

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,
NAPLES, FLORIDA, ON WEDNESDAY, JULY 15, 1981, AT 9:00 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
Mark Wiltsie, Assistant to the City Manager
Roger Barry, Community Development Director
Reid Silverboard, Chief Planner
John McCord, City Engineer
Stewart Unganst, Purchasing Agent
Franklin Jones, Finance Director

Reverend Floyd Long
Clayton Bigg
Charles Andrews
Mike Barone
Bill Parks
Susan Frericks
Charles Rhoades
Stewart Schram
Mike Gideon
Barbara Gideon
John Penner
David Pierson
M/M Paul H. Barr
James E. Hirst
Harry E. O. Heineman
Lyle Richardson
William Shearston
Edward Putzell
Seymour Pollack
Robert L. Lieberenz
William Rosenberg
Jack Miller
Philip Sowersby

News Media: Ned Warner, TV-9
Jim Goin, TV-9
Chad Hautmann, Naples Star
Gary Arnold, WRGI
James Moses, Naples Daily News
Susan Gardner, TV-9
Scott Harrison, Naples Star
Susan Ornstein, News Press

Tom Lowe, WEVU-TV
Dory Owen, Miami Herald

Other interested citizen and visitors.

Mayor Anderson called the meeting to order at 9:00 a.m.; whereupon Reverend Floyd Long of the Church of Christ 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 Workshop of June 30, 1981 and the Regular Meeting of July 1, 1981. Mr. Rothchild noted that he wished the minutes of the Regular Meeting to reflect that City Attorney Rynders left the meeting while he, Mr. Rothchild, was speaking critically of the City Attorney on Agenda Item 6. Mayor Anderson requested Mr. Rothchild to submit his correction in writing and deferred action on the minutes of the Regular Meeting until this was received. Mr. Rothchild moved to accept the minutes of the Workshop Meeting of June 30, 1981 as presented, seconded by Mr. Holland and carried by consensus.

AGENDA ITEM 4. PUBLIC HEARING to consider request for permit for proposed dredging activities within unnamed manmade canal adjacent to existing boat docks (File No. DR 81-5) Owner: Chesapeake Point Developers - Cliff Winger, President. Agent: James H. Hirst, P.E. Project location: Lots 19 and 20, Unit 2, Oyster Bay, Royal Harbor, Collier County -- 1311 Chesapeake Avenue.

Mayor Anderson opened the Public Hearing at 9:07 a.m.; whereupon City Attorney Rynders read the below titled resolution for Council's consideration.

A RESOLUTION AUTHORIZING DREDGING ACTIVITIES WITHIN AN UNNAMED MANMADE CANAL ADJACENT TO EXISTING BOAT DOCKS AT 1311 CHESAPEAKE AVENUE, NAPLES, BEING LOTS 19 AND 20, UNIT 2, OYSTER BAY, AND PROVIDING AN EFFECTIVE DATE.

There being no one to speak for or against, the Mayor closed the Public Hearing at 9:08 a.m. Mr. Rothchild indicated that he had questions for James H. Hirst, agent for the petitioner, if he were present and Mr. Hirst indicated that he was. In response to Mr. Rothchild's questions, Mr. Hirst explained that they had not understood the City's letter referring to the staff's inability to grant the permit administratively and therefore had only requested the permit for the dock at that time. He further explained that they would have completed the entire permitting process at that time had they realized that Council had the responsibility for granting the dredging permit. He added that they had believed they might not need the dredging, but found out that they did. Roger Barry, Community Development Director, explained part of how the misunderstanding came about and John McCord, City Engineer, noted that he had no objections to the project. City Attorney Rynders added that approving this particular project would not be precedent setting. After a lengthy discussion emphasizing the care required to do the project without damaging the mangroves, necessitating more hand work and less machine work, it was the consensus of Council to approve this petition. Mr. Thornton moved adoption of Resolution 3800, seconded by Mr. Holland and carried on roll call vote, 5-2 with Mr. Twerdahl and Mr. Wood voting no.

AGENDA ITEM 5. Community Development Department/Naples Planning Advisory Board:

AGENDA ITEM 5-a. Recommendation of the Planning Advisory Board to deny: Variance Petition No. 81-V9 Petitioner: Howard Johnson, Inc. Location: 221 Ninth Street South Appeal from Section 6.22(F)(1)(b) of the Zoning Ordinance which limits the size of ground signs in the "C2", General Commercial District, to a maximum of 60 square feet in area, in order to construct a ground sign approximately 210 square feet in area.

City Attorney Rynders noted that the Planning Advisory Board had recommended denial of this petition and therefore he had not prepared a resolution approving it. He added that one would be prepared shortly if Council did approve the request. Mr. Rothchild spoke in favor of approving the petition. Roger Barry, Community Development Director, addressed the reasons why the Planning Advisory Board had recommended denial. City Attorney Rynders explained that the state law dealing with signs viewed from federal or state highways had in effect been repealed unless contradictory action was forthcoming from the State Legislature by January 1982. After a lengthy discussion Mr. Twerdahl moved to accept the recommendation of denial of Variance Petition No. 81-V9 by the Planning Advisory Board, seconded by Mr. Schroeder and carried on roll call vote, 5-2 with Mr. Holland and Mr. Rothchild voting no.

AGENDA ITEM 5-b. Recommendation of the Planning Advisory Board to deny: Variance Petition No. 81-V10 Petitioner: Michael T. Barone Location: 655 Ninth Street North Appeal from Section 6.22(F)(1)(f) of the Zoning Ordinance which requires a minimum street frontage of 125 feet in the "C2", General Commercial District, to erect a ground sign in order to permit the House of Chrome and Wheels to erect a ground sign on a parcel of land having a street frontage of 100 feet.

Mayor Anderson asked if the petitioner would like to speak to this matter and Bill Parks, Co-manager of the House of Chrome and Wheels, spoke in support of the petition. Roger Barry explained the reasoning of the Planning Advisory Board in recommending denial of this petition. Mr. Rothchild spoke in support of the request and Mr. Holland suggested allowing a smaller sign than permitted on 125 feet of street frontage. Mr. Thornton moved to accept the recommendation of denial of Variance Petition No. 81-V10 from the Planning Advisory Board, seconded by Mr. Schroeder. David Pierson, citizen, spoke in support of the denial. Motion carried on roll call vote, 5-2 with Mr. Holland and Mr. Rothchild voting no.

AGENDA ITEM 5-c. Recommendation of the Planning Advisory Board to approve: Variance Petition No. 81-V11 Petitioner: Seymour Pollack Location: 2222 Southwinds Drive Appeal from Section 6.35(a)(1) of the Zoning Ordinance which permits screen-enclosed swimming pools to encroach into the required rear yard area to within a maximum of 15 feet of the property line, in order to permit portions of a screen-enclosed pool to encroach to within 10 feet of the property line.

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

A RESOLUTION GRANTING A VARIANCE FROM THE PROVISIONS OF SECTION 6(35)(A)(1) OF APPENDIX "A" - ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, TO PERMIT ENCROACHMENT OF A SCREEN-ENCLOSED SWIMMING POOL, TO BE CONSTRUCTED AT 2222 SOUTHWINDS DRIVE, TO WITHIN 10 FEET OF THE REAR YARD LINE; AND PROVIDING AN EFFECTIVE DATE.

Seymour Pollack, petitioner, spoke in support of the request. Mr. Twerdahl moved to adopt Resolution 3801, seconded by Mr. Wood and carried on roll call vote, 6-1 with Mr. Schroeder voting no.

AGENDA ITEM 5-d. Recommendation of the Planning Advisory Board to approve: Special Exception No. 81-S8 and Non-conformity Petition No. 81-N3 Petitioner: Dennis Combs
Location: 1190 Ninth Street North (Frank's Union 76) Request to accommodate a 1,865 square foot expansion to an existing non-conforming gasoline service station located in the "HC", Highway Commercial District.

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

A RESOLUTION GRANTING A SPECIAL EXCEPTION AND AUTHORIZING EXPANSION OF A NONCONFORMITY TO PERMIT EXPANSION OF AN EXISTING NONCONFORMITY TO PERMIT EXPANSION OF AN EXISTING NONCONFORMING GASOLINE SERVICE STATION AT 1190 9TH STREET NORTH, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING A EFFECTIVE DATE.

Robert Lieberenz, architect for the petitioner, presented himself to answer questions if there were any. Mr. Schroeder moved to adopt Resolution 3802, seconded by Mr. Twerdahl and carried on roll call vote, 7-0.

Let the record show that Mayor Anderson recessed the meeting at 10:25 a.m. and reconvened it at 10:40 a.m. with the same members of Council present.

Mayor Anderson noted that the meeting was running late and asked that Agenda Item 8 be taken up at this time and it was the consensus of Council to do so.

AGENDA ITEM 8. Appointment of a member to fill a vacancy on the City of Naples Airport Authority. Pursuant to interviews at July 14 Council Conference.

City Attorney Rynders read the below titled resolution by title for consideration by Council, noting that the name of the person appointed would be added to it.

A RESOLUTION APPOINT A MEMBER TO THE CITY OF NAPLES AIRPORT AUTHORITY TO FILL THE UNEXPIRED TERM OF ALAN G. RUDE; AND PROVIDING AN EFFECTIVE DATE.

Mayor Anderson asked each member of Council to designate their choice among the candidates. After they did, Mr. Rothchild moved that Jack Miller be appointed, seconded by Mr. Holland and motion defeated 2-5 with Councilmen Schroeder, Thornton, Twerdahl and Wood and Mayor Anderson voting no. Mr. Thornton then moved to adopt Resolution 3803 appointing Elmer Jones, seconded by Mr. Twerdahl and carried on roll call vote, 6-1 with Mr. Holland voting no.

RETURN TO REGULAR AGENDA

AGENDA ITEM 6. PUBLIC HEARING and second reading of ordinance, An ordinance relating to confidential personnel information; repealing Section 1A-2 of the Code of Ordinances of the City of Naples, Florida; and providing an effective date. Purpose: To repeal the City's ordinance which declared certain personnel information to be confidential and thereby exempted from the public disclosure provisions of Chapter 119, Florida Statutes.

City Attorney Rynders read the above captioned ordinance by title for Council's consideration on Second Reading; whereupon Mayor Anderson opened the Public Hearing at 10:54 a.m. There being no one to speak for or against, the Mayor closed the Public Hearing at 10:55 a.m. Mr. Thornton moved adoption of Ordinance 3804 on Second Reading, seconded by Mr. Schroeder. Mr. Rothchild made a statement criticizing the City Attorney's actions in this matter. City Attorney Rynders read his memorandum of June 23, 1981 that was a part of the packet of the July 1, 1981 Regular Meeting (Attachment #1); and stated the basis for his actions. City Manager Patterson noted his knowledge of these proceedings and his concurrence. Mr. Rothchild asked for a verbatim transcript of this entire item and asked that a record of this be placed in the City Attorney's personnel record. Motion carried on roll call vote, 7-0.

AGENDA ITEM 7. First reading of ordinance. An ordinance relating to court costs; amending Section 1A-6 of the Code of Ordinances of the City of Naples to provide for the assessment of a court cost of two dollars (\$2.00) against every person convicted for violation of a state penal or criminal statute or a city ordinance, excluding therefrom violations relating to the parking of vehicles; and providing an effective date. Purpose: To increase the amount of said court costs from \$1.00 to \$2.00, pursuant to Sec. 943.25(8)(a), F.S. (Requested by Police Chief)

City Attorney Rynders read the above referenced ordinance by title for consideration by Council on First Reading. Mr. Thornton moved to approve this ordinance on First Reading, seconded by Mr. Twerdahl and carried on roll call vote, 7-0.

AGENDA ITEM 9. Acceptance of bids and award of contract - sanitary sewer replacement project along Gulf Shore Blvd. from Oleander to South Golf Drive (1981 Capital Improvement Program). Requested by Engineering Department.

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

A RESOLUTION AWARDED CONTRACT FOR SANITARY SEWER REPLACEMENT ALONG GULF SHORE BOULEVARD FROM OLEANDER DRIVE TO SOUTH GOLF DRIVE; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

In response to an inquiry from Mr. Holland, John McCord, City Engineer, pointed out that the cost included taking out the old equipment and replacing it. Mr. Thornton moved to adopt Resolution 3805, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 10. Purchasing: Sidewalk construction and repair - annual bid.

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

A RESOLUTION AWARDED BID FOR SIDEWALK CONSTRUCTION AND REPAIR AT VARIOUS LOCATIONS IN THE CITY; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Holland moved adoption of Resolution 3806, seconded by Mr. Wood and carried on roll call vote, 7-0.

CORRESPONDENCE AND COMMUNICATIONS

City Manager Patterson noted the Engineering Memorandum #81-61 from John McCord, City Engineer (Attachment #2). Council discussed the matter with Mr. Rothchild recommending removal of the one-way barricades until a further decision is reached after receiving recommendations from Barr-Dunlop. There was no consensus of Council at this time and Mayor Anderson noted that Mr. Barr will be submitting his proposal for scope of work soon. Mr. Rothchild asked the City Manager to put the Crayton Road discussion on the next agenda.

*** **

Mayor Anderson noted that there was still part of the budget to be reviewed and that Council would go into a Workshop Meeting when this one was adjourned. He also noted that he is calling a Special Meeting for 3:00 p.m. on this date.

There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Anderson adjourned the meeting at 11:38 a.m.

R. B. Anderson
R. B. Anderson, Mayor

Janet Cason
Janet Cason
City Clerk

Ellen P. Marshall
Ellen P. Marshall
Deputy Clerk

These minutes of the Naples City Council were approved on 08-05-81

Page 2
June 23, 1981

Consequently, I concluded that any City employee denying access to the records requested would be committing a crime. Conversely, the City ordinance was essentially unenforceable. Violation of the City ordinance would therefore incur no penalties or consequences. As you might expect, the Personnel Department made a responsible decision and complied with the state statute requiring disclosure.

It is my recommendation that City Ordinance No. 2788, codified as section 1A-2 of the City Code, be repealed so as to remove any possibility of future confusion or potential criminal penalty. An ordinance repealing that provision is attached for your perusal. You may place this on the Council Agenda, with a copy of this memorandum in explanation, at your convenience.

David W. Rynders
David W. Rynders
City Attorney

DWR:hh
Enc.

cc: Steve Carta, Esq.



City of Naples

705 EIGHTH STREET, SOUTH, NAPLES, FLORIDA 33940

June 23, 1981

M E M O
TO: George M. Patterson, City Manager
FROM: David W. Rynders, City Attorney
RE: Confidential Personnel Information Ordinance

As I previously discussed with you, research which I have recently undertaken in connection with the above-described ordinance has made it apparent to me that this ordinance directly conflicts with the provisions of Chapter 119, Fla. Statutes. In my view, it cannot and will not be interpreted as a mere "supplement" to that statute.

This question arose quite recently in connection with a request from the Personnel Department for advice as to compliance with the demand of the Ft. Myers News-Press for access to certain memoranda and other documents relating to disciplinary action against one of our City employees. As you are aware, under state law the refusal to make public documents available for scrutiny by members of the public is a crime. It was, therefore, of critical importance that employees of the Personnel Department receive correct and appropriate counsel on this matter.

Several pertinent decisions have been handed down by the appellate courts of this state since October, 1977, when the above-described ordinance was adopted. In addition, a recent decision by the Circuit Court for the Twentieth Judicial Circuit (which is the circuit in which we are situated) has addressed the question of local authority to "supplement" the exemptions currently provided for in Chapter 119, F.S. The thrust of each of these decisions is that local bodies may not add to the statutory exemptions from the public records law and that the Florida Legislature, and only the Florida Legislature, may "supplement" the exemptions from the public record disclosure requirement.



City of Naples

725 EIGHTH STREET, SOUTH - STATE OF FLORIDA 33940

OFFICE OF THE ENGINEERING DEPARTMENT

Engineering Memo #81-61

TO: George Patterson

FROM: John McCord

DATE: July 13, 1981

REFER: Closure of Crayton Road at Seagate to Southbound Traffic

SUBJ: After Action Report



On June 17, 1981 our Council directed the above action be taken on a trial basis due to concerns raised by the Traffic Coordinating Committee (i.e. Pelican Bay impact). Further included was a requirement that northbound vehicular traffic be restricted to "Right Turn Only" onto Seagate.

Prior to the temporary closure being put into effect, 24 hour traffic counts were made on June 23 and June 24. As shown on the attached, several counting stations were established in order to assess not only the impact on Crayton but also several other area streets.

Having completed the "before" data collection, at 7:00 a.m., June 25, 1981, the lane closure and re-signing was placed into effect. Some initial driver confusion resulted in the initial period of closure, however, as motorists became aware of the situation from advisory signing on the Trail as well as Segate, the confusion became minimal.

In order to report back to Council on the impact of this action, on July 9 and July 10 a recount of vehicular traffic was made. The locations for the counting equipment was the same as prior to the closure in order to give a correct statement of the impact. The results of this "after" data are likewise shown on the attachment and summarized below.

George Patterson
July 13, 1981
Page Two

Summary of Impacts

Location

Comments

Crayton Road at Seagate

=Northbound Traffic remained about the Same

=Southbound Traffic reduced almost to Zero

Crayton Road at Park Shore

=Northbound Traffic remained about the Same

=Southbound Traffic Decreased by 22%

Whispering Pine at Crayton

=Average Daily Traffic Doubled

Neapolitan Way at Crayton

=Average Daily Traffic Increased 48%

West Blvd. at Neapolitan

=Average Daily Traffic Increased 600%

One overall conclusion that can be drawn from the above is that Whispering Pine, Neapolitan (west of West Blvd.) and most noticeably West Blvd. are being subjected to increased levels of traffic in exchange for a reduction along Crayton. In other words, motorists and presumably a portion of through type commercial traffic is finding alternate routes via West Blvd., Whispering Pine and Neapolitan. This is to be expected and gives some positive indications for a need for additional controls on Whispering Pine and Neapolitan (west of West Blvd.) if such action is to be continued.

Finally, of some interest is the 600% impact on West Blvd. which went from an ADT (average daily traffic) of 249 to 1,472 vehicles per day. One explanation might be offered by one considering commercial traffic going through a learning process on the new restrictions. That is discovering that by using West Blvd. one must either proceed to a strictly residential area or return to the Trail via Neapolitan. Since counts were not taken on Belair, the writer would rather presume this element acted responsibly and headed east returning to the Trail. In any event, the action suggested by the Committee for Neapolitan would preclude the utilization of Belair if that is in fact what transpired.

JRM:sdm
Attachment (1)
xc: Chief Paul Roble
Roger Barry
Jack Barr

