

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE PARKS &
RECREATION BUILDING, NAPLES, FLORIDA, ON WEDNESDAY, APRIL 18, 1979, AT 9:05 A.M.

Present: R. B. Anderson
Mayor

C. C. Holland
James F. McGrath
Wade H. Schroeder
Randolph I. Thornton
Edward A. Twerdahl
Kenneth A. Wood
Councilmen

Also present: George M. Patterson, City Manager
David W. Rynders, City Attorney
Norris Ijams, Fire Chief
John McCord, City Engineer
Garry Lester, Traffic Engineer
William Savidge, Public Works Director
Mark Wiltsie, Purchasing Supervisor
Roger Barry, Community Development Director

Reverend Richard Lambert
Hal Yegge
Charles Andrews
Egon Hill
Lloyd Sarty
Gilbert Blanquart
Mrs. Edward Coffee
Mrs. Lamar Kidwell
Harry Rothchild
Dorothy Grant
Sam Aronoff
Vernon MacKenzie
Ben Alexander
Clyde Quinby
Ted Smallwood
Charles Rhoades
William Shearston
Harry Cunningham
Joan Foutz

News Media: Elinor Lindeman, TV-9
David Pitt, Naples Daily News
Allen Bartlett, Fort Myers News Press
Suzanne McGee, Naples Star
Susan Gardner, TV-9
Joe Starita, Miami Herald

Other interested citizens and visitors.

Mayor Anderson called the meeting to order; whereupon Reverend Richard Lambert of the Trinity-by-the-Cove Episcopal Church gave the Invocation followed by the Pledge of Allegiance to the Flag.

AGENDA ITEM 3. Approval of minutes.

Mayor Anderson called the Council's attention to the minutes of the Regular Meeting of April 4, 1979; whereupon Mr. Thornton moved to accept the minutes as presented, seconded by Mr. McGrath and carried by consensus.

AGENDA ITEM 4. First Reading of ordinance.

An ordinance amending Article III of Chapter 23, of the Code of Ordinances of the City of Naples, relating to stopping, standing and parking of vehicles, by adding a new Subsection (j) to Section 23-9 thereof, prohibiting the stopping, standing and parking of any vehicle in any area designated as a fire lane; and by amending Section 23-12.2, providing penalties for violation of said Article III; and providing an effective date. Purpose: To prohibit the stopping, standing or parking of any vehicle in any area designated as a fire lane and to prescribe penalties for violation thereof. Requested by City Council at Workshop of April 3, 1979.

City Attorney Rynders read the above captioned ordinance by title for Council's consideration on First Reading. Mr. Schroeder moved approval of this ordinance on First Reading, seconded by Mr. McGrath. Mr. Thornton questioned the ability of the City to enforce this and discussion followed about the need to enforce this and other ordinances. City Manager Patterson noted that all new signs would be made up after the ordinance was passed. Mr. Wood suggested painting the black-top in addition to the curbing. Mr. McGrath suggested a special force to keep a check on it for a couple of weeks and Mr. Holland suggested checking on the enforcement after a 60-day period. Motion passed on roll call vote, 6-1 with Mr. Wood voting no.

AGENDA ITEM 5. A resolution requesting the Florida Game and Fresh Water Fish Commission to establish the entire area within the city limits of Naples as a bird sanctuary; providing for the assumption by the City of the responsibility for enforcement within the City of all regulations of the Commission applying to the protection of birds and instructing the Police Department of the City of Naples to enforce said regulations; and providing an effective date. Requested by Naples Garden Club.

City Attorney Rynders read the above titled resolution by title for Council's consideration and reviewed his memorandum concerning this matter (Attachment #1). Mrs. Edward Coffee of the Naples Garden Club addressed Council in support of this resolution. Mr. Twerdahl moved adoption of Resolution 3236, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 6. A resolution requesting the Collier County Board of County Commissioners to levy a county-wide ad valorem tax beginning with the 1979-80 budget year, at the rate of .2 mills per year for a two-year period for the purpose of funding construction of Coastland Boulevard; and providing an effective date. Requested by City Council at Workshop of April 3, 1979.

City Attorney Rynders read the above referenced resolution by title for consideration by Council. Mr. Wood and Mr. Twerdahl indicated that they were not satisfied with the information provided prior to bringing this matter to Council for action. Mr. Clyde Quinby, Superintendent of Schools addressed Council, stating that most of the School Board's objections had been satisfied, and noting that he was satisfied that the safety of the students at Naples High School would be considered. Mr. Wood moved to remove this item from the Agenda; motion died for lack of a second. Mr. Schroeder moved adoption of Resolution 3237, seconded by Mr. Thornton. Mr. Schroeder reviewed the various studies that pointed out the need for this road. Mayor Anderson reviewed some points made by Mr. John Barr during his presentation to Council at the Workshop Meeting on April 3, 1979. Harry Rothchild, Gilbert Blanquart, Egon Hill, Vernon MacKenzie, Joan Foutz and Harry Cunningham spoke in opposition to setting a precedent by agreeing to a special tax for a special purpose. City Manager Patterson suggested amending the resolution by inserting "up to" before ".2 mills" and Mr. McGrath suggested an amendment to name the road "Golden Gate Parkway" through to U.S. 41 rather than Coastland Boulevard. Mr. Schroeder and Mr. Thornton agreed to have these amendments added to their motion. Motion carried on a roll call vote, 5-2, with Mr. Twerdahl and Mr. Wood voting no.

Let the record show that Mayor Anderson recessed the meeting at 11:05 a.m. and reconvened it at 11:16 a.m. with all members of Council present.

AGENDA ITEM 7. Authorization to execute change orders on raw water transmission main. Requested by Consulting Engineer.

Mayor Anderson noted a memorandum from City Manager Patterson dated April 13, 1979, requesting that this item be removed from the Agenda. Mr. Thornton moved to remove Agenda Item 7 from the agenda, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 8. Purchasing:AGENDA ITEM 8-a. Bid award - 8" water transmission (loop) main - Goodlette Road

City Attorney Rynders read the below captioned resolution by title for Council's consideration.

A RESOLUTION AWARDDING BID FOR THE INSTALLATION OF AN 8" WATER TRANSMISSION MAIN ON GOODLETTE ROAD FROM U.S. 41; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Ted Smallwood, Consulting Engineer, responded to Council members' questions and explained that this would go under U.S. 41 without tearing up the road, that the funding would be covered by system development charges and that need was created by further development of the area around Central Mall. Mr. Holland moved to adopt Resolution 3238, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 8-b. Bid award - 15" gravity sewer main - Marlin Court.

City Attorney Rynders read the below titled resolution by title for consideration by Council.

A RESOLUTION AWARDDING BID FOR THE CONSTRUCTION OF A 15" GRAVITY SEWER MAIN ON MARLIN COURT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Attorney Rynders added that the cost for this work would be recovered from Naples Land Yacht Harbor by contract. Mr. Holland moved to adopt Resolution 3239, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 8-c. Bid awards - water and sewer main materials.

City Attorney Rynders read the below referenced resolution by title for Council's consideration.

A RESOLUTION AWARDDING BIDS FOR WATER AND SEWER MAIN MATERIALS; AUTHORIZING THE CITY MANAGER TO ISSUE PURCHASE ORDERS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Holland moved to adopt Resolution 3240, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 8-d. Bid award - fencing for Fleischmann Park softball field.

City Attorney Rynders read the below captioned resolution by title for consideration by Council.

A RESOLUTION AWARDDING BID FOR THE INSTALLATION OF A TEN (10') FOOT HIGH FENCE AT THE FLEISCHMANN PARK SOFTBALL FIELD; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AND EFFECTIVE DATE.

Mr. Holland moved to adopt Resolution 3241, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 8-e. Bid award - concrete curbing - Sixth Street South.

City Attorney Rynders read the below referenced resolution by title for Council's consideration.

A RESOLUTION AWARDDING BID FOR THE INSTALLATION OF CONCRETE CURBING IN THE MEDIAN OF SIXTH STREET SOUTH, BETWEEN THIRD AND FOURTH AVENUE SOUTH; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

City Manager Patterson answered Mr. Holland's question about doing this work in-house by stating that it would cost approximately the same amount of money and would mean pulling men off scheduled work. Mr. McGrath moved to adopt Resolution 3242, seconded by Mr. Twerdahl and carried on roll call vote, 7-0.

AGENDA ITEM 8-f. Bid award - concrete curbing and valley gutters - Fourth Avenue South.

City Attorney Rynders read the below captioned resolution by title for consideration by Council.

A RESOLUTION AWARDDING BID FOR THE INSTALLATION OF CONCRETE CURBING ON 4TH AVENUE SOUTH (GULF SHORE BOULEVARD TO BEACHHEAD); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. McGrath moved to adopt Resolution 3243, seconded by Mr. Twerdahl and carried on roll call vote, 7-0.

AGENDA ITEM 8-g. Bid awards - Landscape materials - Harbour Drive.

City Attorney Rynders read the below titled resolution by title for Council's consideration.

A RESOLUTION AWARDDING BIDS FOR LANDSCAPE PLANTS FOR COMPLETION OF THE HARBOUR DRIVE IMPROVEMENT PROJECT; AUTHORIZING THE CITY MANAGER TO ISSUE PURCHASE ORDERS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder moved to adopt Resolution 3244, seconded by Mr. Holland and carried on roll call vote, 7-0.

AGENDA ITEM 8-h. Bid award - police cruisers.

City Manager Patterson noted that an error in computing the bids made Coastland Chrylser the low bidder in fact which further supported his recommendation that they be awarded the bid. Mr. Holland moved to adopt Resolution 3245, seconded by Mr. Schroeder. City Attorney Rynders read the below captioned resolution by title for consideration by Council.

A RESOLUTION AWARDDING BID FOR SEVEN (7) POLICE CRUISERS TO BE USED BY THE POLICE DEPARTMENT; AUTHORIZING THE CITY MANAGER TO ISSUE PURCHASE ORDERS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Motion carried on roll call vote, 7-0.

Mayor Anderson noted a vacancy on the Planning Advisory Board and an up-coming vacancy on the Contractors' Examining Board. He requested letters of application to be sent for him. He noted that interviews would be held for the Planning Advisory Board vacancy during the workshop on May 1, 1979, and an appointment to be made at the Regular Meeting on May 2, 1979.

Mr. Twerdahl noted that the Fourth of July was on the first Wednesday of July. City Manager Patterson responded that Council could set another date for that meeting if desired.

Mr. McGrath inquired of Community Development Director Roger Barry about the expected density in both the City and the County under the proposed Comprehensive Plans and what impact the County's density might have on the City's services. Mr. Barry noted that the City's plan did not increase density to any great degree and that he had not studied the County's plan in that respect. City Manager Patterson stated that he could check with the County and determine if there would be any great increase in density that may affect the City's services.

Mr. McGrath noted the sanitary problems at McDonald's Quarters and Mayor Anderson outlined the procedures being taken to follow up on this. The question was raised that if the City had to destroy some shacks because Mr. McDonald did not keep them up to standards, Mr. McDonald would not have them to turn over to the City when the time came to consummate the contract with him and possibly the City would not have to pay for the shacks that were non-existent at that time. It was Mr. Rynder's opinion that the City may not have to pay for what they don't receive.

Mr. Holland noted that the City owns the right-of-way on Third Avenue between 8th and 9th Streets North and that the Hospital Board will be requesting Council to open Third Avenue North between the Trail and 8th Avenue.

Mr. McGrath noted problems at the Fort Myers beach and wanted to make sure that Naples's beach patrols were kept in force.

There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Anderson adjourned the meeting at 11:51 a.m.

R. B. Anderson

R. B. Anderson, Mayor

Janet Cason
Janet D. Cason

City Clerk

Ellen P. Marshall
Ellen P. Marshall

Deputy Clerk

These minutes of the Naples City Council were approved on

05-02-79



City of Naples

735 EIGHTH STREET, SOUTH - NAPLES, FLORIDA 33940

OFFICE OF THE CITY ATTORNEY

April 11, 1979

M E M O

TO: Honorable Mayor and Members of Council
FROM: David W. Rynders, City Attorney
SUBJECT: Establishment of a Bird Sanctuary

We have received a request from the Naples Garden Club to establish the entire area of the City of Naples as a bird sanctuary. Article 4, Section 9 of the Florida Constitution grants all regulatory powers with respect to wild animal life (which includes the establishment of bird sanctuaries) to the Florida Game and Fresh Water Fish Commission. This has been the case since 1942. In its turn, the Commission has promulgated regulations requiring a city desiring to establish a bird sanctuary to pass a resolution with the following information: a request for the establishment of a bird sanctuary, the legal description of same, an agreement to assume responsibility for enforcement of all regulations of the Commission applying to the protection of all birds, and lastly, an instruction to its police officers to enforce the regulations.

A resolution meeting the Commission's requirements is attached for your consideration. The entire area of the City is included in the legal description.

For your information, the City's Charter authorizes the Council to declare any or all areas within the city limits a bird sanctuary, and an ordinance to that effect was adopted in 1969. Certain judicial decisions involving other municipalities have indicated that provisions of this kind are unconstitutional, being rendered void by the specific grant of power to the Game and Fresh Water Fish Commission in the Florida Constitution. For this reason, no record of a bird sanctuary in Naples has ever been made

in the official registry of sanctuaries in the Florida Administrative Code, nor have any of the Commissioner's regulations protecting birds been enforceable. The City's ordinance preventing the harming of birds in Naples was repealed when the county adopted its county-wide animal control ordinance, since provisions in the county's ordinance regarding the inhumane treatment of all animals and birds, along with other regulations against the discharge of weapons in the city, provided the same protection.

For the purpose of enjoying the additional recognition and protection afforded by the regulations of the Florida Game and Fresh Water Fish Commission, it may be desirable to follow the prescribed methods of establishing an official bird sanctuary. I have conversed with agents of the Commission and they advise me that the standards for approval of such a sanctuary are met by the character of the City of Naples. I, therefore, expect little difficulty in obtaining approval of the Commission.

David W. Rynders
David W. Rynders
City Attorney

DWR:bh