



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Regular Meeting - February 2, 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
Maria J. Chiaro, City Attorney
John Cole, Chief Planner
Missy McKim, Community Development Director
Dr. Jon Staiger, Natural Resources Manager
William Harrison, Finance Director
Mark Thornton, Community Services Director
Paul Reble, Police Chief
Dan Mercer, Utilities Director
George Harrison, Sergeant-At-Arms
Marilyn McCord, Deputy City Clerk
Herb Anderson
George Varnadoe
David Humphrey

Brad Estes
Jim Smith
Marjorie Prolman
Fred Tarrant
Robert Noble
Kim Kobza
Duke Turner
Russell Ferguson
Nancy Stroud
Michael Watkins
Bob Rier
Jim Lennane
Justyna Ford
Eric Staats
Other interested citizens and visitors

City Council Regular Meeting - February 2, 1994

ITEM 1

INVOCATION AND PLEDGE OF ALLEGIANCE

The Very Reverend Malcolm W. Eckel
Trinity-by-the-Cove Episcopal Church

ITEM 3

ITEMS TO BE ADDED

The following items were added to the agenda:

Item 23 Resolution supporting the Florida Highway Patrol, budget initiative, for fiscal year 1994/95.

Item 24 Insurance settlements.

Item 25 Appoint one member of City Council to the Metropolitan Planning Organization.

NOTE: Item 24 consisted of three insurance settlement issues. Two will be discussed at a Workshop. The settlement matter concerning Bruce Bowlby was placed on today's agenda.

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

ITEM 17

**AUTHORIZATION TO DISPOSE OF SURPLUS WATER/SEWER PIPE
FITTINGS. (PURCHASING BID #94-24/UTILITIES)**

ITEM 18

**AUTHORIZATION TO AWARD BID FOR THE TRIMMING OF TREES
ON CRAYTON ROAD BETWEEN PUTTER POINT AND ANCHOR RODE.**

City Council Regular Meeting - February 2, 1994

(BID #94-29/COMMUNITY SERVICES)

RESOLUTION NO. 94-7114

ITEM 23

A RESOLUTION SUPPORTING THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, DIVISION OF FLORIDA HIGHWAY PATROL, BUDGET INITIATIVE, FISCAL YEAR 1994/95.

RESOLUTION NO. 94-7115

ITEM 24

A RESOLUTION APPROVING THE SETTLEMENT OF INSURANCE CLAIMS #001877-AB-01 AND #001635-WC-01 IN THE AMOUNT OF \$50,389.81; AND PROVIDING AN EFFECTIVE DATE.

MOTION: To **APPROVE** the consent agenda, consisting of Items 17, 18, 23, and 24.

Community Services Director Mark Thornton answered Council's questions about the privatization of tree trimming. The City will still be responsible for the removal of debris. Vice Mayor Sullivan requested all of the backup data and a complete cost analysis upon which the decision to privatize tree trimming was made.

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

ITEM 4

ANNOUNCEMENTS

City Manager Woodruff reported that the City was continuing its negotiations with Collier County with respect to affordable housing.

RESOLUTION NO. 94-7116

ITEM 5-a

A RESOLUTION GRANTING APPROVAL OF CONDITIONAL USE PETITION 94-CU1 AS REQUIRED IN SUBSECTION 7-4-14(C)(6) OF THE COMPREHENSIVE DEVELOPMENT CODE, IN ORDER TO ALLOW SEVEN DWELLING UNITS TO BE BUILT IN THE "C1-A" COMMERCIAL CORE ZONING DISTRICT ON THE THIRD FLOOR OF THE COLONY COURT BUILDING, 335-355 FIFTH AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner John Cole reviewed background information pertinent to this item.

Attorney George Varnadoe, representing the petitioner, thanked those Council Members leaving office, noting that both Mrs. Anderson and Mr. Herms had made significant contributions to the community. Mr. Varnadoe offered some historical perspective relating to his client's request, noting, "I think this is a chance to give the redevelopment effort a jump start. Mixed use development makes a lot of sense and will blend with the neighborhood. I urge your approval."

Architect for the project, David Humphrey, told Council that the proposed plans represent an immediate and direct response to Mr. Duany's presentations. Mr. Humphrey went on to say, "The building itself is in the scale of what Duany suggested. It has a sense of place that is somewhat lacking on Fifth Avenue, and creates a cap at the western end of Fifth. We are a multi-use area. Safety factors would be enhanced." Mr. Humphrey described the Colony Court plans, which propose a third-story residential level.

Public Input:

Jim Smith, 3355 Gordon Drive

City Council Regular Meeting - February 2, 1994

Mr. Smith, primarily representing the Fifth Avenue Property Owners Association, agreed that the proposed plans may be the start the area needs. Mr. Smith commented, "The quicker we get higher buildings on Fifth, the quicker we'll have a sense of place. It will feel like a destination."

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

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

RESOLUTION NO. 94-7117

ITEM 5-b

A RESOLUTION GRANTING VARIANCE PETITION 94-V3 FROM COMPREHENSIVE DEVELOPMENT CODE SUBSECTION 7-4-14(C) WHICH REQUIRES A MAXIMUM BUILDING HEIGHT OF 35 FEET IN THE "C1-A" COMMERCIAL CORE DISTRICT, IN ORDER TO ALLOW THE THREE STORY COLONY COURT BUILDING AT 335-355 5TH AVENUE SOUTH TO BE CONSTRUCTED TO 42 FEET; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input:

Marjorie Prolman, 526 Gulf Shore Boulevard South

Representing herself as a homeowner and interested party, Mrs. Prolman announced that she was very enthusiastic about the plans for Fifth Avenue but concerned about retaining the low profile of the older area of Naples. Mrs. Prolman expressed her fear that approval of the three story building may set a dangerous precedent.

Attorney Varnadoe addressed Mrs. Prolman's concerns about building height, noting that the additional height would not allow for intensified use but was only for aesthetic reasons.

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

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

City Council Regular Meeting - February 2, 1994

ORDINANCE NO. 94-

ITEM 7

AN ORDINANCE AMENDING SUBSECTION 5-2-1 OF THE COMPREHENSIVE DEVELOPMENT CODE, TO ESTABLISH EXCEPTIONS FOR DESIGN PROFESSIONALS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE.

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

City Council Regular Meeting - February 2, 1994

MOTION: To **CONTINUE** Item 7 to February 16, 1994.

ORDINANCE NO. 94-7118

ITEM 8

AN ORDINANCE AMENDING SECTION 21A-11 OF ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, FLORIDA, ENTITLED "UTILITIES SERVICES TAX", TO REDUCE THE TAX OF EACH AND EVERY PURCHASE OF ELECTRICITY, METERED OR BOTTLED GAS (NATURAL, LIQUIFIED PETROLEUM OR MANUFACTURED, WHETHER BOTTLED OR OTHERWISE), TELEPHONE AND TELEGRAPH SERVICE IN THE CITY OF NAPLES, TO SEVEN PERCENT (7%) OF THE PAYMENTS RECEIVED BY THE SELLER THEREOF; 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	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		

City Council Regular Meeting - February 2, 1994

ORDINANCE NO. 94-7119

ITEM 9

AN ORDINANCE AMENDING SUBSECTIONS 5-7-4 AND 5-7-8(A) OF THE COMPREHENSIVE DEVELOPMENT CODE OF THE CITY OF NAPLES, FLORIDA, TO ESTABLISH RULES AND REGULATIONS GOVERNING THE USE OF POTABLE WATER FROM THE CITY'S WATER SYSTEM FOR DECLARATION OF WATER SHORTAGE; WATER SHORTAGE EMERGENCY; MECHANICAL FAILURE; AND INADEQUATE FACILITIES; 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
Herns	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: 10:20 a.m. - 10:30 a.m.

ORDINANCE NO. 94-7120

ITEM 6

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT PETITION 93-CPA6 AMENDING TEXT WITHIN THE CITY OF NAPLES' COMPREHENSIVE PLAN AND THE LAND USE MAP IN ORDER TO AMEND THE BOUNDARIES OF THE WATERFRONT DISTRICT MIXED USE AREA; PROVIDING A SEVERABILITY CLAUSE, A REPEALER CLAUSE AND PROVIDING AN EFFECTIVE DATE.

City Council Regular Meeting - February 2, 1994

Title read by City Attorney Chiaro.

The ordinance was reviewed by Chief Planner John Cole, who reported that the proposed amendments were sent to the DCA (Department of Community Affairs) after Council approved same at first reading in August, 1993. The DCA recommended revising the Future Land Use Element's Objectives and Policies to comply with and implement the five goals which are proposed as a specific Land Use Element, subsection G.6 "The Crayton Cove and Bayfront Area." Mr. Cole pointed out that the properties recommended by staff for inclusion in the proposed amendment are commercial properties. The Planning Advisory Board (PAB) voted unanimously to recommend approval of the proposed district boundary amendments.

Council discussed the proposed ordinance and its relationship to the redevelopment master plan. Council Member Korest emphasized the fact that the City must stay focused on the protection of the marine uses in the waterfront area.

Public Input:

Russell Ferguson, 540 12th Avenue South

Mr. Ferguson, representing the Village Green Property Condominium Association, distributed copies of a map he had drawn of the area, noting that City staff had not included everything on its map. Mr. Ferguson asked that Council table this second reading until the two new Council Members could be apprised of the background and the neighbors' fears. He also thanked Mrs. Anderson and Mr. Herms for their service to the City.

Robert E. Noble, 1100 Ninth Street South

Mr. Noble told Council that his chief concern, and that of the Old Naples Property Association, was of increased traffic. He noted that the PAB (Planning Advisory Board) had recommended a traffic study of the area; to his knowledge this has not been accomplished. Mr. Noble went on to say that because the area is such a heterogeneous one, one set of regulations will not work for all. For instance, Tin City needs relief from restrictive building codes. With respect to parking, Mr. Noble pointed out that if right-of-way parking is allowed, the City would lose approximately 3,000 square feet of grass and trees. He continued, "This is not a fair trade. Already flooding conditions exist at 9th and 9th; will it help to put in more asphalt and concrete? I think the drainage problem will be intensified. The semi-abandoned Naples Landing Park is my pet peeve. It's suffering some neglect. The City doesn't seem willing to do anything. I say it's not proper to go ahead with this. Table it for the new City Council and have the results of the traffic study before any changes are made."

Council Member Pennington reported that the delay of improvements to Naples Landing have been due entirely to financial restrictions, and that the City has every intention to fully beautify the park.

Joanne Harriss, 556 12th Avenue South

Ms. Harriss said that she didn't understand how the density of the area would not be increased should

City Council Regular Meeting - February 2, 1994

this ordinance be adopted. She also brought attention to the parking shortage which, in her opinion, would be created. Residents of the area are already being subjected to the noise emanating from tour buses, she said, and a zoning change to the waterfront area would only increase congestion and noise. Ms. Harriss asked that the waterfront area be removed from the proposed amendment. She also concurred with Mr. Noble that a traffic study should be completed prior to any changes in zoning. Ms. Harriss concluded by congratulating Vice Mayor Sullivan on his re-election and thanking Council Members Anderson and Herms for their dedicated service.

Kim Kobza, 801 12th Avenue South

Attorney Kobza, representing the Waterfront Property Owners Association, also recognized and thanked Mrs. Anderson and Mr. Herms, noting that he appreciated the opportunity to work with them. He also congratulated Mr. Sullivan.

Attorney Kobza reminded everyone that the issue before Council was only a small step in a process that has taken a great deal of time and that it needs to go forward. He expressed the Association's full support of staff's recommendations, noting, "All staff did was to incorporate the State's recommendations." Attorney Kobza pointed out the importance of providing incentives, which does not necessarily mean intensification of use.

MOTION: To **ADOPT** the ordinance at second reading, removing that designation between 7th and 8th Streets South which are presently proposed for inclusion in the waterfront district. In addition, language on page 2 of Exhibit B, Program 9-5, is to be amended to delete "increased building coverage, building heights, parking, etc." The traffic study will be completed by June 1, 1994.

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

Council Member Van Arsdale expressed his wish that a good comprehensive plan for the waterfront area would be devised which could be supported by everyone. He urged Council and staff to work towards development of a comprehensive waterfront plan agreeable to all parties.

ORDINANCE NO. 94-

ITEM 10

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT PETITION 93-CPA3 AMENDING TEXT WITHIN THE CITY OF NAPLES' COMPREHENSIVE PLAN IN ORDER TO DELETE THE REQUIREMENT THAT CERTAIN SPECIFIC PROPERTIES, AND ALL PROPERTIES WITHIN SPECIFIED DISTRICTS, UNDERGO A PLANNED DEVELOPMENT REZONE PRIOR TO DEVELOPMENT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

The proposed ordinance, including amended language as requested by Council at first reading, was reviewed by Chief Planner John Cole. Mr. Cole pointed out that one of the specific properties that had required PD (Planned Development) rezoning was Key Island. Staff proposes language which is consistent with the requirement of removing the PD rezoning. Initially staff had proposed replacing it with language recognizing the PD that the City originally approved. The judge's ruling that voided that particular rezoning prompted staff to reconsider that language. The text submitted today relies on the Conservation Zoning District and some of its fairly stringent requirements for review in the case of any rezoning request, for instance, the review process the Key Island developers would have to comply with should they want to redevelop the property. On that point, correspondence from both Cay Island, Inc., the property owner, and from Attorney Nancy Stroud's office was received by staff proposing some alternative language for that section of the Comprehensive Plan. Mr. Cole distributed copies of same (Attachment #1.)

Mr. Cole informed Council that the DCA (Department of Community Affairs) had no comments on the proposed text amendment, indicating to staff that the initial submittal was acceptable. Staff recommended approval of the submitted text amendment.

In response to Council Member Korest, City Attorney Chiaro stated: "I always take the comments of the court literally, and when the court says you can't do something, you can't. However, the court case that I believe you're referring to is the court case which in essence says that a governmental entity can't force a property owner to go through a rezoning process and have PD zoning forced upon the property owner if the property owner did not wish to go through that process." She continued, "That does not preclude, however, the governmental entity from incorporating in its Comprehensive Plan the philosophical concept and desire to have Planned Development on certain parcels. The plan for development is a plan of land uses and not specific zoning, therefore I believe that our Comprehensive Plan can include a plan for Planned Development on certain parcels. However, if a property owner at the time the property is to be developed does not wish to go through the Planned Development process, they are entitled to the underlying zoning that is in place on that

parcel." Attorney Chiaro said that she had made those same comments to the PAB. Attorney Chiaro confirmed that in her interpretation, there is no legal problem with leaving the Comprehensive Plan as it is.

City Manager Woodruff explained that staff policy was based upon the Comprehensive Plan language that was adopted by ordinance which stated that specific properties should be developed as PD's. The Comprehensive Plan did not state that there was a choice between conventional zoning or as PD's. All properties within the City are zoned something, said Dr. Woodruff, and the Comprehensive Plan stated that if a property is going to be developed, it must be developed as a PD or it must use the existing zoning. In certain cases staff probably did encourage or require people on properties other than those listed in the Comprehensive Plan to go with PD zoning; however, that has been corrected and people understand that they have the option, where the Comprehensive Plan is not in conflict.

Mr. Cole noted that he believed that staff has never required a Planned Development in situations that have not been either prescribed by the Comprehensive Plan or the Comprehensive Development Code. Mr. Cole further said that last year staff began to remove the requirements for Planned Development rezones out of the Comprehensive Plan, and the next step was going to be to remove any requirements for Planned Development from the Comprehensive Development Code. Mr. Cole continued, "I believe we've been acting consistently with what we understand to be the rules we play by that are contained in those two documents." In response, Council Member Korest commented, "In the intervening period, in looking at this, I don't think it is really something that we need to do, because the petitioner has the ability, the flexibility, under the present Comp. Plan language to do what he wants to do. He can either develop it as a PD, as this language says, or he can choose the underlying zoning. But I don't see the reason for a Comp. Plan change."

Council Member Herms said that in his opinion the Comprehensive Plan was not the only problem. He stated, "My point is very simple, that our Comp. Plan, our Development Code, and our land use map, our zoning map, has had in it the requirement, not the possibility, but the actual requirement of zoning classifications as I-PD, R-PD, and various commercial PD's. If you look at the map, they're actually in parentheses. By that zoning designation, we have required, not an option; we have required any property owners to go through the PD process. My only want here is to clarify that the courts have said we cannot require somebody to go through that process, and I have no problem inserting language that says something to the effect that it would be the City's intent of having the property owner look at the possibility of either rezoning it PD or retaining its existing zoning. I think we need to respect the court's decisions on land use issues. This is a major decision in the State of Florida, on this particular land use issue, and these land use issues have not been litigated until the last few years. It's setting the precedent for all communities in which they have to settle their zoning standards."

Public Input:

Chris Ott, representing Cay Island, Inc.

Mr. Ott commented that he was curious about the dialogue that had just ensued. He asked, "If the property owner has the ability to choose either the underlying zoning which, for the property we own is R3T-12, and at the Shore Station would be C1, or we had the ability to request to use the PD zoning. Do I have the rights under R3T-12 zoning and C1, for instance, to build 720 condo units on my R3T-12 property? Because, as the Comprehensive Plan is currently written, in the conversation that just ensued regarding requiring property owners to rezone to PD, as I understand the discussion that just ensued, I have the ability to choose one or the other."

City Attorney Chiaro said that her interpretation of the language in the Comprehensive Plan, subject to the restrictions and the concepts in the Comprehensive Development Plan, is that Mr. Ott has the right to use the property as it is zoned. However, in the case of Key Island, notwithstanding the underlying zoning, there are significant restrictions incorporated conceptually related to its development. It would not be correct, stated Attorney Chiaro, to tell Mr. Ott that he had the right to develop his property according to R3T-12.

Mr. Ott reviewed the history of Key Island's zoning and the court cases involved. The court had delayed the Planned Development until such time as it underwent a Development of Regional Impact analysis to be reviewed by the Department of Community Affairs. Subsequently, after their decree was issued, the Florida Statute dealing with Development of Regional Impact has been amended, thereby precluding the requirement that this step be taken. He said, "As stated at the outset, in the interim period, as the new stewards of Key Island, we have taken measures to preserve the unique environment of the Island by assuring that the vast majority of it will forever be preserved as a State research preserve. We have, however, retained approximately sixty acres and intend for the present to operate the Key Island Club as a transient lodging facility with all the former rights vested in it. In all our dealings with the Council and City staff, we have relied in good faith on the language contained in the Comp Plan and have expended considerable amounts of time and resources in continuing the existing uses on the Island and the Shore Station in addition to begin planning for a reasonable development of the Island that will be less intense than that originally approved by the Council. If the Council now enacts the language proposed by staff, it will take away some of our basic vested rights approved by this Council, with no showing of a strong public necessity or crisis requiring such a change. What we are asking this Council to do is to merely state within the Comprehensive Plan that the operation of the Key Island Club, its accessory buildings and uses, and the Gordon Drive Shore Station that has been in operation for sixty years, become vested. In addition, the intensity and density that was scrutinized by this staff and argued several times before the Planning Advisory Board and City Council, with testimony provided by expert witnesses from a variety of viewpoints, also be vested in this Comprehensive Plan." Mr. Ott requested that he be allowed to continue to utilize the PD zoning category for the purpose of making an application for transient lodging facilities within the Keywaden Club complex area of a density and size

City Council Regular Meeting - February 2, 1994

approximately the same, though in no case any larger, than the developmental square footage approved in Ordinance 89-5843, for the development of the Island which is still in private ownership.

Mr. Ott answered Council's questions regarding density. Council Member Pennington stated that in his opinion, Key Island should be considered separately. The Comprehensive Plan addresses the Island as it was, not as it is, said Mr. Pennington, and Key Island should be addressed comprehensively.

Jim Lennane, 4228 Gordon Drive

Mr. Lennane stated that the Key Island owners persist in intensifying the use of the Island, although an order to cease and desist was issued. "Slowly and surely the base use of the Island has been growing," said Mr. Lennane. He remarked that the Island has been changed into a public facility, resulting in intense traffic on Gordon Drive. Mr. Lennane stated, "City Council is the last line of defense for us on South Gordon Drive. Please make them cease and desist from their illegal activities. We want you to do something about it now. Get this on the table now."

In response to Council Member Herms, City Manager Woodruff said, "The law is the law until it is changed." Those properties identified as requiring a PD, must have a PD, he said. Dr. Woodruff suggested the following options to Council:

- . Approve the ordinance as presented.
- . Make a motion to continue the ordinance with specific directions to Council that the second reading be modified in certain ways.
- . Deny the ordinance and give staff direction to start the process over with certain stipulations as desired by Council.

Dr. Woodruff added that the motion as it is presently framed would result in a denial, therefore the exact language in the Comprehensive Plan would stand as it is and would be enforced as written. He commented, "As you know, we cannot tell somebody they can violate the law. The City Attorney has given you advice. You've heard that advice; how you rule...then from there you've established policy and we enforce that policy."

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

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

City Council Regular Meeting - February 2, 1994

Council Member Herms commented that Council cannot ignore State law or court decisions. He said, "It's fine to change the language, but to leave as is is a blatant disregard of the court." Mr. Herms voted in the negative.

Council Member Korest brought attention to the fact that the current language had been in existence for a long time and has not been a problem, and offers the best opportunity to everyone. Vice Mayor Sullivan voted "yes," noting that there were remedies available beyond the present motion. He said that an attempt should be made to bring some kind of reasonable relationship between the various parts of this issue, and at the same time bring together the parties involved in the Key Island dispute in order to affect some kind of reasonable approach that offers settlement to both parties. The City must be the catalyst for that movement, said Mr. Sullivan, and he suggested moving forward and attempt to bring the City, the residents of South Gordon Drive, and the Keywaden Island property owners together in order to begin some discussions as to how best to solve the problems.

ORDINANCE NO. 94-7121

ITEM 11

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT PETITION 93-CPA5, AMENDING TEXT WITHIN THE CITY OF NAPLES' COMPREHENSIVE PLAN AND THE COMPREHENSIVE PLAN MAP SERIES IN ORDER TO INCORPORATE THE ANNEXATION OF BEAR'S PAW INTO THE CITY OF NAPLES' MUNICIPAL LIMITS; DESIGNATING FUTURE LAND USE FOR THIS PROPERTY AS A COMBINATION OF "LOW DENSITY RESIDENTIAL", "PUBLIC, SEMI-PUBLIC AND PRIVATE RECREATION" AND "CONSERVATION"; PROVIDING A SEVERABILITY CLAUSE, A REPEALER CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

Anderson		Y
Herms		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		

City Council Regular Meeting - February 2, 1994

RESOLUTION NO. 94-7123

ITEM 15

A RESOLUTION GRANTING CONDITIONAL USE PETITION 94-CU3 TO ROBERT MUNN TO OPERATE A SANDWICH SHOP IN A 2000 SQUARE FOOT TENANT SPACE WITHIN THE VICTORIA SQUARE COMMERCIAL PLAZA LOCATED AT THE SOUTHWEST CORNER OF GOODLETTE-FRANK ROAD AND CENTRAL AVENUE; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner John Cole reviewed the item and at Council Member Pennington's request confirmed that language would be incorporated acknowledging that games are to be included in allowable uses.

Public Input: None.

MOTION: To **APPROVE** the resolution, with the acknowledgment that games are an allowable use.

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

NOTE: Council Member Herms declared a conflict of interest. A Conflict of Interest form is included as Attachment #2.

NOTE: City Manager Woodruff clarified that further public input with respect to Item 10 would be accepted prior to meeting adjournment.

ORDINANCE NO. 94-

ITEM 13

AN ORDINANCE DELETING STEP NUMBER 8 OF SECTION 20-26, PLAT APPROVAL PROCEDURES, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, IN ORDER TO ELIMINATE THE PROCEDURE OF SUBMITTING CITY APPROVED PLATS TO THE BOARD OF COUNTY COMMISSIONERS FOR FORMAL APPROVAL; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN

City Council Regular Meeting - February 2, 1994

EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

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

ORDINANCE NO. 94-7124

ITEM 12

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT PETITION 93-CPA7 AMENDING TEXT WITHIN THE CITY OF NAPLES' COMPREHENSIVE PLAN AND THE TRAFFIC CIRCULATION MAP IN ORDER TO REMOVE THAT SECTION OF FIFTH AVENUE, SOUTH BETWEEN U.S. 41 AND GULF SHORE BOULEVARD FROM THE LIST OF EXISTING MAJOR COLLECTOR STREETS WHICH ARE REQUIRED TO MAINTAIN A LEVEL OF SERVICE "C"; DESIGNATING THIS ROAD SEGMENT AS A CONSTRAINED FACILITY WITHIN AN AREA DESIGNATED FOR DOWNTOWN REVITALIZATION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER CLAUSE AND PROVIDING AN EFFECTIVE DATE.

City Council Regular Meeting - February 2, 1994

Title read by City Attorney Chiaro.

Public Input: None.

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

Anderson		Y
Herms		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		

RESOLUTION NO. 94-7122

ITEM 14

A RESOLUTION GRANTING VARIANCE PETITION 94-V1 FROM SUBSECTIONS 7-4-3 AND 9-1-13 OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH REQUIRES A 10 FOOT SIDE YARD SETBACK IN THE "R1-15" RESIDENCE DISTRICT, IN ORDER TO ALLOW A POOL TO ENCROACH 2.0 FEET INTO THE SIDE YARD AT 38 BROAD AVENUE SOUTH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

NOTE: Council Member Van Arsdale declared a conflict of interest and did not cast a vote. A copy of the appropriate Conflict of Interest form is included as Attachment #3.

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

ITEM 19

CANVASS RESULTS OF GENERAL ELECTION HELD FEBRUARY 1,

City Council Regular Meeting - February 2, 1994

1994, AND DECLARE RESULTS OF ELECTION.

City Manager Woodruff read the Certificate of the City of Naples Canvassing Board (Attachment #4). City Clerk Janet Cason certified that the Certificate accurately reflects Canvassing Board meeting dates as well as results of the election. It was noted that 46.53% of the registered voters did vote in the February 1st election. Those elected to City Council were incumbent Fred S. Sullivan, Marjorie Prolman, and Fred Tarrant.

ITEM 20

**SWEARING IN OF CITY COUNCIL MEMBERS BY THE HONORABLE
JUDGE HUGH HAYES.**

Collier County Circuit Court Judge Hugh Hayes administered the Oath of Office to Mrs. Prolman and Mr. Tarrant. On behalf of the citizens of Naples, Dr. Woodruff presented gifts to Council Members Anderson, Herms, and Sullivan. He wished them good health and expressed the hope that they would continue to serve the community.

RESOLUTION NO. 94-7125

ITEM 21

ELECTION OF VICE MAYOR

MOTION: To elect Council Member Alan Korest to serve as Vice Mayor.

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

ITEM 22

SWEARING IN OF VICE MAYOR.

Judge Hayes administered the Vice Mayor Oath of Office to Council Member Korest, who expressed a commitment to serve the City well.

ITEM 25

**APPOINTMENT OF ONE COUNCIL MEMBER TO THE
METROPOLITAN PLANNING ORGANIZATION.**

Mayor Muenzer announced that the next meeting of the Metropolitan Planning Organization was set for February 11, 1994.

MOTION: To appoint Council Member Ron Pennington to the Metropolitan Planning Organization.

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

OPEN PUBLIC INPUT:

Jack Wasmer, 4301 Cutlass Cove

Mr. Wasmer submitted a petition to direct Code violations at Key Island (In the original file for this meeting, in the City Clerk's Office). He stated, "We request that violations found by staff be enforced by penalties provided by City Code. Otherwise it's an injustice to the residents." Further delay in enforcement of the violation issued against Key Island four months ago makes a mockery of zoning, said Mr. Wasmer. Dr. Woodruff mentioned that it has historically been the City's practice not to handle Code violations until Council takes action on any pending petitions. After some discussion, it was Council's consensus to direct staff to place both Key Island matters on the same

City Council Regular Meeting - February 2, 1994

agenda, rather than consider them separately.

Kim Anderson, 525 Yucca Road

Mrs. Anderson described some of the events which occurred during her eight years of service as a Council Member and Mayor. She announced, "I've enjoyed every minute and am grateful for the opportunity." Mrs. Anderson told the Mayor that his position required much patience and asked him to abide by the Optimist Creed. In turn, Mrs. Anderson offered brief comments to each Member of Council and congratulated Mrs. Prolman and Mr. Tarrant, the two new Council Members. Mrs. Anderson also thanked the City staff and her family for their cooperation during her years with the City.

ADJOURN: 12:40 p.m.

_____**PAUL W.**
MUENZER, MAYOR

Janet Cason
City Clerk

Marilyn McCord
Deputy City Clerk

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



Index
City Council Regular Meeting
February 2, 1994
 Convened 9:00 a.m. / Adjourned 12:40 p.m.

ANNOUNCEMENTS	3
BID #94-24	
Dispose of surplus water/sewer pipe fittings	2
BID #94-29	
Award bid for trimming of trees on Crayton Road	2
CANVASS RESULTS OF GENERAL ELECTION	17
INVOCATION AND PLEDGE OF ALLEGIANCE	2
ITEMS TO BE ADDED	2
METROPOLITAN PLANNING ORGANIZATION	
Appoint Council Member Ron Pennington	18
OPEN PUBLIC INPUT	19
ORDINANCE NO. 94- (First Reading)	
Comp. Plan Amendment 93-CPA3 with regard to Planned Development	10
ORDINANCE NO. 94- (Continued to 2/16/94)	
Establish exceptions for design professionals	5
ORDINANCE NO. 94- (First Reading)	
Eliminate submission of City approved plats to County Commission	15
ORDINANCE NO. 94-7118	
Comp. Plan Amendment 93-CPA6/Waterfront District	6
ORDINANCE NO. 94-7119	
Amend CDC to establish rules and regulations for potable water	7
ORDINANCE NO. 94-7120	
Comp. Plan Amendment 93-CPA6/Waterfront District	7
ORDINANCE NO. 94-7121	
Comp. Plan Amendment 93-CPA5/Annexation of Bear's Paw	14
ORDINANCE NO. 94-7124	
Comp. Plan Amendment 93-CPA7/Traffic Circulation Map revision	16

RESOLUTION NO. 94-7114	
Support budget initiative for FY 1994/94, FL Highway Patrol.....	3
RESOLUTION NO. 94-7115	
Insurance settlements/Claims #001877-AB-01 and #001635-WC-01	3
RESOLUTION NO. 94-7116	
Conditional Use 94-CU1/335-355 Fifth Avenue South	4
RESOLUTION NO. 94-7117	
Variance 4-V3/335-355 Fifth Avenue South.....	5
RESOLUTION NO. 94-7122	
Variance 94-V1/38 Broad Avenue South	17
RESOLUTION NO. 94-7123	
Conditional Use 94-CU3/Victoria Square/allow sandwich shop	15
RESOLUTION NO. 94-7125	
Election of Vice Mayor Alan R. Korest	18
SWEARING IN OF CITY COUNCIL MEMBERS.....	17
SWEARING IN OF VICE MAYOR.....	18