



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Regular Meeting - January 5, 1994 - 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	John H. Fitch, Ph.D.
Maria J. Chiaro, City Attorney	Elizabeth Berg
John Cole, Chief Planner	Werner W. Haardt
William Harrison, Finance Director	John Passidomo
John E. Johnson, Auditor	Jim Smith
Mark Thornton, Community Services Director	Michael Davis
David Lykins, Recreation & Enterprise Supervisor	Brad Estes
Jon Staiger, Ph.D., Natural Resources Manager	Ken Fuchs
Paul Reble, Police Chief	Justyna Ford
Ann Walker, Planner II	Frank Pollum
Susan Golden, Planner I	Jerry Pugh, Colony Cablevision
George Henderson, Sergeant-At-Arms	Eric Staats, Naples Daily News
Katie Gibson-Jones, Administrative Assistant	Other interested citizens and visitors
Marilyn McCord, Deputy City Clerk	

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NOTE: Administrative Assistant Katie Gibson-Jones and Deputy City Clerk Marilyn McCord acted as recording secretaries for this meeting, and transcribed the minutes.

ITEM 1

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Kim Anderson

ITEM 3

ITEMS TO BE ADDED

No additional items were added to the agenda.

Council Member Herms requested that Items 23 and 24 be pulled from the consent agenda, for discussion purposes.

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

ITEM 19

APPROVAL OF MINUTES

City Council Workshop Meeting	October 18, 1993
City Council Workshop Meeting	November 15, 1993
City Council Workshop Meeting	November 29, 1993
City Council Regular Meeting	December 1, 1993
City Council Workshop Meeting	December 13, 1993
City Council Regular Meeting	December 15, 1993
City Council Special Meeting	December 16, 1993

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City Council Workshop Meeting
City Council Special Meeting

December 20, 1993
December 23, 1993

ITEM 20

AWARD OF BID FOR REPLACEMENT COST APPRAISALS OF CITY PROPERTY.

ITEM 21

AUTHORIZATION TO CONTRACT FOR ARCHITECTURAL SERVICES FOR RENOVATIONS AT FLEISCHMANN COMMUNITY CENTER.

RESOLUTION NO. 94-7091

ITEM 22

A RESOLUTION AUTHORIZING THE CITY MANAGER TO AGREE TO ENTRY OF A CONSENT ORDER BETWEEN THE CITY OF NAPLES AND THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, FOR THE OPERATION OF THE CITY OF NAPLES' WATER TREATMENT FACILITY; AND PROVIDING AN EFFECTIVE DATE.

MOTION: To **APPROVE** the consent agenda, consisting of Items 19, 20, 21, and 22.

Anderson		Y
Harms	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*******

ITEM 4

ANNOUNCEMENTS

Chief Accountant Ralph LaCivita was recognized for his outstanding work in financial recording and reporting. Also recognized for his efforts was Auditor John Johnson, who worked for the City for two years on a volunteer basis. Mr. Johnson has helped to resolve many of the City's accounting problems.

RESOLUTION NO. 94-7092

ITEM 5

A RESOLUTION AUTHORIZING ISSUANCE OF A SIGN PERMIT PURSUANT TO VARIANCE PETITION 93-V23 WAIVING CERTAIN CONDITIONS OF SUBSECTION 9-3-4(G)(1)(a) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH LIMITS SHOPPING CENTERS TO ONE FREESTANDING GROUND SIGN OF ONE HUNDRED TWENTY (120) SQUARE FEET IN SIZE, IN ORDER TO PERMIT THE ERECTION OF TWO SIXTY SQUARE FOOT SIGNS AT PARK SHORE PLAZA II, 3701 TAMiami TRAIL, NORTH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner John Cole reviewed the item, which is a request for a variance from the Comprehensive Development Code which limits shopping centers to one ground sign. Staff found that variance criteria had not been met and recommended denial. The Planning Advisory Board (PAB) believed that incremental development of the Parkshore Center represented unique circumstances and recommended approval of a variance to permit two freestanding signs, each limited to sixty square feet. Mr. Cole provided a history of the property development and reviewed the Code standards.

Attorney John Passidomo, representing the petitioner John Sprowls, told Council that this petition was a relatively simple matter which has become complicated. He reviewed the criteria for shopping centers and objected to the determination that the building is a shopping center and allowed only one ground sign. Mr. Passidomo enumerated several examples in the City where two signs have been allowed and assured Council that the variance requested would not permit the

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establishment of any use not allowed within the Code. He commented, "The stated purpose of the sign regulations is to establish uniformity. Permitting a ground sign achieves this objective."

Council and Mr. Passidomo reviewed the development of the two parcels at issue. Mr. Passidomo pointed out that the petitioner has no reasonable alternative to a ground sign. The only other alternative would be a wall sign, he said, which would not be appropriate in that location. In reply to Council Member Van Arsdale, Chief Planner Cole said that the major benefit to the owner should the property be rezoned "Shopping Center" would be that a restaurant could move into the space in the northern building and the parking would not have to be recalculated.

City Manager Woodruff reminded Council that in reviewing any petition, staff must follow the law and the criteria.

Public Input: None.

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

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

ORDINANCE NO. 94-

ITEM 6

AN ORDINANCE AMENDING SECTION 15-3 (b) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, FLORIDA, TO ADD A PROVISION PROHIBITING THE HARASSMENT OF BIRDS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

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Dr. John H. Fitch, President of The Conservancy, Inc., addressed Council to request an amendment to the City's ordinance regarding wildlife. He described some of the incidents of pelican harassment and abuse which have taken place at the Pier. Dr. Fitch said that in one known instance a pelican was kicked to death at the Pier. The first step should be education and awareness of the problem, he stated. Dr. Fitch reminded Council that Naples is a declared bird sanctuary and went on to say, "I realize there has been some concern that people would be faced with a harassment charge if they are shooing birds aside. I believe, like with many ordinances, this needs to be dealt with common sense."

Council Member Pennington agreed with Dr. Fitch that education is needed. It is especially important not to feed the pelicans, he noted. In response to Mr. Pennington's question, City Attorney Chiaro said that a violation of any of the ordinances within Section 13 of the Code was a misdemeanor.

Council Member Anderson commented, "It is all well and good and we should take this opportunity, but we should also talk to Dr. Staiger (Natural Resources Manager) about renovations to the Pier and re-educate the birds when the Pier is closed for renovations. Council needs to strongly support changes staff wants to make, so it won't be an enticement to the pelicans. If we have to consider an increase in staffing, Council needs to be aware we may need that."

Community Services Director Mark Thornton told Council that screening will be placed over the fish cleaning table at the Pier. Also, a tube will be connected to the table so that scraps are not available to the pelicans. The National Park Service has designed a fish cleaning table; City staff is considering a like arrangement.

Public Input:

Elizabeth Berg, 13 Highpoint Circle

Ms. Berg thanked the City and The Conservancy for their interest in protecting pelicans. She respectfully suggested that the definition of harassment should include the failure on the part of the Pier operator to enforce the regulations. Ms. Berg said that a rescue coordinator is needed, noting that such a coordinator should be a full-time on-site expert. She remarked, "It's no good having a law unless someone is on site to enforce it." Ms. Berg went on to say that the Animal Rights Foundation of Florida has written to the City outlining several minimal recommendations, including posting signs instructing fishermen not to feed pelicans. She said that in her opinion the most humane alternative would be to prohibit fishing on the Pier. Ms. Berg concluded by suggesting that the City, County, and Conservancy work together to fund a dawn-to-dusk, seven-days-a-week rescue coordinator. She added that Tourist Tax money could surely be used to help fund such a position.

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

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

Council Member Herms suggested that training for current employees be scheduled. Council Member Anderson offered the following motion:

MOTION:

Action for whatever protective measures need to be taken

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

to Dr. Staiger to work out with Mr. Thornton and Dr. Woodruff, for retraining of the concessionaires or potential additional staffing. Staff should submit a report so that Council

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is able to make a determination from a funding standpoint as to how to handle this matter. A report of specific recommendations to be included in the renovation of the Pier should also be presented to Council. Dr. Fitch, Conservancy President, should receive copies of any reports related to this matter.

BREAK: 10:30 a.m. - 10:40 a.m.

ORDINANCE NO. 94-7093

ITEM 7

AN ORDINANCE APPROVING REZONE PETITION 93-R9, REZONING PROPERTY KNOWN AS BEAR'S PAW, MORE PARTICULARLY DESCRIBED HEREIN, FROM "R3-6", MULTIFAMILY RESIDENTIAL, AND "PS", PUBLIC SERVICE TO "PD", PLANNED DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE.

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Title read by City Attorney Chiaro.

Public Input: None.

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

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

RESOLUTION NO. 94-7094

ITEM 8

A RESOLUTION AUTHORIZING ISSUANCE OF A PERMIT PURSUANT TO VARIANCE PETITION 93-V24 WAIVING CERTAIN PROVISIONS OF SUBSECTION 8-1-6 OF THE COMPREHENSIVE DEVELOPMENT CODE, WHICH PROHIBITS PROJECTING SIGNS WITHIN THE "C-2" GENERAL COMMERCIAL DISTRICT, IN ORDER TO ALLOW THE PLACEMENT OF PROJECTING SIGNS ON A BUILDING LOCATED AT 1076-1082 FIFTH AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner Cole explained that staff had reviewed this variance request and since variance criteria had not been met, recommended denial. The PAB (Planning Advisory Board) voted 3-2 against the proposed petition.

Council discussed the fact that projecting signs had been discussed as part of the downtown redevelopment changes. Mr. Cole noted, "It is our understanding that the Duany plan will advocate projecting signs of some sort. I believe they are appropriate in downtown pedestrian areas but question whether they are as appropriate in commercial areas with heavy traffic.

Mr. Jim Smith, representing his family, owners of the building, addressed Council. He said that

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considerable funds have been spent rehabilitating the building and his hope was to make it safer and more aesthetically pleasing. Mr. Smith related some of the history of the corner at issue, noting that now it is almost an island in itself. He suggested that the proposed signs fit in well with Tin City and Boardwalk.

Mr. Doug Workman, one of the petitioners, gave a slide presentation to illustrate signs in different areas of the City. He assured Council that the signs would be removable and certified by a structural engineer. Mr. Workman said that he also wanted to improve the appearance of the building.

Public Input: None.

MOTION: To **APPROVE** the resolution with the following conditions: Sign will be limited to thirty square feet, have 1 1/2 inch thickness around the perimeter, and be subject to staff approval of specific standards.

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

ITEM 9

REVIEW THIRD STREET SPECIAL EVENTS FOR 1994.

Chairman of the Special Events Committee David Lykins and Peggy Sealfone, Director of Marketing for Third Street and the Avenues, reviewed the special events proposed for 1994. Event organizers requested approval of the following:

- . Farmers' Market January 15 - April 2, 1994
- . Music on Third January 20 - March 17, 1994
- . Third Street Outdoor Theater January 7 - March 27, 1994

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NOTE: Council Member Van Arsdale left the meeting at 11:30 a.m.

MOTION: To **APPROVE** the proposed Third Street Special Events for 1994.

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

ORDINANCE NO. 94-

ITEM 10

AN ORDINANCE AMENDING SUBSECTION 2-3, "DEFINITIONS", SUBSECTION 3-84-1, "DEFINITION; PURPOSE; GENERAL REQUIREMENTS (FOR EXPANDING, ENLARGING OR CHANGING A NONCONFORMITY", AND SUBSECTION 9-2-8, "GUEST HOUSES", OF THE COMPREHENSIVE DEVELOPMENT CODE BY CHANGING THE TERMINOLOGY FROM "GUEST HOUSE" TO "GUEST UNIT"; AMENDING THE DEFINITION OF SUCH UNITS; ALLOWING FOR THE CONSTRUCTION OF GUEST UNITS ON SINGLE FAMILY RESIDENTIAL LOTS SMALLER THAN 30,000 SQUARE FEET WITH CITY COUNCIL APPROVAL; FURTHER LIMITING THE SQUARE FOOTAGE OF GUEST UNITS; PERMITTING THE RENTAL OF GUEST UNITS WHICH MEET CERTAIN CRITERIA; ALLOWING THE RENOVATION OF NONCONFORMING GUEST UNITS; AND PROVIDING FOR THE DEMOLITION AND REBUILDING OF A PRINCIPAL RESIDENCE WHILE RETAINING THE RIGHT TO THE GUEST UNIT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

NOTE: Council Member Van Arsdale returned to the meeting at 11:40 a.m.

Chief Planner Cole reviewed the proposed amendment to the City's guest unit regulations which contains the following changes from the existing text:

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- The definition of "Guest Unit (house)" has been revised to include all detached, habitable structures as has been presented previously. Guest units are limited to one habitable floor.
- Guest Units continue to be allowed as a "permitted use," on lots greater than 30,000 square feet City-wide. Their size remains limited to between 25% and 40% of the floor area of the principal structure.
- Two overlay zones within the City are proposed which will provide for the ability of property owners to apply for guest units through the conditional use process, subject to certain criteria as follows:

Area A: Park Shore, the Moorings, Coquina Sands and South Naples

- permitted on lots 175% of the minimum district size and greater,
- no greater than 450 square feet in size,
- subject to spatial perception standards beginning at finished grade (not FEMA first floor requirement).

Area B: Old Naples

- permitted on lots 175% of the minimum district size and greater,
- subject to spatial perception standards beginning at finished grade,
- no greater than 450 square feet in size

Public Input:

Lodge McKee, 53 Broad Avenue South

Mr. McKee commented that the 175% figure was the most reasonable and appropriate multiplier to use. With respect to a property owner not being able to occupy a guest house while renting the main house, Mr. McKee said that who rents which structure should be of no concern to the City.

MOTION: To **APPROVE** the ordinance at first reading, with language to amended prior to second reading.

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

RESOLUTION NO. 94-7095

ITEM 17

A RESOLUTION GRANTING VARIANCE PETITION 93-V22 FROM SUBSECTION 7-4-3 (F)(4) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH ESTABLISHES A MINIMUM FRONT YARD SETBACK OF FORTY FEET WITHIN THE "R1-15" SINGLE FAMILY RESIDENCE DISTRICT WHILE ALLOWING ONE FRONT YARD TO BE REDUCED TO THIRTY FIVE FEET FOR CORNER LOTS, UPON THE APPROVAL OF THE ZONING ADMINISTRATOR, IN ORDER TO PERMIT THE CONSTRUCTION OF AN ADDITION TO A SINGLE FAMILY RESIDENCE AT 491 SPINNAKER COURT; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

The variance request was reviewed by Chief Planner Cole. He told Council that the PAB had voted 4-1 to deny this application. Council Member Korest noted that in his opinion unique circumstances did exist because of the lot's irregular shape. Council Member Pennington expressed his concern that an addition to the property in question would result in the structure extending out further than the houses on Spinnaker Drive.

Public Input: None.

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

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

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

Roll call was taken for the afternoon session; all Council Members were present with the exception of Mrs. Anderson.

ORDINANCE NO. 94-096

ITEM 13-a

**AN ORDINANCE GOVERNING THE PROCEDURES AND STANDARDS
FOR THE REGULATION OF CABLE TELEVISION RATES PURSUANT
TO THE RULES OF THE FEDERAL COMMUNICATIONS COMMISSION
AND THE CABLE TELEVISION CONSUMER PROTECTION AND
COMPETITION ACT OF 1992; PROVIDING A SEVERABILITY CLAUSE,
A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

This item was reviewed by City Manager Woodruff and Assistant City Manager Rambosk. Mr. Rambosk gave an update of research he had done of some other cities in Florida. He noted that the FCC (Federal Communications Commission) had been given the responsibility of ensuring that basic cable service rates were kept at a reasonable level. Language in the City ordinance will mainly reference Federal laws. Mr. Rambosk explained that if the City does not become certified to regulate rates, it will not have the opportunity to utilize rate capping. The City's certification has been approved by the FCC. Mr. Rambosk told Council that work in this area would be handled in-house; internal costs will be approximately \$4,000.00.

NOTE: Council Member Anderson arrived at 1:50 p.m.

Mr. Rambosk advised Council that some type of joint regulation group should be established for the purpose of evaluating rates. The City Manager added that staff envisioned the Cable Advisory Board as a working advisory board which would take on the personal responsibility of researching, preparing reports, etc.

Mr. Ken Fuchs, representing Colony Cablevision, summarized his firm's position regarding rate regulations, noting that Colony's position was that rate regulation is not necessary in the City. He explained that the local cable operator is in compliance with all rules and regulations and at some time in the future the City could reconsider this issue. Mr. Fuchs remarked that costs for rate regulation most likely would be passed on to the customers. In response to Council Member Van Arsdale, Mr. Fuchs said that the City's basic rate is lower than what the FCC allows. Mr. Fuchs recommended that the City conduct a nationwide survey to determine the fairness of rates charged by Colony.

Mr. Fuchs answered questions posed by Council. In reply to Mayor Muenzer, Mr. Fuchs said that

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Colony does annual surveys to determine which channels are watched most often and to ask what customers would like to see.

Public Input:

Werner Haardt, 4900 Whispering Pine Way

Mr. Haardt, who is Chairman of the Greater Naples Civic Association Cable Committee, reported that he had been concerned about cable television and its rates for fourteen years. He commented, "We've gotten nowhere and won't until there is regulation. To support Kevin (Rambosk) is necessary." Mr. Haardt told Council that it was imperative to approve the ordinance.

Vice Mayor Sullivan stated that probably many people do not appreciate the necessity of rate regulation. Despite Mr. Fuchs' comments, said Mr. Sullivan, the City has a responsibility. He went on to say, "We have a company (Colony) which is asking us not to regulate. We feel the rates are not being regulated properly. The whole philosophy is, this came about because of abuses by the very industry that is fighting regulation. We owe it to the citizens to protect their interests to the greatest degree possible. One of the jobs of this Council is to protect their interests to the greatest degree possible." Mr. Sullivan concluded, "I believe Colony will provide us with good service, but in order to get that service we need to get involved."

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

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

ORDINANCE NO. 94-7102

ITEM 13-b

AN ORDINANCE ESTABLISHING REGULATIONS AND PROVIDING PROCEDURES FOR THE ISSUANCE OF FRANCHISES TO CONSTRUCT, INSTALL AND OPERATE LIKES, WIRES, PLIES, COAXIAL CABLE, FIBER OPTICS CABLE, TRANSMITTERS, RECEIVERS AND APPURTENANCES FOR ORIGINATING, RECEIVING, DISTRIBUTING AND SUPPLYING RADIO, TELEVISION, TELEPHONE, VOICE, DATA AND/OR OTHER COMMUNICATIONS SERVICES ALONG, ACROSS AND UPON THE PUBLIC STREETS, PUBLIC UTILITY EASEMENTS, WAYS, ALLEYS AND PLACES WITHIN THE CITY OF NAPLES, FLORIDA; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input:

Ken Fuchs, General Manager, Colony Cablevision

Mr. Fuchs told Council that this ordinance would not affect Colony but would affect future cable television operators. He noted also that the application fee itself should not apply to renewals but only to new entrances to the field.

Werner Haardt, 4900 Whispering Pine Way

Mr. Haardt told Council, "The City should be concerned with the franchise; 13-a and 13-b should be approved."

BREAK: 3:05 p.m. - 3:15 p.m.

NOTE: Vice Mayor Sullivan temporarily chaired the meeting in the Mayor's absence. It was announced that discussion of Item 13-b would be continued later in the meeting.

RESOLUTION NO. 94-7097

ITEM 16

A RESOLUTION GRANTING CONDITIONAL USE PETITION 93-CU23 TO FRANK POLLUM FOR THE EXPANSION OF THE DOLPHIN CARWASH, LOCATED AT 944 SEVENTH AVENUE NORTH, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO THE CONDITIONS LISTED HEREIN; AND PROVIDING AN EXPIRATION DATE AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner Cole reviewed the item, reporting that the PAB voted 5-0 to approve the petition subject to the staff recommended screening along the eastern property line. Additionally, they recommended that the existing wall's height be increased from four to six feet. The petitioner, Frank Pollum, said that he had no objection going above and beyond what the PAB requested with respect to the fence, but hoped that his neighbor would share in the cost.

NOTE: Mayor Muenzer returned to the meeting at 3:30 p.m.

MOTION: To **APPROVE** the resolution with the stipulation that the size of the buffering will be increased and the cypress wall insulated. Within three years the property owner will apply for a variance for an eight foot high wall.

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

RESOLUTION NO. 94-7098

ITEM 11-a

A RESOLUTION OF THE CITY OF NAPLES, FLORIDA, RELATING TO COMMUNITY REDEVELOPMENT; DELINEATING THE COMMUNITY

REDEVELOPMENT AREA; FINDING THE EXISTENCE OF CERTAIN SLUM AND BLIGHTED CONDITIONS; FINDING A SHORTAGE OF AFFORDABLE HOUSING; DECLARING THAT THE DATA CONTAINED IN THE "REPORT ON THE DETERMINATION OF THE FINDING OF NECESSITY FOR THE CREATION OF A COMMUNITY REDEVELOPMENT AGENCY" PREPARED BY THE CITY OF NAPLES COMMUNITY DEVELOPMENT DEPARTMENT IS A PROPER FACTUAL BASIS UPON WHICH THE CITY COUNCIL DETERMINED THE REDEVELOPMENT AREA TO HAVE SLUM AND BLIGHTED CONDITIONS PURSUANT TO SECTION 163.355, FLORIDA STATUTES AND THAT A SHORTAGE OF AFFORDABLE HOUSING EXISTS; PROVIDING A REPEALER PROVISION AND AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

City Manager Woodruff stated that the purpose of the resolutions presented in 11-a and 11-b was to recreate the boundaries and the organization known as the Community Redevelopment Agency. He said that Council will be asked to take action on the new boundary for the redevelopment area. The Advisory Board to the CRA has determined in its studies that it would be appropriate to expand the boundaries to include all of Cambier Park and to include certain aspects of property on the eastern entrance to U.S. 41. He stated that the only boundary changes recommended followed the inclusion of all of Cambier Park and certain properties east of the Gordon River Bridge. He noted that the process involved the approval of two resolutions, the first dealing with the finding of necessity, presented because of the proposal to enlarge the district boundaries. Dr. Woodruff noted that all of the statistical bases had to be recalculated to meet the Florida Statute requirements. He informed Council of the requirement to reconsider the statistical base and take action on the finding of necessity for this process to continue and legally proceed.

Dr. Woodruff explained that the second resolution was provided to develop the Community Redevelopment Agency, appointed by the City Council. He noted that his action is repeating previous action made by Council to create this agency. He indicated that later during the presentation further explanation would be made as to why it is legally beneficial to redo some of those previous acts. He further noted that if these resolutions are approved, an additional item will be presented for approval that will repeal Council's previous actions. Dr. Woodruff clarified that Council was not starting the process over again, but creating a very sound, legal, technically correct base necessary to ensure proper execution of this matter.

Planner II Walker stated that in response to CRA's request at their December meeting, staff had notified all of the property owners involved in the boundary expansion. She stated that only one single family owner west of Cambier Park had responded.

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Dr. Woodruff stated that staff will supplement the data and analysis in the packet with a new page 17.

Planner II Walker stated that part of the requirements need to satisfy the State Statute for the findings of necessity called for a special public notice requirement. She stated that it was prepared by Dennis Haas, the City's attorney for redevelopment; mailed on December 20, 1993, to Chairman of the County Commissioners Burt Saunders and receipt had been acknowledged by him. Copies were also sent to the County Manager, the County Appraiser, and the County Attorney. This Public Hearing was also advertised in the Naples Daily News on December 26, 1993.

Community Development Director McKim brought to Council's attention the determination for the finding of necessity for the development of the Community Development Agency, dated December 21, 1993. She explained that its purpose is to provide data and analysis for the redevelopment study area. The area stated in the report and shown on the map is bounded on the north by 7th Avenue North, on the east by Gordon River, on the south by 6th Avenue South, 5th Avenue to 3rd Street and easterly through Beau Mer Island and to the East Gordon River Bridge. She stated that this area included approximately 609 acres or 7.4% of the total area of the City. This study area is recommended to be included in the redevelopment area. She said that the properties within the area are interrelated and the entire area must be considered in order to improve the current situation of blight and prevent the spread of these conditions to adjacent neighborhoods. She reviewed the definition of slum and blight following the criteria from the State Statute for the finding of necessity and also noted that there was a shortage of low or moderately income housing within the city.

NOTE: As a point of order, the Mayor noted that a quorum was not present and that the meeting could not continue until a quorum returned. Full Council took their seats prior to the finishing of this report.

Planner II Walker stated that she collected the land use data and had used a variety of sources to retrieve information. She reported that the 600 plus areas of the redevelopment study area represent many varied land uses. She stated that in order to determine if conditions within this area are typical in the rest of the City, she had collected the same sort information for two control areas, the Third Street South Commercial area and U.S. 41 north of the control area. Ms. Walker stated that the results of the data collection is provided in the Council backup information packet. She reported that approximately 70% of the 315 commercial and residential projects within the redevelopment area did not meet City code in areas of landscaping or parking and other site conditions. The lack of parking and land to provide additional parking are deterrents to the expansion of many businesses in the area. She noted that there was a great diversity of ownership among these parcels and also data to back up underutilization of the land in the area. Information regarding the age of the buildings in the study area indicated that 79% were built before 1970, therefore, in consideration that the City Fire Code mandating sprinkler systems was not passed until 1987, the majority of the buildings in the area do not have modern fire sprinkler devices.

Planner I Golden reviewed affordable housing information. She stated that there were a number of families that fall into a category termed by HUD as "cost burdened". Ms. Golden explained that the term applied to those families that spent more than 30% of their annual income on housing costs. She noted that 40% of low income elderly people pay more than 30% for housing. She noted that all levels of income families, including those of many different sizes, are impacted by "cost burdening". However, she said, it is usually the elderly and large families that are impacted the most.

Ms. Golden pointed out that a number of low and very low income families live in the City and in light of the fact that the average price of a home within the City is \$495,000. 00, there is a lack of affordable housing in the City.

Fire Marshall Reed briefed Council on many of the Fire protection revisions and noted that the designation of the redevelopment area would allow much of this fire protection to be installed.

Police Chief Reble noted that according to crime statistics of the City in 1990, 7.4% of the most serious crimes occurred in the area from 6th Avenue North to 1st Avenue North to the river.

Community Development Director Missy McKim stated that in July, 1993, there were 92 vacant store fronts in the study area. Using an overhead, she projected a summary table showing the number of store fronts and the number of vacancies. She noted that there were a lot of vacancies on U.S. 41 and a lot per structure along the whole redevelopment study area. She stated that compared to the number of code violations in the rest of the City, there were four times as many within the study area. Ms. McKim reported that the Department of Transportation had produced an access management plan and that staff had reviewed the results, noting the number of access points per mile, since more access points are indicative of the number of small lots, situations arise that frequently create more hazardous driving conditions. In conclusion, Ms. McKim stated that sufficient evidence is provided to indicate that the state statutes have been met.

Public input:

Kim Kobza, Representative for the Waterfront Association

Mr. Kobza spoke to the issue of including waterfront properties within the redevelopment study area. He stated that the waterfront had always been approached as one planning unit. He indicated that the new proposed boundaries for the redevelopment area invade these boundaries. Mr. Kobza stated that he had attended a meeting with the CRA Advisory Board and that the Waterfront District representatives had been assured that nothing would go forward without their consideration. He stated that the Barron Collier properties and the Claussen properties do not support this change in boundaries.

Dr. Woodruff stated that the vast majority of the waterfront had been excluded from the study area due to the Waterfront District's opposition to inclusion. He told Mr. Kobza that the CRA Advisory

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Board could only act in the capacity as advisor to the CRA. Mr. Kobza responded that any inclusion of waterfront property did not make sense because the purpose of the waterfront study and work is to avoid any piecemeal approach.

Dr. Woodruff noted that Mr. John McEwan, of the Claussen Company, had met with the CRA Advisory Board and had indicated that he did not object to the inclusion of their property into the redevelopment study area. He explained that the Advisory Board believed it to be essential that they have a say in the eastern entrance to the City and for that reason those properties up to the eastern most bridge were included. He pointed out that the Board was very careful not to include any of the waterfront area that is not directly on U.S. 41. Dr. Woodruff stated that the Advisory Board took the position that they would not include the area beginning with Tin City and extending downward, because of the very vehement opposition of the Waterfront District representatives. He explained that although there were planning functions through the redevelopment master plan, concerns that these functions will suddenly create an impairment is totally unfounded. He further explained that Development Agreements already existed on the Claussen Properties and on Port-O-Call Marina and those properties are bound, under the law, to live under those agreements. Dr. Woodruff stated that City Council makes the final decisions in regard to the proposed Redevelopment Plan and also oversees the Waterfront Property Owners and the Waterfront study.

Mr. Kobza explained that the Waterfront Group was concerned over the potential of a separate set of zoning codes and division of TIF (Tax Increment Funds) designed for use in the Waterfront District only.

Discussion continued concerning the expansion of the redevelopment area boundaries and whether or not a part of the Waterfront District could be included. Attorney Hass explained that if a new district were established in the future, tax increment procedures would start from another year. The TIF revenue for that new district could be directed to that district or directed for use within the existing redevelopment area or specified for use in one particular area.

Dr. Woodruff further noted that the City did contact the Waterfront District owners as required by law and that some responded by coming to the CRA Advisory Board meeting to express their opinions. Dr. Woodruff stated that inclusion into the Redevelopment Area offers the Waterfront benefits that they will not have if they are not included in the CRA. He pointed out that inclusion in the Redevelopment Study Area gives an area the ability to accomplish capital projects that otherwise might not be feasible. He also pointed out that nothing in the creation of the CRA or in the financing of the CRA changes their current tax set up. It gives the Waterfront the ability to use money that normally goes to the City or County government for other designated uses and that is why Mr. McEwan, of the Claussen Company chose to be included.

Council Member Korest pointed out that it was important for property owners to realize that they are

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not giving up anything. Dr. Woodruff added that currently the only revenue realized by the Waterfront District is generated by revenue increases in that area; inclusion in the redevelopment area would give the Waterfront District the ability to use money generated by other properties.

Council Member Van Arsdale stated that he believed the areas need to be combined because they serve more than one role, in this case, a part of the Waterfront becomes an extension of Fifth Avenue.

Attorney Hass stated that this issue is a function of coordination of the land with the exception of the issue of the tax increment dollars. In response to Mr. Hass, Mr. Kobza clarified that he represented the Waterfront District Association which includes the Marinas, the restaurants, Tin City and Barron Collier Properties including the Riverlights properties.

David Borden, Barron Collier Company,

Mr. Borden stated that he had been involved with the Riverlights property since it was acquired a number of years ago. He stated that he had been fully noticed of the meeting with the CRA Advisory Committee to consider the Waterfront Properties and that following that meeting it seemed that inclusion of the waterfront properties would become a dead issue. He stated that he was surprised to learn that an area of the waterfront properties was proposed for the redevelopment area. Mr. Borden said that he and Mr. Claussen had a conversation at the time of the CRA Advisory Board meeting, however, he stated that their position may have changed since that time and since further involvement of Mr. McEwan. He clarified that this does not change the position of Barron Collier Company relative to the Waterfront District's position to not be included in the Redevelopment Study Area. Mr. Borden pointed out that since the Waterfront properties are surrounded by a greater percentage of water than land, they are more connected to water than to the central downtown area. He reiterated his point that the Riverlights property representatives did not want to be included in the Redevelopment Study Area.

Dr. Woodruff stated that it is up to Council to decide the boundaries and that the Advisory Board and Staff have indicated to Council the best interest of the community. He stated that in order to develop the eastern-end entrance of the City, those properties that abut U.S. 41 need to be included.

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Council Member Pennington stated that there would not be one standard for the entire district and that there would always be consideration for those things that are peculiar to the Waterfront.

MOTION: To **APPROVE** the resolution.

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

Council Member Korest stated that he was very hesitant to include a property owner so adamantly opposed to inclusion in the redevelopment area. Mr. Pennington stated that he agreed with Mr. Korest on this issue. Mr. Van Arsdale stated that in his opinion, the Riverlights property should be included since it is a key piece of property and significant time had been spent to include it.

Council Member Anderson asked to withdraw her second to the motion. She said that she concurred that the property should be included, however, it would be a major detriment to include this property since opposition to its inclusion is so adamant. She added that the City had worked so hard to make this a community minded project, one that would not be attacked by everyone and it would be a shame for this issue to cause a reverse action.

MOTION: To **APPROVE** the resolution.

Anderson		N
Herms		N
Korest		N
Pennington		N
Sullivan	S	Y
VanArsdale	M	Y
Muenzer		Y
(4-3)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

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City Attorney Chiaro stated that the resolution and the legal description would be amended as requested. She added that while the vote will reflect disagreement, the record will also reflect Council's support for the redevelopment plan itself. Attorney Hass noted that the approval of this resolution indicates that Council is making these findings and should anything be challenged, the record will stand in order.

MOTION: To **APPROVE** the resolution with the condition that the Riverlights Property be excluded from the redevelopment area.

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

Note: Council Member Van Arsdale left at 5:15 p.m.

RESOLUTION NO. 94-7099

ITEM 11-b

A RESOLUTION OF THE CITY OF NAPLES, FLORIDA, RELATING TO COMMUNITY REDEVELOPMENT; CREATING A COMMUNITY REDEVELOPMENT AGENCY, PURSUANT TO SECTION 163.356, FLORIDA STATUTES; DECLARING THE CITY COUNCIL TO BE THE COMMUNITY REDEVELOPMENT AGENCY; 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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Title read by City Attorney Chiaro.

Public Input:

There was no public input on this issue.

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

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

(6-0)

M=Motion S=Second

Y=Yes N=No A=Absent

ORDINANCE NO. 94-

ITEM 12

**AN ORDINANCE REPEALING ORDINANCE NO. 93-6868 WHICH
CREATED A COMMUNITY REDEVELOPMENT AGENCY; PROVIDING
A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN
EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Public Input: None

MOTION: To **APPROVE** First Reading.

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

(6-0)

M=Motion S=Second

Y=Yes N=No A=Absent

ORDINANCE NO. 94-7100

ITEM 14

AN ORDINANCE AMENDING SUBSECTIONS 3-22-1, 3-22-2(A), 3-22-3(A), 3-22-3(D)(6)(a), (b) AND (c) OF THE COMPREHENSIVE DEVELOPMENT CODE BY ADDING PARAGRAPH (6) TO SUBSECTION 3-22-3(E); AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None

MOTION: To **APPROVE** the Ordinance.

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

ORDINANCE NO. 94-7101

ITEM 15

AN ORDINANCE AMENDING SECTION 7-68 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, IN ORDER TO COMPLY WITH APPLICABLE STATE LAW; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

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Public Input: None

MOTION: To **ADOPT** the Ordinance.

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

ORDINANCE NO. 94-7102

(Continued, see previous input on page 15.)

Assistant City Manager Rambosk explained that several revisions were made and noted that a clerical error was corrected. He also noted that information regarding fines was included.

MOTION: To **ADOPT** the Ordinance.

ITEM 13-b

Anderson		Y
Herms		Y
Korest		A
Pennington	M	Y
Sullivan	S	Y
VanArsdale		A
Muenzer		Y
(5-0)		
M=Motion S=Second		
Y=Yes N=No A=Absent		

RESOLUTION NO. 94-7103

ITEM 18

A RESOLUTION ACCEPTING A WARRANTY DEED TRANSFERRING A STRIP OF LAND LYING BETWEEN CRAYTON ROAD AND SEAGATE DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, OWNED BY THE SEAGATE PROPERTY OWNERS ASSOCIATION; AND PROVIDING AN EFFECTIVE DATE.

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Title read by City Attorney Chiaro.

Public Input: None

City Manager Woodruff stated that the language was revised to reflect that this property can be used as City Council deems appropriate. This revision, he said was in response to a previous concern that the property might be used as a right-of-way. He added that this property can have a positive impact on that area if this resolution is accepted.

MOTION: To **APPROVE** the Resolution.

Council Member Herms asked if the land could be utilized as park land and City Attorney Chiaro responded that her interpretation of this resolution permitted use of the land as a passive park. It was also noted that the 4th "whereas" should be removed.

Dr. Woodruff said that the melaleuca trees in the area would be removed immediately.

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

ITEM 23

**AUTHORIZATION TO EXECUTE TASK ORDER NO. HMA 10-93, FOR
WATER TREATMENT PLANT AND POTABLE WATER DISTRIBUTION
SYSTEM EVALUATION TO BE PROVIDED BY HOLE, MONTES AND
ASSOCIATES, INC.**

Withdrawn.

ITEM 24

**APPROVAL OF CONTRACT FOR CONTINUED EMPLOYMENT
SERVICES OF THE CITY ATTORNEY.**

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Withdrawn.

OPEN PUBLIC INPUT

John Conroy, Community Redevelopment Board Member

Mr. Conroy thanked City Council for an appropriate decision relative to the arts building at Cambier Park. He also offered his services as a consultant and added that his business includes negotiating long term leases. He stated that for the sum of \$10.00 he would draft a lease and a letter of intent for the Naples Players. He volunteered to work as a City representative to draft the documents outlining terms and conditions with the Naples Players to be presented to City Council for approval.

MOTION: To **APPROVE** the authority of John Conroy to explore the various options with the Naples Players and to bring those options back to City Council for consideration.

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

Mayor Muenzer requested that Mr. Conroy meet with the Community Services Board for further discussion on this issue.

CORRESPONDENCE AND COMMUNICATIONS

Council Member Anderson stated that several members of the construction community had requested an update of what is going on in the building department, regarding the selection of a

building official and any future changes. She asked that the City Manager commit some time in the upcoming week for this meeting. Ms. Anderson stated that she would fax a copy of interested contractors to the City Managers office.

Dr. Woodruff said that he would set aside time for a meeting with the contractors and that interviews for the position of Building Official were concluded and that candidates had been narrowed down to two.

ADJOURN: 5:55 p.m.

PAUL W. MUENZER, MAYOR

Janet Cason
City Clerk

Katie Gibson-Jones
Recording Secretary

Marilyn McCord
Deputy City Clerk

These minutes of the Naples City Council were approved on February 16, 1994.



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January 5, 1994
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