ON JANUARY 5, 1994, REGULAR MEETING  
AGENDA**

Mayor Muenzer requested that Item 13, regarding Cable Television, be heard at 1:30 p.m. at the Regular meeting.

Dr. Woodruff reported that following an initial report of a water source malfunction, it was determined that the problem was in Golden Gate City and that an air valve malfunctioned due to low pressure. He added that at no time did the City experience a health problem, and that the City was back in service approximately 4:30 p.m. that same day. He said that the City did not lose water pressure and commended Utilities Director Mercer and his staff for a job well done.

**Items 22 and 23 - Consent Order & Task Order/water treatment facility:** Dr. Woodruff requested that City Council Members note the color of the City's water. He said that color was not a health issue but an aesthetic issue and that the Federal Government has devised color parameters. Utilities Director Mercer explained that Council had approved the changeout of its current 28 filters to sand filters, to implement water color improvement. He noted that this year four filters will be replaced and over the next seven years, all 28 will be gradually replaced. He also indicated that a new infiltration system had been installed and that some degree of taste change had resulted. Mr. Mercer stated that they had received approval for a six month trial of a new polymer and during that time the determination will be made as to whether it removes more of the color. Part two of this two-part consent order deals with residuals and Mr. Mercer introduced information concerning chemicals, filters, and chlorine residuals. He noted that the chlorine residuals have never been zero because of the City's .6 sea-level.

Dr. Woodruff noted that following the merger of DER (Department of Environmental Regulations) with the DNR (Department of Natural Resources), now known as the DEP (Department of Environmental Protection), issues are reviewed differently and in a more stringent manner. He stated that the Hole, Montes contract can be restructured if City Council so chooses and that their work was all a part of the department's master plan. Mr. Mercer assured City Council that Hole, Montes will give a weekly update, including a schedule report of their hours of work so that everything can be tracked. Mr. Mercer reviewed events of his discussion with DEP and pointed out that failure to comply with their regulations could result in as much as \$50,000.00 in penalties.

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Dr. Woodruff stated that staff would provide further clarification of the Hole, Montes & Associates fees at the January 5, 1994 Regular Meeting.

**Item 13 - Public Hearing to consider establishment of procedures and standards with reference to Cable Television:** Council Member Korest requested that City Attorney Chiaro give a summary of the ordinances in Item 13, concerning Cable Television. Dr. Woodruff noted that the General Cable Ordinance was adopted in 1989 and that this ordinance meets the new 1992 Cable Act.

### **Ken Fuchs, Colony Cable Vision**

Mr. Fuchs stated that they did not believe it to be necessary for the City to get into rate setting regulations since Collier County will be hiring a consultant to confirm if their rates are meeting the FCC regulations.

In response to further discussion, Assistant City Manager Rambosk stated that City involvement would enable City Council, as a franchising authority, to request any rate related action. However, even given the ability to regulate rates, he indicated that the City would only control a small portion of what the customer will be paying. Dr. Woodruff further explained that the purpose of getting the City involved at this point is to set the base rate. He noted that customer service standards, the impact of time and paper-work upon staff, created another issue to be considered.

**NOTE: Council Member Anderson left the meeting at 12:05 p.m.**

Assistant City Manager Rambosk stated that he would review this issue with the City Attorney. Council Member Herms directed staff to provide more information regarding the total number of cable television customers within the City.

Mr. Fuchs indicated, concerning the enabling ordinance, that for the City not to renew Colony's cable TV operators license, they would have to find Colony Cable in gross violation in order to have a case sufficient enough not to renew the license. Dr. Woodruff responded, for the record, that the City's position, stated by the City Attorney, is not in agreement with Colony Cable Vision on the license renewal issue.

Mr. Fuchs also stated that commonly controlled entities should not be subjected to City approval; City Attorney Chiaro disagreed. She stated that the grantor of a franchise needs to have control of the entity.

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Assistant City Manager Rambosk informed Council that information relative to all the Cable Legislation, FCC Act as well as the City's own policies, etc are available in the City Manager's Office. He also stated that a copy of the training manual for the Ad Hoc Cable Review Committee will be placed in the City Council Office.

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Convened 9:00 a.m. / Adjourned 1:05 p.m.

**Item 5 - Request for Variance/Park Shore Plaza II:** Staff will provide a site plan at the January 5, 1994, Regular Meeting.

**Item 8 - Request for Variance/1076-1082 Fifth**

**Avenue South:** Staff will request a status report from Andres Duany regarding the Fifth Avenue Redevelopment Ordinance.

**Item 10 - Amend Comprehensive Development Code/Guest House Regulations.** Staff will provide a map showing boundaries for the Old Naples area.

**Item 20 - Award of Bid/Replacement Cost Appraisals of City Property:** Provide clarification of the fees to be charged by Hole, Montes and Associates, Inc.

Some discussion ensued by Council Members regarding the renewal of contracts for City Manager Woodruff and City Attorney Chiaro. Mayor Muenzer sated that he wanted the present City Council to handle this issue and noted that evaluations would have to be done first. Ms. Chiaro stated that her contract with the City is expired according to the terms of the contract and that she would supply a copy of the contract to Council before the January 5, 1994, meeting.

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**ADJOURN:** 1:05 p.m.

**PAUL W. MUENZER, MAYOR**

Janet Cason  
City Clerk

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Marilyn McCord  
Deputy City Clerk

Katie Gibson-Jones  
Recording Secretary

These minutes of the Naples City Council were approved on January 19, 1994.

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