

ROLL CALL

ITEM 1

Present: John M. Passidomo, Vice Mayor

R. Joseph Herms
Alan R. Korest
Paul W. Muenzer
Fred L. Sullivan
Council Members

Absent: Kim Anderson, Mayor
William E. Barnett, Council Member

Also Present:

Dr. Richard L. Woodruff, City Manager
Norris C. Ijams, Asst. City Manager
Tara Norman, Public Information Officer
Jon C. Staiger, Ph.D., Natural Resources Mgr.
Kevin Rambosk, Interim Comm. Services Dir.
John Reble, Fire Prevention Lieutenant
Sheldon Reed, Fire Marshal
William Taylor, Fire Inspector
Jeff Whittaker, Police Lieutenant
George Henderson, Sergeant-At-Arms
Marilyn McCord, Recording Secretary

See Supplemental Attendance List - Attachment #1

ORDINANCE NO. 91-

ITEM 2

**AN ORDINANCE AMENDING SECTION 7-65 OF
ARTICLE III, VESSEL CONTROL, OF
CHAPTER 7 OF THE CODE OF ORDINANCES OF
THE CITY OF NAPLES; AND PROVIDING AN
EFFECTIVE DATE. PURPOSE: TO REGULATE
THE OPERATION OF VESSELS WITHIN THE
AREAS SPECIFIED HEREIN.**

City Manager Woodruff and members of staff made a presentation, with the use of visual aids, covering many points of information which had been gathered with regard to this issue. The

information presented included the following:

1. Role and function of various regulatory agencies.
2. Alternatives available for regulation.
3. Boat counts recently taken in each of the target areas.
4. Actual video taken of the impact of wakes at various speeds.
5. Economic data.

After staff's presentation, City Manager Woodruff stated, "We hope the audience has found a degree of what the issues are regarding congestion and safety based upon actual counts. Safety and congestion take on different meanings at different times of the day, different days of the week, and different times of the year."

Based on data collected, said Dr. Woodruff, staff was recommending a slow-down/minimum wake restriction between Mile Markers 32 and 26 on Saturdays, Sundays and holidays between 10:00 a.m. and 6:00 p.m. In that zone, no additional regulations were recommended any time of the day or week. Between Mile Markers 26 and 21, no additional regulations were being recommended. In the area from Mile Marker 21 to 10, staff was recommending a slow-down/minimum wake on Saturdays, Sundays, and holidays from 10:00 a.m. to 6:00 p.m., with no additional regulations on any other days of the week or times of the day. No changes were recommended to any regulations currently in existence above Mile Marker 32, or from Mile Marker 10 out to the Gulf.

BREAK: 7:20 p.m. - 7:40 p.m.

City Manager Woodruff thanked the staff for their professional presentation, then opened the floor for public input.

PUBLIC HEARING: 7:40 p.m. - 9:45 p.m.

Mr. Noel Osborne of 13156 White Violet Drive and

representative of the Collier County Marine Trades Association, directed attention to the many people in attendance who were wearing red shirts. These people, he said, were opposed to changes in the boating regulations.

Mr. Jim Logie, 723 Glendale Avenue, also a member of the Collier County Marine Trades Association, said that staff's presentation represented the first time an unbiased study had been presented by the City. Mr. Logie asked for some consideration with regard to the 10:00 a.m. to 6:00 p.m. time frame, pointing out that during the winter months boaters would be navigating primarily in the dark. He suggested that signs be posted at the intersection of Mile Marker 21 west to Gordon Pass and south to Marco Island because it is so confusing in that area. Finally, Mr. Logie commented that if the Marine Patrol crews were on more permanent schedules, the officers could gain experience and the overall law enforcement program would be improved.

Next to address Council was Mr. Bruce D. Conley, 1100 Bald Eagle Drive. He concurred with the 10:00 a.m. to 4:00 p.m. time frame. Mr. Conley said, "Please say no to any permanent form of no wake; say yes to boater safety."

Mr. Osborne congratulated Council for selecting Dr. Woodruff as the new City Manager and said that staff had done an outstanding job. Council is faced with a problem that will have a significant impact on many people, noted Mr. Osborne, primarily the marine-related businesses and their employees.

He commented that the Port Royal residents had

not been able to furnish Council with a single fact to support their argument. Mr. Osborne stated that he was confident that fairness would win over selfishness in this matter, and added, "Your constituents will mark this date on their calendars as a new era for the City, as the beginning of a government working for all instead of for a few."

Mr. John Mueller, 2695 Treasure Lane, expressed his pleasure in reading that Council would base its decisions on facts determined by staff. He asked that Council also consider the concerns of the DNR (Department of Natural Resources). When safety is a concern, said Mr. Mueller, property owners' rights and boat owners' rights must take a back seat. He said further that manatee protection regulations should be considered as well.

Mr. Mueller pointed out that 40 miles of shore were covered by the Naples Police Department and asked how subjective speed limits could be monitored by so few people in such a vast area. In closing, Mr. Mueller asked that Council create an ordinance that safely regulates the local waterways and which the City's law enforcement personnel can enforce.

Next to address Council was Mr. Jim Calvin, 1147 Rainbow Drive, who said that people were already boating on the waterway when others purchased their waterfront property, making it a pre-existing condition. DNR had initially said that a safety problem did not exist, commented Mr. Calvin, however, their opinion had been reversed, which, in his opinion, was curious. Mr. Calvin stated, "We are all for safe boating. Let's follow Richard's (Dr. Woodruff) recommendations."

Mr. Donald P. DeVoe, 530 16th Avenue South, told Council that through the years he had seen the Bay deteriorate in many ways, and in his opinion City Councils had simply "band-aided" problems. Mr. DeVoe stated that the alcohol regulations would have a significant impact on safety and he opposed a minimum wake zone. He asked that Council please look toward the Bay as a functioning system.

City resident Mr. Bruce A. Graham, 195 Second Avenue North, stated that he believed it was necessary to recognize the wakes, citing his experience as a sailboat owner. Another concern brought to Council's attention by Mr. Graham was the problem of rental boat operators. Those people bring large amounts of money into the area, he said, however, something should be done in the way of control.

Mr. Tyler Janney, 645 First Avenue North, said that he had experienced no safety problems in the Bay with the exception of the "occasional idiot you get anywhere." Should Council legislate the slow speed/minimum wake regulations, noted Mr. Janney, the small boater would be hurt tremendously. He emphasized that lack of intelligence creates the problem and in his opinion there are sufficient laws in existence at this time.

Mr. Philip M. Francoeur, Jr., 2231 Forrest Lane, said, "This has nothing to do with property rights; it has to do with boater safety. Many of us are sailors and we are endangered by the wakes of the larger boats. Not just the fishermen but all large powerboats are responsible." Mr. Francoeur said that the proposal submitted was

excellent and a good compromise. He asked Council to concentrate on minimum wake, not speed, and requested that Aqualane Shores as well as Port Royal be considered.

Mr. Rick Marchisio, 363 Pinehurst Circle, next presented himself to Council. He told Council that should the proposed laws be passed, it would not affect him too much and added that he saw no need for new regulations. With regard to the safety aspect, Mr. Marchisio commented that the occasional boaters who put out large wakes can be cited and made liable for property damage.

Mrs. Elizabeth Dunlop, 559 15th Avenue South, told Council that she has been unable to use her sailboat because of the congestion. She made several suggestions, including requesting that the commercial boaters rearrange their schedules, and educating the younger boaters who use the Bay on weekends. Mrs. Dunlop recommended enforcing the slow speed/minimum wake regulations proposed with idle speed at all times between Mile Markers 10 and 21.

Mr. Allen Walburn, 860 12th Avenue South, complimented Council for hiring a staff that is fact-driven, and thanked everyone for the excellent presentation. He pointed out that the City had received over 400 letters against additional speed restrictions. Mr. Walburn stated that he would support the City Manager's recommendations simply on a conciliatory basis but would qualify that with the statement that if laws are enacted, definitive criteria should be brought to Council specifying that certain terms should be met, so that everyone can determine whether there is a need for restrictions. He asked that should Council enact the changes, the

time frame be changed to indicate 10:00 a.m. to 4:00 p.m. In closing, Mr. Walburn said, "Personally, I reject the recommendations based on my opinion of the Bay and the facts presented tonight. I'll support you if you go 10:00 a.m. to 4:00 p.m. Many people feel there is a need for regulations. The flashing lights we discussed would be an outstanding way, put in on an as-needed basis. That's a solution to your safety needs."

"I moved here so I could use my boat," said Attorney Leonard Reina of 600 Fifth Avenue South, who next addressed Council. He told Council that he saw nothing in the presentation to indicate a problem exists. From a legal standpoint, said Attorney Reina, he could not depict one shred of evidence that indicated Council should make changes in current regulations. He emphasized that if speeds are slowed down and people cannot easily get out into the Bay, more property damage would occur. Attorney Reina suggested stationing a police officer in the congested area where he would be very visible to boaters. He closed by saying that boater education and perhaps mandatory insurance were needed rather than additional speed restrictions.

Attorney Larry Ingram, 631 17th Avenue South, commented, "It seems to me it's a case of the tail wagging the dog." With regard to the Port Royal residents requesting changes in the regulations, he said he resented them raising the specter of boater safety. Attorney Ingram told Council that riprap could be installed in the area between Aqualane Shores and Royal Harbor, which would help the problem in that area. He said that he believed it was time the City established its own priorities and take into consideration the fact that time is important to

recreational and commercial boaters. Attorney Ingram suggested excluding commercial boaters from any speed restrictions, as long as they were commercially registered. "Safety is being used as a smoke screen," he concluded.

Mr. H. Peter Granata, 1061 Galleon Drive, referred to a fatal accident which had occurred in Naples Bay when a boat sank after knocking down Mile Marker 27. Mr. Granata said he believed the person would be alive today if slow speed regulations had been in effect. If there had been restrictions, the operator of the boat would have been apprehended, noted Mr. Granata. He stressed that safety comes first and that one-half hour of additional boating time was not worth losing a human life.

Mr. Falconer Jones, 1001 Spyglass Lane, commented, "I'd like to see none of the mentioned things put into effect. We're trying to see if safety or public rights are more important. You just can't do that. The boating water belongs to the people. If you took the statistics we heard tonight, you can't take it on a boat-to-boat basis. They are too different. I think the questions were answered tonight. Our safety record was quoted. The person who got killed ran into a safety marker. The more markers we put into the Bay the more problems we create. Every boat operator should know about wakes. My point is, put in a police radio, VHF radio, change the fines, do education. I support no change."

City resident, Mr. Charles L. Shumway, 12 Bramblewood Point, said that the primary issue at stake was one of safety and that, out of courtesy, boaters which create a large wake

should slow down when a smaller boat is sighted.

Mr. Shumway thanked staff for the excellent presentation and noted that the large turnout at the meeting indicated what this issue means to so many people. "Believing in the democratic system, I know you will render the proper decision," he stated. In conclusion, Mr. Shumway reminded Council that the waterways are for all the citizens and there is a need for some regulation.

Mr. Joe Biasella, 860 12th Avenue South, expressed concern about the Bay. He informed Council that he lives on a boat in the Bay and believes that restrictions are needed. Mr. Biasella thanked staff and Council for holding the meeting in the evening.

Editor of the Boaters' Monthly Magazine, Mr. Steve Weissman of Madeira Beach, referred to Naples as a "wonderful place" and expressed the hope that Council would remember their responsibility to the waterway and those people who use it. Mr. Weissman said, "In a sense, the waterways are our highways and if we restrict speed, far fewer people will come visit. How do we regulate those highways? Your staff spoke very knowledgeably about idle and slow speeds. Waterways are fueled by the need to maintain boats at safe speeds so that the police should simply be able to enforce safety regulations. I wish big boats would have traditional courtesy. Presently you have a law on safe speed. Your staff did a wonderful job, but I barely heard the problem of congestion and didn't hear a safety issue."

Dr. H. Ivan Moyer, 800 Riverpoint Drive, told Council that the data which had been presented needs some clarification, primarily with regard to the amount of time it would take to travel the Pass. In his opinion, the time would be much

longer than what was cited. Dr. Moyer informed Council that he had asked the Police Department about injuries in the waterway this past year, and other than the one unfortunate fatal accident, the most serious injury was a scrape on the forehead. Therefore, he emphasized, there was not much evidence to suggest danger on the waterway. Dr. Moyer concluded by saying that he believed most boaters "do a very good job" and very few cause excessive wakes. He expressed opposition to any further regulations on the Bay. Mr. John L. Landon, 2580 Tenth Street North, referred to the fine coverage of the Bay by the Marine Patrol, and pointed out that it was very rare not to see them slow down a larger boat. The Bay is being patrolled very well, he added, and if present regulations stay completely enforced he does not anticipate a problem. Mr. Landon summarized by saying, "Courtesy is the key. I don't see any significant hazard if everyone minds the rules of the road."

City resident Mr. Jim Jones, 678 99th Avenue North, thanked Council for allowing the time for citizens to express their concerns. He was in favor, he said, of no additional restrictions, adding that the current regulations being enforced should certainly take care of any problems existing in the Bay.

Mr. Mark Sturdivent, 1105 Sandpiper Street, noted that he had been before Council last year defending his water rights in a disagreement about dockage of boats. The problem here is much the same, he said, in that a few property owners could not settle their dispute and asked an entire community to get involved. Mr. Sturdivent said, "I don't see how this can go through."

Next to present himself to Council was Mr. Owen Lister, 2447 Washington Street, who asked how much money had been spent on the survey. He said that the problem was not speed regulations but proper operation of a boat, and also that there was no correlation between wake and speed. Mr. Lister added that he did not support any changes to current regulations.

At this point, City Manager Woodruff explained that the data presented covered areas within the City limits only. He emphasized that it was the responsibility of City government to always be responsive to its citizens. Dr. Woodruff added, "When one or two people come and ask for a major study we don't, (facilitate a major study) but you as a citizen expect us to be responsible. You may or may not like the answer. Please feel good that when a major issue reached our attention we responded. When we don't listen to citizen inquiries that affect the quality of life, then we aren't serving. We received quality requests from quality citizens and we took them seriously. I would estimate that the total cost in manpower would be between \$3,000 and \$4,000; over 100 manhours were expended. You as citizens expect that."

Mr. Jim Weigel, 675 17th Avenue South, came forward as a representative of the Aqualane Shores Property Owners Association. He informed Council that the Association's Board of Directors had requested its members' responses to a poll with regard to 1) the extension of the existing idle speed/no wake regulations, and 2) creation of a slow speed/no wake zone from Mile Marker 26 to 32. Of the 131 responses, the results were as follows: 57 agreed with both proposals; 54 disagreed with both proposals; three agreed with proposal 1 and disagreed with proposal 2; 16

agreed with proposal 2 and disagreed with proposal 1; and one had no opinion.

Mr. Fred Monschein, 1297 Seventh Avenue North, expressed support of the proposed speed restrictions saying that wakes were the problem, not speed. He thanked Council for addressing the matter before it became a major safety problem. Mr. Monschein closed by saying, "This channel is a public right-of-way and belongs to everybody. I think we have to have some regulations to make it safe and accommodate all people who use it."

City resident Mr. Robert P. Casey, 645 Broad Court South, told Council that the discourteous boaters were the ones "you should be after." He said that common sense was important and the problem was not speed but discourteous boaters. In addition, noted Mr. Casey, more patrol of the Bay would require more manpower, and as a taxpayer he was concerned about that.

Miss Lindsey Dorrill, 2100 Pinewood Circle, told Council that she was eleven years old and enjoyed Naples Bay. She said, "The water was here first. Landowners know boaters used the water before they bought their houses. Please keep Naples Bay available for our families to enjoy."

Mr. William T. Darling, 2200 Kingfish Road, expressed his gratitude that Council was addressing the problem and attempting to reach a compromise, adding that Council and the City Manager had taken a very positive step. He admitted to taking a risk when he bought a home on the Bay. Mr. Darling said that when he keeps

his boat moored near his home, it gets thrown about to the point where expensive damages occur.

He stated, "The problem is not speed; it is wake. I want the same rights as everyone else does. I have the right to a safe mooring as a boat owner."

Next to address Council was Ms. Gerri Kalvin, 546 Palm Circle, who said that she was more interested in the process than in boating and was very impressed with the comprehensive presentation that was made by staff. She noted that she believed the compromise recommended by staff was a good idea. However, Mrs. Kalvin stressed, any ordinances which are passed must be enforced and she asked Council to implement the means to enforce any new regulations which may be passed.

Ms. Fern Aitchison, 613 14th Avenue South, commented that from what she had seen and heard, the real problem seems to be abuse of the Bay. Waterways do belong to the people, she said, asking Council to take into consideration, when passing any new regulations, the abuses of the Bay. Ms. Aitchison said that more patrols were needed at strategic points rather than the creation of many unwieldy rules and regulations.

City resident Ms. Mary Stanley, 2800 Shoreview Drive, informed Council that she owned a sailboat, then went on to say, "I was basically behind this ordinance at first, but like everyone said, you'll have idiots wherever you are. It's abused and neglected every day. You cannot pass more legislation. The patrols that are out there are phenomenal." Ms. Stanley commented that morality cannot be legislated and any proper sailor of any boat knows the rules. She asked Council to "have mercy" on those who had

sailboats.

Mr. George Gaynor, 800 Admiralty Parade, said that criticism toward Port Royal is always "open season" although many of its residents have done a lot for Naples. Mr. Gaynor commented, for the record, "To correct aforementioned inaccuracies, I worked for a living. I know very well what it is like to work for \$20 a week. I worked all my life and won't make any excuses for our position.

We've been fortunate and won't make any excuses for our position. We've been fortunate and I'm thankful. I'm sure the other three elderly gentlemen here have similar backgrounds. We sit down there between Markers 10 and 21. We've seen every day what goes on and have raised the subject many times with City Council. It's a safety issue. We're worried about damage to property. Many commercial boats and private boats put up big wakes and it's dangerous."

Next to address Council was Mr. John DeBaun, 1300 Curlew Avenue, who claimed he had never seen any "dangerous boaters." He called attention to the fact that Naples Bay was a Federal waterway and asked whether the City had the right to regulate it.

Mr. Douglas O. Partridge, 531 Eighth Avenue South, commented that in his opinion, the Police Department had everything under control in Naples Bay and that he had never seen any safety hazards. He remarked, "I don't know what the uproar is about." Mr. Partridge suggested that riprap be installed in the problem areas.

Mr. Robert G. Abbott, 815 21st Avenue South,

emphasized that the biggest problem was that of wakes, however, except for a few abusers, he had not observed many difficulties in the Bay. He asked that Council consider those large boats which create the wakes.

Port Royal resident Mr. William Highland concurred that wakes were the "number one safety problem." Council had voted unanimously for the restrictions at two previous meetings, he pointed out, and he saw no reason for that to change. Mr. Highland recommended that Council consider the idle speed/no wake restrictions from Mile Markers 21 through 10, and slow speed/minimum wake from Mile Markers 21 through 32.

Mr. Duke Turner, 899 Tenth Street South, told Council that part of his marine business involved sea trials, so if slower speeds are enforced, his time and his customers' bills would be doubled. He described staff's presentation as the best he had seen on the matter and expressed support for the City's Manager's proposals with the possible exception of changing the 6:00 p.m. time to 4:00 p.m. Mr. Turner concluded by saying, "Let's get this nonsense out of the way and start living together."

Mr. Wheeler Conkling, 950 Admiralty Parade, stated that there was no question of a safety issue existing, primarily between Mile Markers 21 and 10. He agreed that the Marine Patrol does an excellent job, and also commended the staff for their presentation. Mr. Conkling asked Council to consider restrictions between Markers 21 and 10 since it is such a narrow area.

BREAK: 9:46 p.m. - 9:55 p.m.

Council Member Korest expressed appreciation to the many citizens for attending the meeting, and said that he was impressed with staff's report. He asked how further regulations would be enforced. City Manager Woodruff said that signs would be posted with the regulations, and at times when restrictions are in effect a beacon light would rotate and flash. Dr. Woodruff noted that those people who regularly use the Bay will know what to do, however, that percentage of boaters who are not familiar with local laws need to be aware of the regulations, and the signs and lights would serve that purpose. At some point, he continued, more marine patrol officers would be needed, however, he could not project when that time would be.

The City Manager also stressed the wisdom of keeping the regulations as simple as possible in order to facilitate the most voluntary compliance.

Council Member Herms said that based on his experiences of boating in the area at issue, he believes there are unsafe conditions, adding that the amount of turbulence in certain areas was great.

In response to Council Member Muenzer's question, Lieutenant Whittaker said that the current fine for wake violations was \$75.00 plus court costs. City Attorney Rynders informed Council that the fine could be raised.

Council Member Sullivan complimented the staff for the presentation which was made. He commented that perhaps the time of day when the photographs were taken may not be reflective of true conditions in the Bay.

Vice Mayor Passidomo inquired about the application of the proposed and existing regulations under emergency conditions. City Manager Woodruff explained that once a law is enacted, a police officer must use judgement in enforcement of that law. When a storm is imminent, he said, perhaps safety is better enacted by allowing violations. Dr. Woodruff stated, "We can never tell a citizen he has a right to violate the law. We can only say we can be reasonable as to the application of the law."

Next the Vice Mayor asked about visibility in the area of Mile Markers 14 and 15, where a substantial bend in the channel exists. City Manager Woodruff informed Council that some discussion had taken place with regard to regulating that area. Because the channel comes directly up to the seawalls, there was sound basis to slow down to minimum wake in order to increase the response time for boaters in the area.

MOTION: To initiate slow speed/minimum wake regulations on Saturdays, Sundays, and holidays between 10:00 a.m. and 6:00 p.m. between Mile Markers 32 and 26, and between Mile Markers 21 and 10 be changed to idle speed/no wake at all times.

Council Member Korest seconded the motion, which was made by Council Member Sullivan. Mr. Korest withdrew his second after discussion.

MOTION: To support restrictions on the Bay including slow speed/minimum wake from Mile Markers 32 through 26 and slow speed/minimum wake from Mile Markers 21 to 10 on Saturdays, Sundays, and

holidays, from the hours of
10:00 a.m. to 6:00 p.m.

The motion was seconded by Council Member Sullivan, and at the request of Council Member Muenzer, Council Member Herms amended his motion.

AMENDED MOTION:

To support restrictions on
the Bay including slow
speed/minimum wake from Mile
Markers 32 through 26 and
slow speed/minimum wake from
Mile Markers 21 to 10 on
Saturdays, Sundays, and
holidays, from the hours of
10:00 a.m. to 5:00 p.m.

Council Member Muenzer asked to go on record as saying that his optimum recommendation would have been stronger, and he suggested installing directional signs somewhere on the Intercoastal Waterway, which would indicate "Marco Island," "Naples," etc.

City Manager Woodruff explained that signs with rotating beacons would be controlled by timers.

Vice Mayor Passidomo stated, "In determining our best judgment, I'm comfortable we are acting in good faith. Clear suggestions were made. My conclusion differs a bit from the motion, but I'm very supportive of the motion."

MOTION: To APPROVE the ordinance at
first reading, modifying
Section 1 to state 10:00
a.m. to 5:00 p.m.

CORRESPONDENCE AND COMMUNICATIONS

None.

ADJOURN: 10:35 p.m.

JOHN M. PASSIDOMO, VICE MAYOR

JANET CASON
City Clerk

Marilyn McCord
Recording Secretary

These minutes of the Naples City Council were
approved on _____.

