



City Council Chamber  
735 Eighth Street South  
Naples, Florida 33940

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**City Council Regular Meeting - August 3, 1994 - 9:00 a.m.**

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Mayor Muenzer called the meeting to order and presided.

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**ROLL CALL**

**ITEM 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  
Maria J. Chiaro, City Attorney  
Missy McKim, Community Development  
Director  
John Cole, Chief Planner  
Mark Thornton, Community Services  
Director  
Dr. Jon Staiger, Ph.D., Natural Resources  
Manager  
Sheldon Reed, Acting Fire Chief  
Glen Chesebrough, Division Operations  
Chief, Fire  
George Henderson, Sergeant-At-Arms  
Marilyn A. McCord, Deputy City Clerk  
Katie Gibson-Jones, Administrative  
Assistant

Werner W. Haardt  
Robert Noble  
Sue B. Smith  
Duke Turner  
Attorney Dudley Goodlette  
Marjorie Cormier  
Inge Johnstone  
Attorney Kim Kobza  
Attorney R. Scott Barker  
Gerald Gronvold  
Ted Soloday  
Louis Amado  
Justyna Ford, Chamber of Commerce  
Eric Staats, Naples Daily News  
Jerry Pugh, Colony Cablevision  
Paul Kenney, WBBH-TV

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**ITEMS TO BE ADDED**

**ITEM 3**

City Manager Woodruff requested that Item 25 be added to the agenda: Award of bid for construction of the Fire Station.

**MOTION:** To remove Item 10 from the agenda; remove Item 17 from the consent agenda; add Item 25 to the agenda; and approve the consent agenda, consisting of Items 16, 18, 19, 20, 21, 22-a, 22-b, 23, and 24.

|                     |   |   |
|---------------------|---|---|
| Korest              |   | Y |
| Pennington          | M | Y |
| Prolman             |   | Y |
| Sullivan            | S | Y |
| Tarrant             |   | Y |
| Van Arsdale         |   | A |
| Muenzer             |   | Y |
| (6-0)               |   |   |
| M=Motion S=Second   |   |   |
| Y=Yes N=No A=Absent |   |   |

**CONSENT AGENDA**

**APPROVAL OF MINUTES**

**ITEM 16**

|                                |               |
|--------------------------------|---------------|
| Workshop Meeting               | July 18, 1994 |
| Regular Meeting                | July 20, 1994 |
| Workshop Meeting               | July 25, 1994 |
| Budget Review Workshop Meeting | July 25, 1994 |
| Budget Review Workshop Meeting | July 26, 1994 |

**RESOLUTION NO. 94-7233**

**ITEM 18**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROPOSAL FOR ENGINEERING SERVICES FOR A POTABLE WATER MASTER PLAN IN SUBSTANTIALLY THE FORM ATTACHED HERETO AND MADE A PART HEREOF, BETWEEN HARTMAN & ASSOCIATES, INC., AND THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION NO. 94-7234**

**ITEM 19**

**A RESOLUTION OF THE CITY OF NAPLES AUTHORIZING THE EXTENSION OF A REUSE WATER LINE INTO BEAR'S PAW COUNTRY CLUB; AND PROVIDING AN EFFECTIVE DATE.**

**RESOLUTION NO. 94-7235**

**ITEM 20**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT OF EASEMENT, IN SUBSTANTIALLY THE FORM ATTACHED HERETO AND MADE A PART HEREOF, BETWEEN THE SOUTHLAND CORPORATION AND THE CITY OF**

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**NAPLES, FOR INSTALLATION OF A FIRE HYDRANT TO EXTEND WATER SERVICE TO THE 7-11 STORE ON AIRPORT ROAD; AND PROVIDING AN EFFECTIVE DATE.**

**ITEM 21**

**CONSIDER APPROVAL OF A TEMPORARY USE PERMIT FOR THE 1994 DOWNTOWN CRITERIUM BIKE RACING EVENT TO BE HELD ON AUGUST 14, 1994.**

**BUDGET AMENDMENTS**

**ITEM 22**

**SOLID WASTE FUND**

**22-a**

**INCREASE CONTRACT SERVICES BY \$50,000.00, OFFSET BY INCREASING THE REVENUE BUDGET BY A LIKE AMOUNT.**

**CITY DOCK FUND**

**22-b**

**INCREASE FUEL PURCHASES AND RESALE SUPPLIES, OFFSET BY INCREASED REVENUES.**

**BID #94-60**

**ITEM 23**

**AWARD OF BID #94-60 TO PURCHASE TWO EMERGENCY/STANDBY POWER SYSTEMS.**

**BID #94-61**

**ITEM 24**

**AWARD OF BID #94-61 TO PURCHASE THREE BOOSTER PUMPS TO BE INSTALLED AT THE EAST NAPLES WATER STORAGE/PUMP BOOSTER SITE.**

**END CONSENT AGENDA**

**ITEM 10**

**APPROVING A CABLE TELEVISION FRANCHISE AGREEMENT BY ORDINANCE WITH INTERACTIVE CABLE VISION, INC.**

**NOTE: Item 10 was removed from the agenda.**

**ANNOUNCEMENTS**

**ITEM 4**

City Manager Woodruff announced that the three local girls' softball teams had all won State championships.

Dr. Woodruff also announced that Mrs. Betty Sando, long-time Naples resident, had passed away over the past weekend. A memorial service will be scheduled.

**ORDINANCE NO. 94-**

**ITEM 11**

**AN ORDINANCE AMENDING SECTION 102-116 OF THE CODE OF ORDINANCES OF**

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**THE CITY OF NAPLES BY ADDING THERETO A NEW PARAGRAPH (7) TO ESTABLISH A MINIMUM SETBACK REQUIREMENT FOR DRIVEWAY GATES WITHIN THE "R1-15A" SINGLE FAMILY RESIDENCE DISTRICT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

After a brief discussion, Council was told that staff would determine the rights-of-way and setbacks in those City properties zoned R1-15E.

**Public Input: None.**

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

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

**RESOLUTION NO. 94-7236**

**ITEM 5**

**A RESOLUTION APPROVING ALLEY VACATION PETITION 94-AV3 VACATING THE TWENTY FOOT WIDE, EAST-WEST PUBLIC ALLEY SEGMENT LOCATED DIRECTLY NORTH OF LOTS 17, 18 AND 19 FOR A DISTANCE OF 100 FEET WITHIN BLOCK 11, TIER 7, OF THE ORIGINAL PLAN OF NAPLES; SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Chief Planner John Cole reviewed the request to vacate the twenty foot east-west alley right-of-way. Staff recommended against the street vacation, suggesting that this alley segment held the potential for providing alternative circulation within the block. The City's Utilities Department recommended denial, based on possible problems with getting equipment into the affected area. City Attorney Chiaro confirmed that the City would derive no value from this alley vacation. The owner would be responsible for any additional ad valorem taxes.

In response to Council Member Tarrant, Dr. Woodruff explained that the City would have no

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obligation to replace any privately owned landscaping that must be removed so that utilities can be repaired. Dr. Woodruff also reported that if any group of citizens asked for alley improvements, staff would put that into the work program and seek Council approval. Three or four alleys are presently in the roadway program.

After further Council discussion, Vice Mayor Korest stated, "Based on some of the concerns, there seems to be a case for us in maintaining the alley in its present condition. It seems like the Utility Department has always approved granting of an alley vacation. Apparently we have something different here. This is of clear benefit to the owner of the property and doesn't do anything for the residents of the City, except perhaps expose them to additional costs should maintenance be required.

**Public Input: None.**

**MOTION:** To **DENY** the resolution.

Council Member Prolman noted that because the property has another access, and the fact that Council and staff are attempting to be flexible with the Old Naples area, she could think of no reason to deny the request.

|             |   |   |
|-------------|---|---|
| Korest      | M | Y |
| Pennington  |   | N |
| Prolman     |   | N |
| Sullivan    |   | N |
| Tarrant     |   | N |
| Van Arsdale |   | N |
| Muenzer     | S | Y |

(2-5)  
M=Motion S=Second  
Y=Yes N=No A=Absent

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

|             |   |   |
|-------------|---|---|
| Korest      |   | N |
| Pennington  |   | Y |
| Prolman     |   | Y |
| Sullivan    | S | Y |
| Tarrant     |   | Y |
| Van Arsdale | M | Y |
| Muenzer     |   | N |

(5-2)  
M=Motion S=Second  
Y=Yes N=No A=Absent

**RESOLUTION NO. 94-7236**

**ITEM 6**

**A RESOLUTION GRANTING CONDITIONAL USE PETITION 94-CU5 ALLOWING FOR THE OPERATION OF A BED AND BREAKFAST AT 287 11TH AVENUE SOUTH AND 281 11TH AVENUE SOUTH, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

The petitioner, Ms. Margaret Cormier, presented herself to Council where she requested their approval of the conditional use petition so that she could reside in her current residence at 281 11th Avenue South and operate the bed and breakfast at 287 11th Avenue South. Ms. Cormier reminded Council that the bed and breakfast was built in 1937 as a boarding house and has five guestrooms, each with a private bathroom. She noted that during five years in operation, the Inn By the Sea had received no complaints and said that the property would be enhanced, not intensified.

**Public Input:**

**Elise Orban, 10 17th Avenue South**

Mrs. Orban, the current owner of Inn By The Sea, asked that Ms. Cormier be allowed to continue living in her residence and operate the Inn. She assured Council that there would be no bed and breakfast activity at 281 11th Avenue South. Guests will not use the swimming pool located at the 281 address, and the number of advertised guestrooms has been reduced to five. The cottage behind the Inn will be rented on a long-term basis only. Mrs. Orban noted that in its five years of operation, the Inn had played host to over 5,000 guests. Ms. Cormier's home would be a buffer between the commercial activity and the residential area.

**Sue B. Smith, 15 11th Avenue South**

Mrs. Smith, who resides two blocks from the subject property, said that it was regrettable to have to come before Council. She said that her opposition was not to the bed and breakfast operation, however she was concerned about increased traffic and inadequate parking. Mrs. Smith pointed out that parking should be on site and not on Third Street. She continued, "We've brought this plea before you before. We have problems in our area. One is security." Mrs. Smith said that her area is not appropriate for a Neighborhood Watch program because there are so many visitors to the area. She asked for a balance, whereby providing the citizens with the necessary services to protect their area. Mrs. Smith concluded, "You are constantly impacting our area, yet I don't see you looking at an overall plan for our area. Where is the direction you are taking us?"

**Jim Lieberman, 251 11th Avenue South**

Mr. Lieberman, who resides next door to Ms. Cormier, assured Council that the neighbors were not on a mission to keep the owner from selling the property. His mother's concerns were primarily potential problems, said Mr. Lieberman, and he was relieved to learn that bed and breakfast activities would not be allowed at the 281 address. He added that parking is and always has been a

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problem. For the record, it was noted that Mr. Lieberman's mother is Brenda Seliason, whose letter to the Planning Advisory Board (PAB) is included in the meeting packet and on file in the City Clerk's Office.

Chief Planner John Cole reviewed revisions made to the original resolution in an effort to address Council's concerns:

- The number of permitted transient rooms has been reduced from six to five. These rooms are required to be located in the main house at 287 11th Avenue south; and
- No commercial activity or use of the pool by transient lodgers is permitted at 281 11th Avenue South.

Ms. Cormier agreed with the above conditions. It was noted that the Old Naples Property Owners Association had received notice of this conditional use petition.

Council Member Prolman made the following comments: "Preserving part of Naples' past is what should be driving the decision before us. This interest in retaining historically significant structures is reflected through the Comp Plan. In Chapter 2, on Land Use, page 65, in a description of the Old Naples area, there are numerous references to 'providing incentives for preservation' and 'preserving the character of Old Naples,' including 'allowing bed and breakfast uses.' Also, in Chapter 4, Housing, page 6, Policy 3-2, as stated 'provide(s) economic incentives...to guide rehabilitation and preservation...as an alternative to demolition.' Program 3-2 also refers to actions 'to conserve historically significant housing.' We should act here to show our commitment to preserve these irreplaceable examples of Naples' history that suggest the town that once was and contribute so greatly to defining our sense of place today."

**MOTION:** To **APPROVE** the resolution with the above-noted conditions.

Council Member Sullivan said that he did appreciate Mrs. Smith's comments and her concerns are valid. However, this is a very unique opportunity for the Inn By The Sea. Mr. Sullivan stressed the fact that parking at the Inn should be carefully monitored. Council Member Van Arsdale pointed out the importance of accommodating people like Ms. Cormier and Mrs. Orban, noting "This would have been condos some time back."

|                            |   |   |
|----------------------------|---|---|
| Korest                     |   | Y |
| Pennington                 |   | Y |
| Prolman                    | M | Y |
| Sullivan                   | S | Y |
| Tarrant                    |   | Y |
| Van Arsdale                |   | Y |
| Muenzer                    |   | Y |
| (7-0)                      |   |   |
| <b>M=Motion S=Second</b>   |   |   |
| <b>Y=Yes N=No A=Absent</b> |   |   |

**BREAK: 10:40 a.m. - 10:45 a.m.**

**ORDINANCE NO. 94-**

**ITEM 7**

**~~AN ORDINANCE AMENDING SECTIONS 102-501 THROUGH 102-541, OF DIVISION 17., "C2-A," WATERFRONT COMMERCIAL DISTRICT, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, AMENDING THE LIST OF PERMITTED AND CONDITIONAL USES AND REVISING THE PERFORMANCE STANDARDS APPLICABLE WITHIN THIS DISTRICT; AMENDING SECTION 106-104, "NUMBER OF PARKING SPACES," OF ARTICLE IV., "PARKING AND LOADING," OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, REDUCING THE PARKING REQUIREMENTS FOR MARINAS AND BOAT STORAGE FACILITIES TO ENCOURAGE THE RETENTION AND DEVELOPMENT OF MARINE SERVICE FACILITIES AND PUBLIC ACCESS TO THE WATERFRONT; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE.~~**

Title read by City Manager Woodruff.

Using visual aids, Chief Planner Cole reviewed the right-of-way parking plan for the Waterfront District. Mr. Cole said that since Council's last discussion of this issue, staff had surveyed the District and determined where existing parking spaces, both improved and unimproved, exist. There are areas where people still park on the shoulder of the road or on grassed areas. Some "No Parking" signs have been installed in response to requests by adjoining property owners. In order to maintain fire lanes, other signs have been installed at the request of the Fire Department.

Mr. Cole reported that he and the City's Engineering Manager had driven around the District and analyzed street frontages, right-of-way widths, and future needs for right turn lanes. They determined which segments of the rights-of-way would be eligible for parking credit. Mr. Cole described how parking credit would be figured; public parking spaces would be controlled by City management.

Council Member Van Arsdale asked whether a long-range plan exists for a consistent facade, so that the parking configuration would be the same. City Manager Woodruff explained that staff's goal is to establish a theme so that if parking is installed it must follow that theme. Dr. Woodruff said, "Our control will be the theme. By creating a central theme, you do help give it direction, although I agree it would be more visibly attractive if all installed at the same time."

Council Member Tarrant commented that there appears to be an "insatiable desire on the part of government to regulate the private sector." He said that in his opinion parking and zoning questions should be settled on a one-by-one basis.



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### **Public Input:**

#### **Robert E. Noble, 1100 Ninth Street South**

Mr. Noble told Council that in his opinion they were entering into a "bureaucratic quagmire" with the additional parking regulations. There should be a balance between commercial and residential areas, said Mr. Noble. He noted that the language in the parking plan is not very specific, and it appears that "public access" means different things to different people. Mr. Noble referred to "...all this right-of-way parking up and down Tenth, not consistent, to be micromanaged by City staff. We might rename the street 'Checkerboard Street.' I don't see the need for this micromanagement; I can't understand this. To me, I think it's loose and recommend you don't approve. I cast no aspersions on any one of the staff here. They work hard and try to do what Council wants. I'm not saying anything against the City staff, but I do worry about a system of variable variances and using an elastic yardstick."

#### **Attorney R. Scott Barker, 2300 McGregor Boulevard, Fort Myers**

Attorney Barker, representing Mrs. Nicole Polayse, introduced himself to Council so that he would be on the official record. The meeting packet contains letters from Mr. Barker (on file in the City Clerk's Office).

#### **Duke Turner, 899 Tenth Street South**

Mr. Turner noted, "We've been working on this for four years. I thank Missy (McKim) and John (Cole), the Manager and Mayor and Council. It's time to move on with this. You will probably see a change on Tenth Street. Most of us won't enjoy right-of-way parking. You'll see some modifications made." Council Member Pennington asked if the proposed ordinance achieves the objectives sought for the marine service facilities. Mr. Turner replied that the parking requirements will provide incentives and anyone getting into the business will have enough parking. He agreed with Mr. Pennington in that some of the City's regulations get too involved in having precise numbers. For instance, dry boat storage requires a certain number of parking spaces, yet those spaces are seldom used for dry storage customers.

#### **Attorney Kim Kobza, 801 12th Avenue South**

Attorney Kobza thanked Council for their efforts in dealing with this issue. He stated, "We pledge to work with others in the Waterfront District."

#### **Phil O'Connor, 282 1st Avenue North**

Regarding on-site parking, said Mr. O'Connor, Council should encourage any flexibility that can be given to businesses. Mr. O'Connor described the business he hopes to be involved with on the Cove Inn property. He plans a well-run rental operation, providing bicycles, skates, etc.

City Attorney Chiaro pointed out that proposed plans for the Cove Inn would represent a substantial expansion and must go to PAB then through first and second reading of an ordinance by Council. Council Member Tarrant commented, "I feel sorry for businesspeople today. They want to do

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creative things and can't move without coming here and doing battle for regulatory things. It's too bad."

### **Robert McDonald, 3853 Margate Street**

Mr. McDonald represents Fun Rentals and hopes to locate his business on the Cove Inn property. Mr. McDonald told Council that he was seeking clarification on whether or not the parking issue could be amplified. He pointed out that his business would provide some relief to the area since it will provide bicycles for rental.

### **Sue B. Smith, 15 11th Avenue South**

As someone having an interest in a business in the Old Naples area, Mrs. Smith concurred with Council Member Tarrant, in that businessmen must comply with so many regulations. However, said Mrs. Smith, she owns a residence in the Old Naples area as well and has been before Council on many occasions concerning problems in her neighborhood. She pointed out that an item concerning her neighborhood is on almost every Council agenda and noted that in her opinion no other area in the City has the number of challenges Old Naples does. Mrs. Smith pointed out that residents of her neighborhood pay high taxes, yet are not given the opportunity to enjoy the privilege of residential order, services, etc. She promised to be in communication with Attorney Kobza, who offered to be open to the needs of business owners.

Mrs. Smith said further that additional parking has an impact on the residents. It is good to be supportive of business, said Mrs. Smith, however when Council continues to allow changes without protecting the residential areas, it fails to do what is best for the community. She requested, "Please, have the Community Planning staff be cognizant of what's happening in our area. We have yet to see a true cognizance from this place."

Mayor Muenzer stated, "Everyone is concerned with so much government. Part of the reason is because we're asked to intercede and protect the neighborhoods. We're asked to regulate, then told we're over-regulating."

Council Member Van Arsdale said that he had not been a supporter of the proposed ordinance from the beginning and asked that everything be left unchanged until a plan is in place. Mr. Van Arsdale said that the proposed zoning would allow parking lots, which bring nothing to the area.

Council Member Prolman inquired about the number of marinas in the area and whether specific designations have been identified for parking structures. Mr. Cole said there were not, however some likely properties do exist. He noted that any parking structure must be approved by Council. In response to further questions by Mrs. Prolman, Dr. Woodruff explained that in the original Waterfront District plan, parking garages were designated. After the public hearing process, those structures were removed from the plan. Dr. Woodruff said that the intent of removing specific locations for parking structures was to attempt reaching a compromise between the neighborhood's concern and the recognition that the Waterfront District would be changed and decisions about

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parking garages should be made when they are proposed.

Vice Mayor Korest emphasized the fact that Council's main concern has been to maintain the economic viability of the City's marina facilities. Mr. Korest said that it appears Council's discussion focused on flexibility versus tying people's hands. In terms of future development, said Mr. Korest, Council and staff are substituting a plan for development of some criteria for the Waterfront District as a whole. Conditional uses will occur, he said, however the proposed ordinance introduces some relaxation in parking regulations, in response to practical answers to parking requirements which are unrealistic. Mr. Korest pointed out that Council has the opportunity to improve the aesthetics of the entire area. He suggested approving the ordinance with a thorough review after one year of operation in order to determine whether the criteria are realistic and accomplishing what Council hopes for. In response to Mr. Korest's inquiry, the City Attorney explained:

- . The ordinance could be adopted as presented, with an effective date without sunset;
- . It could be made effective for one year only; or
- . Staff could be directed to bring Council a review of the operation in one year, when Council could make a decision to repeal the ordinance if necessary.

Vice Mayor asked for community approval, a thorough review by Council, and input from all citizens involved.

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

Council Member Prolman pointed out that Council wants to make it possible for marinas to stay in the area, and to give flexibility to the Waterfront District. The whole point of having a Waterfront District, she said, is to have vital marinas and associated activities. Mrs. Prolman suggested adding language to the ordinance that would ascertain that marinas would always be the driving force of the Waterfront District, that marina land would always be marina land. It is very important to guarantee a place for the marinas, emphasized Mrs. Prolman.

|             |   |   |
|-------------|---|---|
| Korest      | M | Y |
| Pennington  | S | Y |
| Prolman     |   | N |
| Sullivan    |   | N |
| Tarrant     |   | N |
| Van Arsdale |   | N |
| Muenzer     |   | Y |

(3-4)

**M=Motion S=Second**

**Y=Yes N=No A=Absent**

Council Member Sullivan asked about the two large charter boats which are new to the area of Crayton Cove and the City Dock. Chief Planner Cole said that both vessels, the Tiki II and the Dalis, were previously docked at Tin City and are owned by the same corporation. Their intent is to move to the Nichols Marine area. Mr. Cole told Council that he has not yet signed off on their business licenses for the new location, and will not do so until the parking lot is improved. He

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pointed out that City Code requires one space for every four-person capacity; that is determined by the Coast Guard. Mr. Sullivan noted that during ongoing discussions in the past, questions have been raised about the appropriateness of the Dalis and the Tiki II operating out of Tin City.

Mr. Sullivan agreed strongly with Mr. Van Arsdale about the importance of having a plan. He referred to the proposed ordinance: "It almost seems like a temporary solution."

City Manager Woodruff reported that the City is doing a thorough analysis of all the Crayton Cove area, including identifying which boat are at which locations, the number of parking spaces needed for those boats, etc. He assured Council that the Dalis and the Tiki II must have parking plans approved prior to being issued licenses, and that the City Attorney would review the appropriateness of the Dalis' license.

Council Member Sullivan said that he was most uncomfortable in moving forward with the proposed ordinance at this time. By relaxing the parking elements, he said, it seems that Council is encouraging an intrusion from commercial areas into residential areas.

Council Member Van Arsdale remarked, "We spent four years on this - that doesn't mean we should be adopting a poor plan. It's not acceptable to me to take this as it is. We did a plan in less than a year for Fifth Avenue. It takes the right process, the right people. Let's do this right or not at all."

Dr. Woodruff commented, "In staff's defense, we aren't moving this forward because it's been here four years. Please remember that the ordinance before you today is based upon decisions you and your predecessors have made. The original ordinance said we should have parking garages. Recognizing different philosophies come from the same people, please consider the ordinance is the way it is today because of comments City Council has made. We are on the issue of on-street parking because at a former time Council said you don't want parking garages. Also, we've interpreted that you want people to use the waterfront, to continue to have charter boats, so when we see intensification of things at Crayton Cove by the introduction of two additional boats, we assume Council wanted this. We have never heard you state that standards, one per four, was the wrong standard, or that you didn't want more than 'X' number of boats at one location. There's been no indication you wanted that as restrictive language. This document is trying to reflect what Council told us."

Mayor Muenzer expressed puzzlement in that the concept of parking garages was strongly objected to in the past. He said, "We can't wait for everything to be perfect. We still have lose ends on Fifth Avenue, but we wanted to move ahead, give encouragement, etc." The Mayor stated that at some point Council must make a decision.

Council Member Tarrant said that in his opinion Council was over-regulating and that the incentive

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parking system was simply another bureaucratic process totally against small businesspeople who want to succeed in the Waterfront District.

**The motion to adopt the ordinance at second reading FAILED by a vote of 3-4.**

**BREAK: 12:40 p.m. - 12:50 p.m.**

### **RESOLUTION NO. 94-**

### **ITEM 8**

**A RESOLUTION APPROVING THE SUBDIVISION PLAT FOR A 1.97 ACRE, 4 LOT, SINGLE-FAMILY SUBDIVISION LOCATED AT THE SOUTHWEST CORNER OF ~~GULF SHORE BOULEVARD AND NORTH LAKE DRIVE, SUBJECT TO CONDITIONS; APPROVING A PRIVATE ACCESS EASEMENT TO SERVE THE SUBDIVISION; AND PROVIDING AN EFFECTIVE DATE.~~**

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Title read by City Attorney Chiaro.

The City Attorney directed each Member of Council to disclose any contact they had had with the parties involved in this matter, and if so, whether that contact caused any prejudice.

**Mayor Muenzer:**

Met with three people representing the applicant on August 2, 1994. He was asked if Council desired any further information. He was not prejudiced by that contact. Mr. Edgar McCleery, a neighbor of the subject property, telephoned the Mayor to express his opposition. The Mayor was out of town and did not converse with Mr. McCleery.

**Vice Mayor Korest:**

Was not contacted by the petitioner. Was contacted by Mr. McCleery who told Mr. Korest he was opposed. That had no influence on Mr. Korest's opinions. Mr. Korest visited the site and analyzed the site to the best of his ability.

**Council Member Van Arsdale:**

Was contacted by Mr. McCleery, via telephone. That did not influence Mr. Van Arsdale. No other contact.

**Council Member Sullivan:**

Mr. McCleery telephoned Mr. Sullivan to state his position. Mr. Sullivan told Mr. McCleery he would weigh the merits of the case. Was contacted on August 2, 1994, by the petitioner, his attorney, and another gentlemen, who asked if they could

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present their position. After doing so, Mr. Sullivan was asked if he had any questions. Mr. Sullivan told the men he would make his judgment based on what was presented.

**Council Member Prolman:** Mrs. Prolman was contacted by Mr. McCleery, by telephone. She was not prejudiced. The petitioner called to arrange a meeting; Mrs. Prolman had to cancel due to another commitment.

**Council Member Pennington:** Met with Mr. Lewis, Attorney Humphreville, and Mr. Asher, who provided information pertaining to the petitioner. Previously contacted by Mr. McCleery and Mr. Storter; both expressed their opposition. Mr. Pennington was not influenced.

**Council Member Tarrant:** Received a brief telephone call from Mr. McCleery. One call from Attorney Humphreville to meet and discuss this issue; Mr. Tarrant had scheduling problems and did not schedule a meeting. No prejudice.

### END OF DISCLOSURE

Chief Planner Cole reviewed the request for preliminary subdivision plat approval for a proposed four-lot single-family subdivision to be known as Vista del Mar. Staff recommended approval subject to the following conditions:

- . Receipt of a revised utilities plan with the endorsement of the Engineering and Utilities Departments.
- . The posting of a bond for the completion of the following prior to plat recording:
  - (a) installation of required utilities; and
  - (b) installation of a 20' minimum pavement width driveway.
- . Increase the northern setback on Lot 4 from 35' to 40'.

The PAB voted 4-1 to deny the petition.

Attorney John Humphreville, representing the petitioner, displayed a sketch of the property, which is platted as nine separate lots. He emphasized the fact that it is not one single lot, but five buildable lots, all meeting R1-15 zoning requirements. The proposed subdivision would create less density than five homes, and is designed to maintain the character and integrity of the surroundings and to be an asset to the City. Access to four lots would be by private driveway maintained by the private property owners.

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Mr. Humphreville reported that staff had expressed some concern about destroying vegetation on the site. This is a beautifully landscaped site, said Attorney Humphreville, and any vegetation that cannot be kept will be donated to the City for transplanting. He said that the PAB had denied the petition primarily for philosophical reasons, in order to send a message to Council about their dissatisfaction about any development along the beachfront. Attorney Humphreville told Council, "I appreciate your concern about maintaining the ambience, but that discussion is for another forum. We are here for a subdivision petition." He pointed out that 37 other properties along the Gulf could be subdivided, although many of those sites are utilized at their largest and best use, that of large estate homes. Some have private deed restrictions prohibiting in perpetuity any intensification of use. The petitioner has met all legal requirements for platting.

Attorney Humphreville introduced other members of the development team who were present: Mr. Asher, engineer responsible for the site, Mr. Gerald Gronvold, who prepared the traffic study, and Mr. Brett Moore, who prepared coastal construction documents. Results of the traffic study show that the four residential homes would create a 30 vehicle per day increase.

City Manager Woodruff said that staff disagreed with Attorney Humphreville's statement that the property has the right to build on the lots; City Code mandates that where nonconforming lots exist, they cannot be divided unless already divided. Dr. Woodruff asked that the record reflect staff's position: Staff disagrees that the owner has the right to build on five lots.

Mr. Robert Lewis, owner of the property, assured Council that he was aware of their concerns. He had met with City staff and his representatives and studied City Codes. Mr. Lewis said that his parcel is unique and larger than any of the other 37 sites mentioned previously. All vegetation will be retained, and the new driveway located exactly over the existing driveway. Mr. Lewis told Council that the height of the trees on the property is in excess of any structure planned for the property. Although many options exist for the property, said Mr. Lewis, the four-lot proposal best suits the needs of the community and the property itself.

### **Public Input: None.**

During discussion, Attorney Humphreville stated, for the record, "We will comply with the law."

In response to Council Member Van Arsdale's question, City Attorney Chiaro informed Council that in order to make a motion to deny the petition, he must articulate evidence upon which to base that motion, in order to sustain a legal challenge. A review by the Appellate Court would be based on whether Council had competent substantial evidence before it upon which to determine that a denial was appropriate. Attorney Chiaro said, "You have not been presented with any evidence except what supports approval."

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**MOTION:** To **DENY** the resolution.

Council Member Van Arsdale made the motion, stating, "Access to the property does not conform to our existing standards. The access issue is a critical element of the zoning code. The pattern we've established in our roadways and access to our homes is a critical element of the design and use of our properties. When we deviate from that we are compromising our zoning. I want it to be more in conformance with the neighborhood."

|                            |   |   |
|----------------------------|---|---|
| Korest                     |   | Y |
| Pennington                 |   | N |
| Prolman                    | S | Y |
| Sullivan                   |   | N |
| Tarrant                    |   | Y |
| Van Arsdale                | M | Y |
| Muenzer                    |   | N |
| (4-3)                      |   |   |
| <b>M=Motion S=Second</b>   |   |   |
| <b>Y=Yes N=No A=Absent</b> |   |   |

Vice Mayor Korest voted to support the motion of denial, noting that the City has existing uses which have been well established over a period of time. The requested changed use would result in additional density, he said, which was not intended and which would have an effect on the character of the beach block.

Council Member Pennington voted in the negative, although, he said, he would prefer the parcel to remain single story residence. Council Member Sullivan stated that he had seen no specificity of information which would lead him to support the motion, pointing out that staff had recommended approval. Mr. Sullivan said that he believed the petitioner was within his rights; Mr. Sullivan voted in the negative.

Council Member Tarrant supported the motion to deny, noting that he had problems with the density and height. Mayor Muenzer accepted staff's recommendations and voted in the negative.

**LUNCH RECESS: 1:55 p.m. - 3:00 p.m.**

**NOTE: Administrative Assistant Katie Gibson-Jones acted as recording secretary from 3:00 p.m. until 4:55 p.m.**

**ORDINANCE NO. 94- ITEM 9**  
**AN ORDINANCE AMENDING SECTION 38-91, "FIRE PREVENTION CODE**  
**ADOPTED," BY ADDING SUBSECTION (b)(1)d., RELATING TO THE FIRE**  
**~~SPRINKLER REQUIREMENTS; PROVIDING A SEVERABILITY CLAUSE, A~~**  
**REPEALER PROVISION AND AN EFFECTIVE DATE.**

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Title Read by City Manager Woodruff.

Dr. Woodruff noted that the Naples Airport Authority was presenting this amendment to the



## **City Council Regular Meeting - August 3, 1994**

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Comprehensive Development Code, which requires sprinkler protection for Group III Aircraft Hangars. The ordinance currently requires that all new construction be protected with automatic fire sprinkler systems in accordance with NFPA 13 - Standard for the Installation of Sprinkler Systems, and does not single out aircraft hangars or any other particular occupancy classification.

Acting Fire Chief Reed enhanced the background information regarding this amendment request with visual aids. He emphasized the extent to which sprinklers greatly reduce fire damage and the fact that statistics indicate sprinklers are unsurpassed in effectively reducing fatalities within a facility. Chief Reed explained that the main determining factor denoting a Group III facility was door height, adding that any hanger currently located at the Airport, including T-Hangars, are Group/Class III Hangars with the exception of those housing mosquito control aircraft. He noted that sprinklers work in gasoline and that tests have been conducted to prove this.

Dr. Woodruff responded to Council Member Van Arsdale's inquiry regarding rescue by noting that the Fire Department is well equipped on location to fight a structural fire, however, sprinklers would quicken response, increasing the Department's ability to save lives and property.

For the record, Council Member Pennington noted that a lot of options had been offered, considered, and following that consideration, rejected. Dr. Woodruff further noted that as long as nothing goes wrong, anything can be judged excessive, adding that malfunctions at any level cannot be planned. Dr. Woodruff stated that staff recommended that the ordinance remain intact.

### **Ted Soliday, Executive Director of the Naples Airport**

Mr. Soliday noted that he had worked in and with over 100 airports across the country. He referred to the background information presented at the August 1, 1994, City Council Workshop Meeting, and indicated that he would attempt to clarify the Airport Authority's position on several points noted earlier by staff. He recognized that NFPA 409 does require the installation of fixed fire protection systems in Group III Aircraft Hangars if certain hazardous operations are performed within the hangar. However, he stated, the basic hangars included in Group III are not required to have sprinklers. Dr. Woodruff stated that NFPA does say they are not required, but recommends their installation.

Mr. Soliday commented that the Airport had taken care of the problems pointed out by staff concerning improper storage of materials and that efforts were being taken to insure that those violations would not return. He stated that out of 5,000 airports across the country, only 39 fires had been reported, less than 7/10 of a percent per year of fires. He added that he did not know of any fires occurring in Group III facilities unless those were used for maintenance. Mr. Soliday referred to the high cost of the installation of sprinklers and concluded by pointing out that the examples of fire occurrences referred to by Chief Reed did not occur in hangars, and all related back to a business and individuals not working in plain storage hangars.

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In response to Mayor Muenzer's request to clarify his credentials, Mr. Soliday stated that he was a consultant for 17 years and had planned airports across the country. He stated that he had worked with the FAA and also inspected airports in the western United States.

### **Louis Amato, Airport Authority Board Member.**

Mr. Amato made the following points:

1. In recognizing both economic and safety points, and the fact that a sprinkler system would reduce response time, Mr. Amato recommended that the sprinkler requirement be replaced with a warning system, one that would identify the fire through heat and smoke detection.
2. In response to his concern over the sprinkler requirement in the electrical control room, Chief Reed explained that the space he had referred to was a small space, that the Code allowed a wall and allowed it to be considered as a separate building. He added that the electrical room at the airport is not near any other building, that it is self contained, and that the Fire Department was not given the option of waiving that system.

Fire Chief Reed emphasized that as far as requirements, in this case the Code indicates a blanket requirement for all facilities that are larger than 200 square feet.

### **Public Input:**

#### **Mark London, 100 Aviation Drive**

Mr. London, owner of the London Co., told Council that he hoped to construct a new hangar at the Airport. He agreed that sprinklers do save lives, however the cost to install at a new hangar would be \$30,000.00, which would be an extreme burden.

#### **David L. Ebershoff, 6638 Vancouver Lane**

Mr. Ebershoff said that he flies in air shows, has seen many airports, and built airports. This is not an issue of whether the Airport would be expanded, he noted, but one of providing reasonable maintenance for aircraft. Mr. Ebershoff explained how important it is to maintain aircraft in a safe, indoor location. He said that many people who drive to Fort Myers are interested in building hangars at the Naples Airport.

Mr. Ebershoff referred the fire discussed previously; that situation would never exist at the Naples Airport, he said. He remarked, "I've never been in a sprinkled airport or sprinkled hangar in my life." Mr. Ebershoff's insurance will not be less if the hangar is sprinkled. He said again, "No lives have been lost due to aircraft hangars." Mr. Ebershoff informed the groups that water should not be used to put out a hangar fire; chemicals are appropriate for that purpose.

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Dr. Woodruff pointed out that every City building must follow City Codes. Every parking structure must be sprinkled. The City wants to protect life and property, he said, and consistency is very important, and that, rather than economy, is the issue at hand. Referring to the electrical vault, Dr. Woodruff said that although he would not want to be inside when a sprinkler went off, he would want some type of warning system should a fire start. Dr. Woodruff summarized, "Put a major fire there, and you are talking about the Airport being closed for a long time. If you decide this is overkill on our part...we do believe this is a very important issue."

**A motion to approve the ordinance at first reading was made by Council Member Van Arsdale. Vice Mayor Korest offered a friendly amendment, that staff review a design alternative for alarm systems and present same at the second reading of the ordinance.**

**MOTION:** To **APPROVE** the ordinance at first reading. Staff will review a design alternative for alarm systems and present that alternative at the time of second reading.

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

### **ORDINANCE NO. 94-**

### **ITEM 12**

**AN ORDINANCE AMENDING CHAPTER 102 DIVISION 4. "R1-15A RESIDENCE DISTRICT" OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES BY ADDING THERETO A NEW SECTION 102-121 REGULATING PIER LOCATION AND DIMENSIONS AND BOAT MOORING LOCATION; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

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Natural Resources Manager Jon Staiger reviewed the proposed amendment, which would establish maximum pier dimensions and setback requirements which are also applicable to moored boats. It was noted that this change was proposed at the request of the Board of Directors of the Port Royal Property Owners Association, who have been enforcing many of the proposed regulations through their private covenants and restrictions. Staff recommended approval of this amendment. Dr. Staiger reported that Royal Harbor and Aqualane Shores have addressed some interest in revising their regulations as well.

**Public Input:** None.

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

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

### RESOLUTION NO. 94-7238

### ITEM 13

**A RESOLUTION ENDORSING A PROGRAM FOR THE REFURBISHMENT AND ENHANCEMENT OF PLAYGROUND EQUIPMENT, FACILITIES AND SURFACING TO PLAYGROUNDS LOCATED WITHIN CITY PARKS; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

**Public Input:** None.

**MOTION:** To **APPROVE** the resolution with the inclusion of language in Section 3, "shall be disbursed by City Council based upon completion of the Parks Master Plan."

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

**ORDINANCE NO. 94-7239**

**ITEM 14**

**AN ORDINANCE AMENDING SECTION 66-108 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, REVISING THE RATES FOR SEWER SERVICE; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

Council Member Tarrant stated, "I still believe we are jumping ahead too quickly. This is too big a commitment without enough consideration and we should work with the County on this. We're moving too fast." Council Member Pennington countered with, "I believe we've covered this thoroughly."

**Public Input: None.**

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

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

**ORDINANCE NO. 94-7240**

**ITEM 15**

**AN ORDINANCE AMENDING SECTION 50-187 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES FOR THE PURPOSE OF CLARIFICATION OF THE GENERAL EMPLOYEES RETIREMENT SYSTEM'S DEFINITION OF "ACTUARIAL EQUIVALENT;" ADDING SECTION 50-255 TO SATISFY THE QUALIFICATION REQUIREMENTS OF THE INTERNAL REVENUE 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 **ADOPT** the ordinance at second reading.

|                            |   |   |
|----------------------------|---|---|
| Korest                     |   | Y |
| Pennington                 | S | Y |
| Prolman                    |   | Y |
| Sullivan                   | M | Y |
| Tarrant                    |   | Y |
| Van Arsdale                |   | Y |
| Muenzer                    |   | Y |
| (7-0)                      |   |   |
| <b>M=Motion S=Second</b>   |   |   |
| <b>Y=Yes N=No A=Absent</b> |   |   |

### RESOLUTION NO. 94-7241

### ITEM 17

**A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD), COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG), FOR FUNDING IN THE AMOUNT OF \$173,000.00, TO BE USED FOR HOUSING ASSISTANCE, PUBLIC FACILITIES IMPROVEMENTS AND OTHER ACTIVITIES OUTLINED IN THE FINAL STATEMENT; AND PROVIDING AN EFFECTIVE DATE.**

Title read by City Attorney Chiaro.

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Dr. Woodruff informed Council that the \$5,000.00 originally indicated for a study of the River Park area will be added to public facilities and Tenth Street improvements. The River Park study will be covered by the Parks Master Plan.

**Public Input:** None.

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

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

**RESOLUTION NO. 94-7242**

**ITEM 25**

**A RESOLUTION AWARDDING A BID WITH CONDITIONS FOR THE CONSTRUCTION OF A NEW FIRE DEPARTMENT BUILDING; AND PROVIDING AN EFFECTIVE DATE.**

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Title read by City Attorney Chiaro.

**Public Input:** None.

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

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

**ITEM 7**

Council Member Sullivan announced that he had concerns that the proposed Waterfront District regulations might create potential parking problems. Information regarding parking is not yet complete, said Mr. Sullivan, and he believes he would create a severe injustice to many people to

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**City Council Regular Meeting - August 3, 1994**

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deny the ordinance, when he should have requested a continuance. Mr. Sullivan said that before he makes a final decision, he prefers to have all pertinent information. He asked that staff report on the movement of two charter boats from Tin City to Crayton Cove, including what impact that will have on parking in the Crayton Cove area.

**MOTION:** To **RECONSIDER** Item 7 on September 21, 1994.

**NOTE:** Item 7 will be scheduled for discussion at the City Council Workshop Meeting on September 12, 1994 and will be on the agenda for the City Council Regular Meeting on September 21, 1994.

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

**Open Public Input:** None.

**Correspondence/Communications**

Council Member Pennington requested that at a future Workshop Meeting, Council discuss the possibility of following Roberts' Rules of Orders.

**ADJOURN: 5:45 p.m.**

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**PAUL W. MUENZER, MAYOR**

Janet Cason  
City Clerk

Marilyn A. McCord  
Deputy City Clerk

Katie Gibson-Jones



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*City of Naples*

Administrative Assistant

These minutes of the Naples City Council  
were approved on August 17, 1994.

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**City Council Regular Meeting**

**August 3, 1994**

Convened 9:00 a.m. / Adjourned 5:45 p.m.

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