



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Regular Meeting - February 16, 1994 - 9:00 a.m.

Mayor Muenzer called the meeting to order and presided.

ROLL CALL

ITEM 2

Present: Paul W. Muenzer, Mayor
Alan R. Korest, Vice Mayor

Council Members:
Ronald M. Pennington
Marjorie Prolman
Fred L. Sullivan
Fred Tarrant
Peter H. Van Arsdale

Also Present:

Dr. Richard L. Woodruff, City Manager	Michael O'Mara
Maria J. Chiaro, City Attorney	Odle Tarrant
Missy McKim, Community Development Director	Chris Ott
John Cole, Chief Planner	Herb Anderson
Mark Thornton, Community Services Director	Penny Taylor
George Henderson, Sergeant-At-Arms	Nancy Stroud
Tara A. Norman, Deputy City Clerk	James P. Lennane
Marilyn A. McCord	Kermit Sutton

News Media:

Eric Staats, Naples Daily News
Jerry Pugh, Colony Cablevision

Jack Wasmer
Molly Hughes
Kenneth A. Main
Dick Wilson
Michelle M. Brown
Joanne A. Harriss
Terry Lewis
Other interested citizens and visitors

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ITEM 1

INVOCATION AND PLEDGE OF ALLEGIANCE

Reverend Arthur Hannaway
St. Ann's Catholic Church

ITEM 3

ITEMS TO BE ADDED

The following items will be added to the agenda:

Item 19	Appoint a Member of Council to the Metropolitan Planning Organization
Item 20	Insurance settlement - Claim 001754-GB-01
Item 21	Insurance settlement - Claim 002082-AD-01
Item 22	Purchase of refuse vehicle

MOTION: To set the agenda including Items 19-21.

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

MOTION: To add Item 22.

Korest		Y
Pennington	M	Y
Prolman		Y
Sullivan		Y
Tarrant		Y
VanArsdale	S	Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
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ITEM 4

Mayor Muenzer

The Mayor read a message of encouragement and support sent on behalf of the City to Brian Shimer, Naples resident, who is captain of the United States four-man bobsled team currently competing in the Winter Olympics. He encouraged others to do likewise.

City Manager Woodruff

Dr. Woodruff announced that the request by the Collier County School Board (Gulf View Middle School) for the vacation of First Avenue South had been withdrawn by the petitioner.

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

ITEM 13

APPROVAL OF MINUTES

January 5, 1994	Regular Meeting
January 18, 1994	Workshop Meeting
January 24, 1994	Workshop Meeting
February 7, 1994	Workshop Meeting

RESOLUTION NO. 94-7126

ITEM 1

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES AND COLLIER COUNTY RELATING TO THE MAINTENANCE AND OPERATION OF THE BEACH AREAS AND RELATED PARKING SITES WITHIN THE CITY; AND PROVIDING AN EFFECTIVE DATE.

ITEM 15

AUTHORIZATION TO AWARD BID #94-37 FOR THE PURCHASE OF FIVE POLICE PATROL CARS.

ITEM 16

**AUTHORIZATION TO PURCHASE FROM FLORIDA STATE CONTRACT
- COMPACT PICKUP TRUCK (POLICE).**

ITEM 17

**AUTHORIZATION TO WAIVE COMPETITIVE BIDS - PURCHASE OF
REPLACEMENT PUMP AT WATER TREATMENT PLANT.**

ITEM 18

**APPROVAL OF ISSUANCE OF A PERMIT TO REPAIR AN EXISTING
SHORE PROTECTION REVETMENT.**

ITEM 19

**A RESOLUTION APPOINTING A MEMBER OF THE CITY COUNCIL TO
SERVE ON THE METROPOLITAN PLANNING ORGANIZATION; AND
PROVIDING AN EFFECTIVE DATE.**

RESOLUTION NO. 94-7127

ITEM 20

**A RESOLUTION APPROVING THE SETTLEMENT OF INSURANCE
CLAIM #001754-GB-01 IN THE AMOUNT OF \$22,510.89; AND
PROVIDING AN EFFECTIVE DATE.**

RESOLUTION NO. 94-7128

ITEM 21

**A RESOLUTION APPROVING THE SETTLEMENT OF INSURANCE
CLAIM #002082-AD-01 IN THE AMOUNT OF \$9,363.92; AND PROVIDING
AN EFFECTIVE DATE.**

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MOTION: To **APPROVE** the consent agenda, consisting of Items 13, 14, 15, 16, and 17, and added Items 20 and 21.

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

ORDINANCE NO. 94-

ITEM 5-A

AN ORDINANCE APPROVING REZONE PETITION 94-R1 REZONING PROPERTY LOCATED AT 404-414 8TH AVENUE, SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, FROM "R1-7.5" SINGLE FAMILY RESIDENCE TO "PS" PUBLIC SERVICE ; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Chief Planner John Cole reviewed the rezone petition, which staff had approved subject to several conditions:

- . An increase in size of the "off-site" parking lot from 107 to 124 spaces in size.
- . Installation of sidewalks in the adjacent rights-of-way.
- . Compliance with all landscaping and handicapped parking requirements.

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- . Retention of the Weaver residence until a specific alternate use is reviewed through the conditional use permit process.

Council Member Korest complimented the applicants on the attractiveness of the proposed renovations.

Public Input: None.

Korest		Y
Pennington	S	Y
Prolman		Y
Sullivan	M	Y
Tarrant	Y	
VanArsdale		Y
Muenzer		Y

(7-0)

M=Motion S=Second

Y=Yes N=No A=Absent

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

RESOLUTION NO. 94-7129

ITEM 5-B

A RESOLUTION GRANTING CONDITIONAL USE PETITION 94-CU2 TO ALLOW THE EXPANSION OF SAINT ANN CHURCH THROUGH THE ADDITION OF A PARISH HALL AND OFFICES AND THE RECONFIGURATION OF BOTH ON-SITE AND OFF-SITE PARKING AREAS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

MOTION: To **APPROVE** the resolution, with the deletion of Section 4. Staff will give final approval to landscaping.

Korest		Y
Pennington	M	Y
Prolman		Y
Sullivan	S	Y
Tarrant	Y	
VanArsdale		Y
Muenzer		Y

(7-0)

M=Motion S=Second

Y=Yes N=No A=Absent

RESOLUTION NO. 94-7130

ITEM 5-C

A RESOLUTION AUTHORIZING ISSUANCE OF A BUILDING PERMIT PURSUANT TO VARIANCE PETITION 94-V2 WAIVING CERTAIN CONDITIONS OF COMPREHENSIVE DEVELOPMENT CODE SUBSECTION 8-3-3(C) WHICH REQUIRES THAT ALL REQUIRED PARKING AREAS BE PAVED IN ORDER TO PERMIT THE DEVELOPMENT OF GRASSED PARKING AREAS IN CONJUNCTION WITH THE RENOVATION AND EXPANSION OF SAINT ANN CHURCH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

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

ORDINANCE NO. 94-7131

ITEM 7

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

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Title read by City Attorney Chiaro.

Public Input: None.

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

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

ORDINANCE NO. 94-

ITEM 8

AN ORDINANCE AMENDING SUBSECTION 5-2-9, STANDARD SWIMMING POOL CODE, BY AMENDING CHAPTER 3, SECTION 304.4, PIPING TO HEATER, OF THE STANDARD SWIMMING POOL CODE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

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Title read by City Attorney Chiaro.

Public Input: None.

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

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

ORDINANCE NO. 94-7132

ITEM 9

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 EFFECTIVE DATE.

Title read by City Attorney Chiaro.

Public Input: None.

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

Korest		Y
Pennington	M	Y
Prolman		Y
Sullivan	S	Y
Tarrant	Y	
VanArsdale		Y
Muenzer		Y
(7-0)		
M=Motion S=Second		
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RESOLUTION NO. 94-7133

ITEM 10

A RESOLUTION ADOPTING MARCH 25, 1994, AS THE PETITION SUBMITTAL DEADLINE FOR THE CITY OF NAPLES' COMPREHENSIVE PLAN AMENDMENTS OF 1994; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Chiaro.

City Manager Woodruff explained that Council must specifically set dates for scheduled changes to the Comprehensive Plan.

Public Input: None.

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

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

ORDINANCE NO. 94-

ITEM 11

AN ORDINANCE ESTABLISHING PROCEDURES FOR FILLING VACANCIES IN CANDIDACY FOR THE CITY COUNCIL AND MAYOR AFTER CLOSE OF THE QUALIFYING PERIOD; ELIMINATING THE

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**NECESSITY TO HOLD AN ELECTION IN CERTAIN CIRCUMSTANCES;
PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION
AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

The City Attorney reviewed the proposed ordinance, offering two alternatives, one of which provides for an additional qualifying period. Florida Statutes provide that each governmental entity must establish procedures for filling vacancies in candidacy caused by death, withdrawal or removal from the ballot, when vacancies occur after the close of the qualifying period for candidates.

City Attorney Chiaro will combine some of the language in each of the alternatives.

Public Input: None.

MOTION: To **APPROVE** the ordinance at first reading. The City Attorney will amend the language prior to second reading.

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

ORDINANCE NO. 94-7134

ITEM 12

**AN ORDINANCE AMENDING SUBSECTIONS (B) 8, 10, 11, 17, 23, 26, 27
AND 28 OF SECTION 7-7.1 OF THE CODE OF ORDINANCES OF THE
CITY OF NAPLES TO ALLOW FOR A MODIFICATION TO THE RULES
AND REGULATIONS OF THE OPERATIONS OF THE CITY DOCK;**

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**PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION
AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

City Manager Woodruff reviewed the proposed changes to the City Dock rules and regulations. Tenants of the Dock will have 24 hour access. In the event of the sale or transfer of a charter business, the lease will terminate and the new owner must submit an application to the City. In that case, the waiting list period would be waived. Dr. Woodruff announced that staff would be presenting Council in the near future with a new lease for residential tenants of the Dock.

Public Input: None.

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

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

BREAK: 10:00 a.m. - 10:10 a.m.

RESOLUTION NO. 94-

ITEM 6-A

**A RESOLUTION UPHOLDING THE DENIAL OF A BUILDING PERMIT
FOR RENOVATIONS TO A BUILDING AT THE KEEWAYDIN CLUB;
AND PROVIDING AN EFFECTIVE DATE.**

THIS ITEM WAS WITHDRAWN BY THE APPLICANT, MR. CHRIS OTT.

RESOLUTION NO. 94-

ITEM 6-B

**A RESOLUTION UPHOLDING THE DETERMINATION OF
INTENSIFICATION OF USE OF THE GORDON POINT SHORE STATION**

BECAUSE THE KEEWAYDIN CLUB HAS CHANGED FROM A PRIVATE CLUB TO A PUBLIC RESTAURANT AND LODGE; AND PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 94-7136

A RESOLUTION OVERRULING THE DETERMINATION OF INTENSIFICATION OF USE OF THE GORDON POINT SHORE STATION; AND PROVIDING AN EFFECTIVE DATE.

Titles read by City Attorney Chiaro.

City Attorney Chiaro announced that since this would be a quasi-judicial hearing, each Council Member would be asked -- prior to taking any evidence -- to describe any contact they have had with the proponents of this issue and the nature of any such contact. Each Council Member, in turn, described contacts they have had with the parties in this issue and where those contacts took place. Deputy City Clerk Tara Norman swore in those parties who would be speaking on this item.

A document was presented to Council containing information pertinent to the Key Island matter, including several excerpts from the Comprehensive Development Plan, Comprehensive Development Code, transcript of proceedings, and letters. The document's cover letter was written by Joel Kuperberg, former Council Member. (The aforementioned document is available for viewing in the City Clerk's Office and is a part of the record of this meeting.)

Community Development Director Missy McKim reviewed the request for an appeal from her decision that the change from a "private club" to a public restaurant and lodge at the Keewaydin Club is an increase in intensity of the Gordon Pointe Shore Station. Ms. McKim provided historical background information. Because there had been an increase in intensity of use of the Shore Station from that which is permitted by the Comprehensive Plan and Comprehensive Development Code, a Statement of Violation was issued. A judge's order voided the PD (Planned Development) at the Shore Station, leaving the property zoned C-1. Parking lots are a permitted use, however off-site parking requires a conditional use of the Comprehensive Development Code which makes this off-site parking for the Keewaydin Club a nonconforming use.

Ms. McKim went on to say that because the Keewaydin Club is open to the public who now use the Shore Station to park for the restaurant and lodge, the use of the Shore Station has intensified. Therefore, the current use of the Shore Station is inconsistent with the Comprehensive Plan and Comprehensive Development Code. At the Planning Advisory Board (PAB) meeting on January 12, 1994, the Board voted unanimously to deny the Administrative Appeal Petition 94-AA1 as presented. Ten people spoke at the PAB public hearing in support of the appeal decision that intensification has occurred at the Shore Station.

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Ms. McKim commented that the most important sentence in the Comprehensive Development Code pertaining to this issue was "No additional uses permitted." Existing uses at the Shore Station are nonconforming; any expansion of such would require PD approval by Council. In response to Council Member Sullivan's questions, Ms. McKim said that the first PD for the Island and Shore Station was approved sometime around July, 1988. At that time the use of the Shore Station supported very limited use on the Island. At that time it was also common knowledge that the Club was operated privately and only a limited number of people could make reservations. The change in operation at Keewaydin Club has resulted in a change in use of the Shore Station.

City Attorney Chiaro, answering Council Member Pennington's query, said that she could not make a legal determination on this issue; it is Council's responsibility to review Ms. McKim's decision.

At Council Member Tarrant's request, City Manager Woodruff read into the record a letter dated February 14, 1994, from Mrs. George Gaynor, whose family owned the Keewaydin Club. (Attachment #1)

Attorney Terry E. Lewis, representing the owners of Keewaydin Island, cross-examined Ms. McKim. Mr. Lewis asked Ms. McKim if she had written documentation that Keewaydin Club was a private, exclusive club at any time. Ms. McKim pointed out that on written material she had supplied relative to this issue, "private" was placed in quotations. Ms. McKim noted that it was certainly not a formal private club but did operate in an exclusive manner as opposed to being open to anyone who chose to call for a reservation. Attorney Nancy Stroud also asked several questions.

Public Input:

Chris Ott, 260 Bay Road (Sworn)

Mr. Ott pointed out that there seemed to be some contention as to whether or not Keewaydin Club was private. What had to be considered, said Mr. Ott, were the facts relative to the decision handed down by Community Development Director McKim. He stated, "A cornucopia of information provided me by my counsel, plus common sense, leads me to believe that a mere change of an establishment from private to public cannot increase intensification."

Mr. Ott noted that during the adoption of the Comprehensive Plan, no distinction had ever been made by staff or Council to differentiate between public and private parking. He stated, "In my opinion we aren't expanding the types of uses." Mr. Ott summarized by saying that based on information he had gathered and on his personal knowledge that Keewaydin Club was a limited private facility, he concluded that no language exists in the Comprehensive Development Code or in the Comprehensive Plan that distinguishes private versus public parking for conditional uses. Under case law, said Mr. Ott, such a prohibition was not allowed and that in his opinion parking is authorized by all of the property documents. Intensification of parking does not change a use, said

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Mr. Ott. He reported that prior to 1988 the parking facility was used for parking by employees as well as guests. It was licensed by the State no distinction made between public and private parking. The parking facility continues to serve the Club, he said, and is consistent with the Comprehensive Plan.

In reply to Attorney Stroud, Mr. Ott reported that he never had an interview in the AAA magazine. He claimed no knowledge of any Club employee talking about the Club for advertising purposes. Mr. Ott said that the parking facility can accommodate up to 51 automobiles.

Attorney Lewis reviewed his legal arguments. He said that Ms. McKim's conclusion is that the change from private to public constitutes a prohibited expansion of use. Mr. Lewis stated, "Assuming there is a change, from private to public, that will not constitute an expansion of use unless prohibited in the Comprehensive Plan and on the basis of the Comprehensive Development Code. Case law does not permit the type of interpretation that staff has indulged in."

Responding to Attorney Lewis' comments, Mr. Ott referred to private property rights and that parking lots do not distinguish between public and private. He cited several cases in support of his opinion. Attorney Lewis continued, "From a legal standpoint, there are no aspects of a private club that I can find historically for this area. From what I've seen, I can find no general pattern of exclusion and have never been presented with a club list. It was not private in a legal sense of the word. Your problem is nettlesome, but if you believe there should be some distinction in your Code, my advice would be that City Council is legally empowered to do so, but you can't do that in an appeal." Mr. Lewis emphasized that the Club has no criteria for membership and no by-laws. Referring to the parking situation, Mr. Lewis said, "It seems to me the idea was to get the Shore Station into that area right where the boat comes in and prohibit casual parking at the south end of Gordon Pointe."

Vice Mayor Korest commented that during the time he was a member of the PAB, hours were spent on this issue and there was never any discussion of private versus public usage. The whole issue of the Shore Station was to limit the use to a number everyone could agree on, said Mr. Korest. The number finally agreed upon was 51.

Attorney George Vega (Sworn)

Attorney Vega told Council that he represents the Drackett family but was at the meeting primarily as a witness. Mr. Vega commented that there appeared to be some conflict in his and Mr. Van Arsdale's recollections of how the Club was run. Mr. Vega said that he was counsel for Lester Norris, who was a founding member of the Conservancy. Mr. Vega admitted to no knowledge of Club dues or articles of incorporation. The only problem, he said, was a limitation of space, and during the season people were turned away due to lack of space. Mr. Vega noted that perhaps the word "Club" was confusing. He said that the facility was known to be open to the public for meals and lodging.

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Attorney Vega referred to letters from Holland Salley, Mary Smith, and Joel Kuperberg, who all spoke of visiting the Club. They also addressed the fact that during the season it was sometimes difficult to do so because the Club's seating was very limited.

Ben Caruthers, former Naples Police Chief (Sworn)

Mr. Caruthers made the following comments: "It always seemed to me it was general knowledge that the public had access to Keewadin. I never knew it to be restricted to a membership. I don't know of anyone who was turned down."

BREAK: 12:00 p.m. - 12:20 p.m.

Public Input continued

Joanne P. Harriss, 556 12th Avenue South (Sworn)

Ms. Harriss reported that when she was a guest a few years ago at the Keewadin Club she inquired about bringing guests and was told to arrange for obtaining a membership card. Ms. Harriss continued, "I was told I needed two sponsors. This summer I received a brochure through the mail purported to be an ad for Keewadin Club. I'm not sure about the language but it said if you had visiting guests, they should go to Keewadin Club, that it was open to the public. I've been excluded as late as 1992. I believed it was until recently a private club." In response to Attorney Lewis, Ms. Harriss clarified that she was in fact told she needed two sponsors to obtain a membership.

Michelle M. Brown, 3450 Gordon Drive (Sworn)

Ms. Brown told Council that she had been rather ambivalent toward this issue until recently when she received a letter from Mr. and Mrs. Drackett describing what they believed were personal attacks against them by their neighbors. Ms. Brown said that during the break she drove to the Shore Station, went into the parking lot, and was met by a parking attendant who asked if she had a lunch reservation. Ms. Brown continued, "I said no; I just wanted to go. He said I needed a reservation but he told me I could come over after 3:00 to walk around. I was given a lovely brochure which states information about wonderful service without pretentiousness." Ms. Brown said that she asked the parking attendant if Keewadin was a private club; he answered that it used to be until eight months ago, but it is public now. Ms. Brown reported that she has lived in Naples for eleven years and has always been told Keewadin was a private club.

Dick Wilson, 3191 Gin Lane (Sworn)

Mr. Wilson informed Council that when contractor John Remington built his house on Gin Lane,

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Mr. Remington told him that it was necessary to call Mrs. Gaynor to get lunch reservations at Keewadin Club. Mr. Wilson agreed with Attorney Vega's earlier comment, "You had to be connected."

It is noted for the record that Deputy City Clerk Marilyn McCord acted as recording secretary from the onset of the meeting to this point, when Deputy City Clerk Tara Norman assumed the role of recording secretary until adjournment.

Kenneth A. Main, 300 Cove Lane (Sworn)

Mr. Main, who resides directly opposite the Keewaydin dock, said that there is no question that the Keewaydin Club was recognized as private. He substantiated his claim by referring to various written communications and depositions by John Remington and Bolton Dracket. Subsequently the club was turned into a public resort, he said, as evidenced by the issuance of a liquor license, the placement of ads for the club in *Smithsonian Magazine*, and mass mailings. Mr. Main stated that by allowing this type of use to continue, one of Naples' finest neighborhoods would be destroyed. Residents of the area were therefore asking the Council for fairness.

Attorney Terry Louis asked Mr. Main what he believed was equitable in this situation. Mr. Main responded that the resort should revert to a private facility with 80 beds as it was in 1988, operating only on a seasonal basis. Mr. Main displayed photographs of expansion activities.

Molly Hughes, Berry & Calvin, West Palm Beach (Sworn)

Ms. Hughes, a traffic planner, explained the increases in trip generation between a facility which had only lodging and one that contained a restaurant/lounge, an increase of 80% according to traffic manuals. In addition, by turning the employee dormitory into a meeting room, daily trips to and from the shore station by employees were now being generated.

Jack Wasmer, 4301 Cutlass Lane (Sworn)

Mr. Wasmer indicated that he spoke for Gordon Drive, Sabre Cay and Cutlass Cove associations as well as many individuals in Port Royal. He asked how a liquor license could have been granted to the Keewaydin Club without the knowledge of neighboring residents. There had been a discussion between the Dracket group and a consortium of private citizens regarding purchase of a portion of the island, he concluded.

Kermit Sutton, 4080 Cutlass Lane (Sworn)

Mr. Sutton stated that regardless of whether the club is public or private, there is an increased activity in the parking area for food service trucks and the like. Such an enlargement of operations should have had the benefit of an appropriate public proceeding.

James Lennane, 4228 Gordon Drive (Sworn)

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Mr. Lennane said that the Drackets were trying to turn neighbors in the area against each other. He said that the north end of Key Island, called the "rump," would be worth \$6-million of the total estimated \$29.5-million value for the entire island and shore station. This northern section could eventually be worth as much as \$20-million which would be justified by various changes made in the development of the island. Mr. Lennane also pointed out that with the liquor license, the shore station becomes the door to the bar "where the drunks come out" and where buses "disgorge people." In conclusion, Mr. Lennane said that lawyers have found loopholes in the City's Comprehensive Plan and asked the Council to restrict the use of the shore station to the intent understood in 1988.

Public Input Section Closed

City Manager Woodruff reviewed the process of this item from staff to the Council. Several months prior, Mr. Main and others presented a letter to the City containing various points to illustrate why they felt the Keewaydin Club was in violation of the zoning code and the Comprehensive Plan. The staff met with the City Attorney and generated a written response which established the basis for its ultimate ruling that a simple expansion of hours was not an intensification. However, it was considered an intensification where a private facility became a public facility. Information was also received on a mailer which was sent by a credit card company advertising the club to the general public. The City staff ruled favorably on some of the issues raised in the letter and not in favor of others, Dr. Woodruff concluded.

Council Member Tarrant called for owners of the island and area residents to reach a compromise and avoid litigation. All are good citizens and taxpayers, he said. Relocation of the shore station could be a key to the compromise. Council Member Sullivan said he was disappointed because he felt there had been good potential for an agreement, part of which was eventual curtailment of the use of the shore station. Mr. Lennane, however, said that the agreement had "loopholes you could drive a truck through," and that citizens were being asked to be a party to an ad hoc agreement which was at odds with the Comprehensive Plan. Use of the shore station is a neighborhood problem, he said, but a larger problem is the eventual use of the island, and a decision between neighbors and owners of the island would not be binding without Council review and decision on a Planned Development for the island.

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MOTION: To **UPHOLD** the decision of the staff.

In further discussion, Council Member Tarrant inquired as to whether the City approved issuance of the Keewaydin Club's liquor license. Mrs. McKim explained that prior to issuing a liquor license, the State of Florida requires the city to sign the application stating that zoning allows that use. The first time such a contact was made was in 1991, and former City Attorney David Rynders had given the opinion that the club should be treated as being in the zoning category which existed prior to the Planned Development because the PD had been voided and was being appealed. Mr. Rynders, therefore, recommended approval of the license based on that zoning, although approval of the liquor license does not necessarily equate to a particular land use. However, the City was not required to sign off when the license was expanded, Mrs. McKim noted.

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

MOTION: To **OVERRIDE** the decision of the staff (Resolution 94-7136).

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

ITEM 22

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PURCHASE OF FRONT LOADER REFUSE VEHICLE, BID #93-62.

City Manager Woodruff described the City's commercial garbage program, which operates seven days a week. The problem, said Dr. Woodruff, is dependability of equipment. In considering the age of the equipment and the history of breakdowns and repairs, not every customer is being serviced on schedule. Most are provided full service by staff working excessive overtime.

Dr. Woodruff described the truck being considered for purchase. Council Member Tarrant noted that its price was competitive compared to other trucks of similar capacity.

Council discussed the requested purchase, and Mayor Muenzer stated, "In six years on Council I have heard no complaints about trash collection. Now we're getting complaints; we're falling behind." Dr. Woodruff explained that staff will be on a replacement plan of one truck per year, adding that the City's preventive maintenance program as it exists today is a quality program.

Public Input: None.

MOTION: To **APPROVE** the purchase of a front loader refuse vehicle as described in Bid #93-62.

Korest	M	Y
Pennington	S	Y
Prolman		Y
Sullivan		Y
Tarrant	Y	
VanArsdale		Y
Muenzer		Y
(7-0)		

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

OPEN PUBLIC INPUT

None.

CORRESPONDENCE AND COMMUNICATION

Council Member Tarrant inquired as to the progress of a letter that he had requested be sent to the Florida Division of Elections expressing the City's concern regarding an anonymous letter which had been circulated to voters prior to the General Election. City Manager Woodruff indicated that the City's submission of such a letter would be a topic of the election review committee scheduled to meet on Tuesday, February 22, 1994.

City Manager Woodruff noted that the staff was preparing a summary showing costs of services

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provided to the Municipal Airport, and revenues received.

Mayor Muenzer invited Council Members to accompany a group from the City who will visit the Big Cypress juvenile justice camp.

City Manager Woodruff will determine whether Collier County has adopted a policy of chipping horticultural materials generated from land clearing or whether burning is still allowed. This issue will be scheduled for discussion at the next City Council/County Commission joint meeting.

ADJOURN: 3:05 p.m.

PAUL W. MUENZER, MAYOR

Janet Cason
City Clerk

Tara A. Norman
Deputy City Clerk

Marilyn A. McCord
Deputy City Clerk

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



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Convened 9:00 am / Adjourned 3:05 pm

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