

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,  
NAPLES, FLORIDA, ON WEDNESDAY, MARCH 19, 1980, AT 9:02 A.M.

Present: R. B. Anderson  
Mayor

C. C. Holland  
Harry Rothchild  
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  
Edward C. Smith, Assistant to the City  
Roger Barry, Community Development Director  
Mark Wiltsie, Purchasing Supervisor  
Franklin Jones, Finance Director

Reverend Carl Mills  
Charles Andrews  
Connor Chambers  
Harold Yegge  
Clayton Bigg  
Dr. Albert Ziton  
Sam Aronoff  
Willie Anthony  
Ben Anderson  
Robert Russell  
Irving Berzon  
William Barton  
William Shearston

News Media: Bob Barber, WEVU-TV  
Paul Stanford, TV-9  
Ed Warner, TV-9  
Allen Bartlett, Fort Myers News Press  
David Henry, Miami Herald  
Gary Baranik, Naples Daily News  
Jerry Arnold, WRGI

Other interested citizens and visitors

Mayor Anderson called the meeting to order at 9:02 a.m.; whereupon Reverend Carl Mills of the Church of the Nazarene delivered the Invocation, followed by the Pledge of Allegiance to the Flag.

AGENDA ITEM 3. APPROVAL OF MINUTES

Mayor Anderson called Council's attention to the minutes of the Regular Meeting of March 5, 1980; whereupon Mr. Thornton moved approval of the minutes as presented, seconded by Mr. Schroeder and carried by consensus.

AGENDA ITEM 4. Community Development Department/Naples Planning Advisory Board:

AGENDA ITEM 4-a. PUBLIC HEARING and recommendation of Naples Planning Advisory Board to consider Special Exception Petition No. 80-S1, to permit a five (5) foot CBS wall in required front yard. Petitioner: Mr. & Mrs. John DeBaun, 1300 Curlew Avenue.

Mayor Anderson opened the Public Hearing at 9:05 a.m.; whereupon Roger Barry, Community Development Director, mentioned his memorandum noting that there was no need for a Public Hearing because an alternative solution had been decided on which did not require Special Exception approval. Mayor Anderson closed the Public Hearing at 9:06 a.m.; whereupon Mr. Twerdahl moved to remove this item from the Agenda, seconded by Mr. Thornton and carried on roll call vote, 7-0.

AGENDA ITEM 4-b. Recommendation of Naples Planning Advisory Board to approve Rezone Petition No. 80-R6 - Change of zone from "R3T-18", Multi-family Residential, to "PS", Public Service, for existing public recreational use known as Lowdermilk Park; encompassing Lot 1, Unit 1; Lot 1, Block K, less the north 4 feet, Unit 2; Block K, Parcel 1, Coquina Sands

Mayor Anderson opened the Public Hearing at 9:07 a.m.; and noted that this was being done to have the zoning conform with the Comprehensive Plan. There being no one to speak for or against, the Mayor closed the Public Hearing at 9:08 a.m.; whereupon Mr. Thornton moved to accept the recommendation of the Planning Advisory Board, seconded by Mr. Rothchild and carried on roll call vote, 7-0.

AGENDA ITEM 4-c. Recommendation of Naples Planning Advisory Board to approve Rezone Petition No. 80-R7 - Change of zone from "R3T-18", Multi-family Residential, to "PS", Public Service, for an existing recreational use known as The Moorings Beach Club; encompassing Moorings Unit 2, Block S, Lot 7.

Mayor Anderson opened the Public Hearing at 9:07 a.m. and noted that this was being done to have the zoning conform with the Comprehensive Plan. There being no one to speak for or against, the Mayor closed the Public Hearing at 9:08 a.m.; whereupon Mr. Thornton moved to accept the recommendation of the Planning Advisory Board, seconded by Mr. Holland and carried on roll call vote, 6-1 with Mr. Schroeder voting no.

AGENDA ITEM 4-d. Recommendation of Naples Planning Advisory Board to approve Rezone Petition No. 80-R8 - Change of zone from "R1-10", Single family Residential, to "PS", Public Service, for an existing recreational use known as the Moorings Country Club and Golf Course facility; encompassing Lot 1 and Lot 70, Block 3, the Moorings Unit No. 3.

Mayor Anderson opened the Public Hearing at 9:11 a.m.; again noting that this action was to have the zoning conform with the Comprehensive Plan. There being no one to speak for or against, the Mayor closed the Public Hearing at 9:12 a.m.; whereupon Mr. Rothchild moved to accept the recommendation of the Planning Advisory Board, seconded by Mr. Thornton and carried on roll call vote, 6-1 with Mr. Schroeder voting no.



AGENDA ITEM 5. First reading of ordinances.

AGENDA ITEM 5-a. An ordinance rezoning Lot 1, Unit 1; Lot 1, Block K, Unit 2, less the North 4 feet thereof; Parcel 1 of Block K, Coquina Sands (Lowdermilk Park), located on the west side of Gulf Shore Boulevard, from "R3T-18", Multi-family Residential, to "PS", Public Service; directing that the Zoning Atlas be revised to reflect said rezoning; and providing an effect date. Purpose: To rezone said property in conformance with the City's Comprehensive Plan. (Pursuant to Agenda Item 4-b.)

City Attorney Rynders noted that Items 5-a, 5-b and 5-c were the ordinances to implement the zoning changes as noted in Items 4-b, 4-c and 4-d. He then read the above titled ordinance by title for Council's consideration on First Reading. Mr. Thornton moved approval of this ordinance on First Reading, seconded by Mr. Rothchild and carried on roll call vote, 7-0.

AGENDA ITEM 5-b. An ordinance rezoning Lot 7, Block S, Unit 2, The Moorings, the same being the Moorings Beach Club, located on Gulf Shore Boulevard, from "R3T-18", Multi-family Residential, to "PS", Public Service; directing that the Zoning Atlas be revised to reflect said rezoning; and providing an effective date. Purpose: To rezone said property in conformance with the City's Comprehensive Plan. (Pursuant to Agenda Item 4-c.)

City Attorney Rynders read the above referenced ordinance by title for Council's consideration on First Reading. Mr. Rothchild asked Mr. Schroeder to review his reasons for opposing these zoning changes to which Mr. Schroeder replied that he felt that this would make it more possible for office buildings or commercial buildings to be placed on this property and on the Moorings Beach in the future. Roger Barry, Community Development Director, stated that even existing commercial activities accessory to a country club could be expanded only with the approval of Council. Mr. Rothchild moved approval of this ordinance on First Reading and to direct the City Clerk to notify the affected property owners that the Public Hearing and action on this rezoning will be May 7, 1980, seconded by Mr. Twerdahl and carried on roll call vote, 6-1, with Mr. Schroeder voting no.

AGENDA ITEM 5-c. An ordinance rezoning Lot 1 and Lot 70, Block 3, The Moorings, Unit No. 3, the same being the Moorings Country Club property, located at 2500 Crayton Road, from "R1-10", Single-family Residential, to "PS", Public Service; directing that the Zoning Atlas be revised to reflect said rezoning; and providing an effective date. Purpose: To rezone said property in conformance with the City's Comprehensive Plan. (Pursuant to Agenda Item 4-d.)

City Attorney Rynders read the above captioned ordinance by title for consideration by Council on First Reading and advised the Council that they needed to direct the City Clerk in connection with this ordinance to notify the affected property owners that the Public Hearing and the adoption of the rezoning will be held on May 7, 1980, because the City has initiated this request for rezoning. Mr. Thornton moved approval of this ordinance on First Reading and to direct the City Clerk to notify the affected property owners that the Public Hearing and action on this rezoning would take place on May 7, 1980, seconded by Mr. Rothchild and carried on roll call vote, 6-1 with Mr. Schroeder voting no.

AGENDA ITEM 6. Resolution appointing a City Council member to the Board of Trustees of the City of Naples Firemen's Pension and Retirement System to replace James F. McGrath. Requested by City Manager.

Mayor Anderson noted that there was some thinking along the lines of combining the activities of the Firemen's Pension Board and the Policemen's Pension Board and for at least some continuity and uniformity, he suggested appointing Mr. Thornton to the Firemen's Pension Board and Harry Heineman to the Policemen's Pension Board. City Attorney Rynders read the above titled resolution by title for consideration by Council; whereupon Mr. Schroeder moved to appoint Randolph Thornton to the Board of Trustees of the Fireman's Pension and Retirement System, seconded by Mr. Rothchild and carried on roll call vote, 7-0.

AGENDA ITEM 7. Resolution appointing a citizen to the Board of Trustees of the City of Naples Police Officers' Retirement Trust Fund to replace Alden C. Smith. Requested by the City Manager.

City Attorney Rynders read the above captioned resolution by title for consideration by Council. Mr. Schroeder moved to appoint Harry Heineman to the Board of Trustees of the Police Officers' Retirement Trust Fund, seconded by Mr. Twerdahl and carried on roll call vote, 7-0.

AGENDA ITEM 8. Resolution authorizing amendment of City/County Water/Sewer Agreement to provide for the purchase of raw water for Wyndemere Development, Golden Gate Parkway (pursuant to Council action on March 1980), to amend dates for County assumption of water treatment function, and to amend average annual demand (requested by Collier County Utility Director).

City Attorney Rynders noted that it would be premature for City Council to adopt this agreement until the City had obtained an extension on their lease with the Collier-Sproul Trustees for continued use of the Geitz Pit. He noted that in view of the County's request for a six-month extension of their agreement with the City for the sale of raw water to them, it would be necessary to insure the supply of this water by obtaining the extension on the least for the use of the Geitz Pit. City Manager Patterson asked Council for authority to negotiate for the extension of the lease with the Geitz Pit and to negotiate for the purchase of a site for a water tank which will have to be built when the tank in North Naples is turned over to the County. William Barton, representing Wyndemere, addressed Council and asked to have some indication within three weeks so they can make a firm decision on the plans they will have to make to have a water treatment plant in operation by November or December. Irving Berzon, County Utilities Director, spoke in support of the County's request and Wyndemere's. It was the consensus of Council that there had been a discussion of what was involved in the present agreement with the stipulation that it would come back to Council for formal approval after the City Manager had worked out the problem as it pertains to the needed land and also the six month extension on the Geitz Pit lease.

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Let the record show that Mr. Holland left the Council table at 10:06 a.m.  
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AGENDA ITEM 9. Acceptance by City Council of documents in connection with water and sewer systems for Pine Woods subdivision (located on Airport Road just south of Naples Bath and Tennis Club). Requested by Engineering Department.

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

A RESOLUTION ACCEPTING EASEMENT AND BILL OF SALE FROM PINWOODS DEVELOPERS OF NAPLES, INC., AND COMAR CORPORATION; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN ESCROW AGREEMENT BETWEEN PINWOODS DEVELOPERS OF NAPLES, INC. THE CITY OF NAPLES AND BARNETT BANKS TRUST COMPANY, COPIES OF WHICH ARE ATTACHED HERETO AND INCORPORATED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3488, seconded by Mr. Twerdahl and carried on roll call vote, 6-0 with Mr. Holland being absent from the Council table.

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Let the record show that Mr. Holland returned to the Council table at 10:09 a.m.  
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AGENDA ITEM 10. Acceptance of drainage easements - 8th Terrace North. Requested by Engineering Department. (Deferred from regular meeting of March 5, 1980.)

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

A RESOLUTION ACCEPTING TWO EASEMENTS FOR THE PURPOSE OF CONSTRUCTING DRAINAGE IMPROVEMENTS ON 8TH TERRACE NORTH; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder ascertained from the City Attorney that this had been re-executed; whereupon Mr. Twerdahl moved adoption of Resolution 3489, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

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Let the record show that Mayor Anderson recessed the meeting at 10:11 a.m. and reconvened it at 10:30 a.m. with all members of Council present.  
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AGENDA ITEM 11. Recommendation by City Manager on final settlement with Advanced Contractors on City Hall construction contract.

Mayor Anderson called Council's attention to a memorandum sent to them from City Attorney Rynders dated March 12, 1980 (Attachment #1). Discussion centered on the legal necessity to abide by the terms of the existing contract with Advanced Contractors. Mr. Holland and Mr. Rothchild suggested alternate methods of payment to protect the sub-contractors, especially the local ones. City Attorney Rynders pointed out that if Advanced were not paid under the terms of the existing contract, they could sue the City and would probably win the suit. Mr. Schroeder moved that this contract be closed out by the remittance of final payment to Advanced Contractors, after receipt of the appropriate warranties, waivers and other documentation required by the contract, in the amount of \$64,172.04, seconded by Mr. Thornton. Willie Anthony, representing a local sub-contractor, addressed Council, outlining his particular problems with the general contractor. Motion carried on roll call vote, 5-2 with Mr. Holland and Mr. Rothchild voting no.

AGENDA ITEM 12. Purchasing:

AGENDA ITEM 12-a. Bid rejection - fertilizer scooter

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

A RESOLUTION REJECTING THE BID RECEIVED FOR A FERTILIZER SCOOTER, AUTHORIZING THE CITY MANAGER TO READVERTISE FOR BIDS THEREON; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3490, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 12-b. Bid award - fencing for Fleischmann Park

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

A RESOLUTION AWARDED BID FOR FLEISCHMANN PARK FENCING; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3491, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 12-c. Bid award - light bars and signals

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

A RESOLUTION AWARDING BID FOR SIGNAL LIGHT BARS AND SIRENS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3492, seconded by Mr. Wood and carried on roll call vote, 7-0.

CORRESPONDENCE AND COMMUNICATIONS

Mayor Anderson commended the City Manager and his staff and advocated the use of their services by Councilmen in gaining understanding of agenda items and other related questions prior to actual Council meetings.

There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Anderson adjourned the meeting at 11:28 a.m.

*R. B. Anderson*

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R. B. Anderson, Mayor

*Janet Cason*  
Janet Cason  
City Clerk

*Ellen P. Marshall*  
Ellen P. Marshall  
Deputy City Clerk

These minutes of the Naples City Council were approved on 04-02-80





# City of Naples

735 EIGHTH STREET, SOUTH - NAPLES, FLORIDA 33940

OFFICE OF THE CITY ATTORNEY

March 12, 1980

M E M O

TO: Mayor and Members of Council  
FROM: David W. Rynders, City Attorney  
RE: Final Payment to Advanced Contractors  
for Construction of City Hall

This office has proposed to Advanced Contractors a contract settlement based upon the following factors:

We are presently retaining \$94,653.49 for final completion of the contract.

In addition, Advanced Contractors has requested \$6393.86 for work performed under several change orders claimed to be necessitated by the project. We have reviewed this claim and have determined that only \$1202.50 of the claimed amount is owing to the contractor.

From the total of \$95,855.99, the following should be deducted:

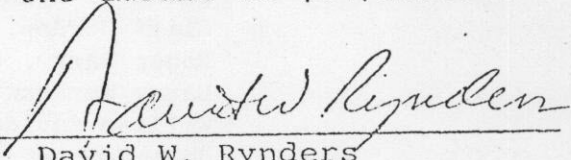
First, the sum of \$20,951.45 must be deducted for the estimated value of work carried out by the City on the project and for certain nonconforming or defective work accepted by the City.

Second, the architect has estimated that 15.9% of the project was not completed until 135 days after the end of the contract period. Applying this percentage and time period to the \$500.00 per day liquidated damage figure in the contract results in a calculation of \$10,732.50 in liquidated damages for failure to complete the project on time. Please be advised that this amount approximates our recoverable actual damages. It is the view of this office that the difficulty in proving the precise amount of actual damages, weighed together with the likelihood that these liquidated damages will closely approximate or exceed the recoverable actual damages, weighs heavily in favor of settling upon the estimated liquidated damages provided by this formula.

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The balance owing to Advanced Contractors is therefore \$64,172.04.

Advanced Contractors has agreed to settlement on these figures. It is therefore recommended that this contract be closed out by the remittance of final payment to Advanced Contractors, after receipt of the appropriate warranties, waivers and other documentation required by the contract, in the amount of \$64,172.04.

  
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David W. Rynders  
City Attorney