



City of Naples

CITY COUNCIL MINUTES

Workshop Meeting 4-29-91

City Council Chambers
735 Eighth Street South
Naples, Florida 33940

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Time 9:00 a.m.

Time 9.00 a.m.

Date 4-29-91

ROLL CALL

William E. Barnett
R. Joseph Herms
Alan R. Korest
Paul W. Muenzer
John M. Passidomo
Fred L. Sullivan
Councilmen

Marilyn McCord,
Recording Secretary

Susan Golden,
Planner I

**DISCUSSION OF ITEMS RELATING TO NAPLES
MOBILE HOME PARK.**

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<p>Community Development Director McKim told Council that a citation had been acted on by the Code Enforcement Board, which gave the park thirty days to comply with any one of various options. An appeal has been submitted which will be heard by the Planning Advisory Board (PAB) in June, and the issue will be reviewed by Council at the July meeting. Mrs. McKim further explained that the park had used as its guide a site plan which had never been approved.</p> <p>Mayor Anderson asked if there were options other than amending the Comprehensive Plan. Community Development Director McKim said that an amendment to the Comprehensive Plan making the park a designated land-use category and rezoning the development to a Planned Development (P.D.) would be the most comprehensive procedure. Another option would be to amend the Comprehensive Plan to increase the 140 units that the Plan now allocates to that property to 176, which is the number of lots the park actually has. One hundred and forty-five units are occupied by permanent residents, she said, leaving it a nonconforming land use, requiring the necessity of nonconformity petitions. If the number of units were changed to 176, the park would possess the allotted number of units within the Comprehensive Plan.</p> <p>A third option, explained Mrs. McKim, would be to leave the Comprehensive Plan as is and go through the process of expansion of a nonconformity from time to time as necessary. At some point it must be determined how many of the units are grandfathered in, however, yet another option would be to appeal for the interpretation that there is in fact removal and replacement of mobile homes, and that is the normal procedure requiring expansion of nonconformity.</p> <p>Mayor Anderson asked whether it were possible to allow the park to make upgrades but not to allow expansion. The intent, she said, was that Council does not want to allow for the continuance of mobile home parks. Mrs. McKim said that it would be appropriate to allow for</p>					

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upgrades, but it should be determined if that was the best procedure with regard to zoning. It would be necessary to amend the Comprehensive Plan and P.D. in the event the park ceases to operate for more than twelve months, she added.

Community Development Director McKim then reviewed the history of the situation and said that it was her understanding that the Community Development Department previously had not actively required building permits for work done in the park, and that the City had historically considered that the park would convert to single family zoning if it ceased to operate. The park is nonconforming to zoning in many ways, she said.

Vice Mayor Passidomo noted that since the property owners had filed an issue to appeal, so to proceed with a hearing before a challenge subverts the process.

Attorney Ed Bryant of 3301 Davis Boulevard, representing the petitioner, said that this Workshop in his perspective is an opportunity to learn all the alternatives. He said that it appears that the Comprehensive Plan at its very beginning overlooks certain procedures and should perhaps be amended. Attorney Bryant referred to the housing element in the Comprehensive Plan which requires the City to set aside low income, moderate income, and mobile home sites. Mobile homes are not in the Comprehensive Plan, however, he said which states Naples has not provided for mobile homes because of flood danger. Attorney Bryant also referred to Chapter 7.23 in the Comprehensive Plan which states that any time the government takes any action, it needs to do a survey. The City had an obligation therefore to conduct a survey, he said, to determine if mobile home sites were available and, if displaced, would people have somewhere to go. Attorney Bryant said he is not sure that the property owner must petition to amend the Comprehensive Plan.

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Vice Mayor Passidomo suggested that Attorney Bryant utilize the very adequate means already in existence and asked what could be achieved by Council's review without any background.							
Mayor Anderson told Attorney Bryant that Council is sensitive to his concerns and that the existence of the park gives some latitude.							
Councilman Korest told Council that every section of the Comprehensive Plan was subject to public input and there had been ample opportunities for everyone affected to come before the PAB. He said that he is not comfortable with addressing the park's concerns at a Workshop, and that doing so might affect the outcome of administrative procedures.							
Councilman Herms noted that the park's situation is unique and the property owners had not come forward previously because they saw no changes being proposed other than the number of lots.							
In further answer to Mayor Anderson's previous question about upgrades in the park, City Attorney Rynders said that things were taking place in the park that should have been checked previously. Staff responded to complaints and attempted to correct the problems. Acting City Manager Coggan added that staff was attempting to correct exactly what Council had previously been unhappy about.							
Mayor Anderson suggested that in Mrs. McKim's intense review and attempts to upgrade, Council may find many inconsistencies. If Council begins to enact procedures that are in place but which had been previously ignored, with the amount of diligence being given now to uniform enforcement, more problems may be revealed.							
Councilman Korest stated that the P.A.B. should be able to review all aspects of this issue, since it does involve land use. He said he would prefer to allow this process to go through the normal channels.							

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Councilman Barnett asked Community Development Director McKim if anything could be resolved at this time, then proceed to follow the normal process. Mrs. McKim said that she told Mrs. Lofgrin that if the appropriate applications were submitted, the electrical work would be approved temporarily. There must be an agreement, which Mrs. Lofgrin would sign, that it is understood if Council would not approve the additional units, the electrical would have to be removed.

Councilman Herms noted that as the City becomes more strict in its zoning interpretation, more nonconforming uses are created. For example, in certain sections of the Comprehensive Plan nonconforming improvements are allowed. However, with regard to the park, Councilman Herms said, certain safety improvements had also not been allowed. Mayor Anderson said that many of the issues may be addressed in the new Housing Code and directed Community Development Director McKim to report in writing to Councilman Herms with regard to others areas in which nonconformity is allowed.

Mrs. McKim noted that the City is in a very difficult position with regard to the park, because only 140 units are allowed but not identified. The new units were never approved to be in place; it would be against Code to approve expansions to those units since they were not legally there originally. She explained that the Comprehensive Plan does not adequately describe this operation although it can work towards resolving many of the concerns.

Councilman Herms asked if any other plans with more than 140 units had been approved by the City. Mrs. McKim replied that she was aware of none. Mayor Anderson asked that Councilman Herms and Community Development Director McKim identify whether or not the City had ever approved plans containing more than 140 units and report to Council.

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BREAK: 9:20 a.m. - 9:25 a.m.

ITEM 2

DISCUSSION OF FUEL SALES AT THE CITY
DOCK.

Councilman Sullivan told Council that he had requested this item because of information he had received from the diesel wholesaler who provides fuel to the City. He said he had been informed that the procedure to obtain an exemption from the federal tax on diesel fuel had been started in mid-1989, with the fuel tax becoming effective on January 1, 1990. In the absence of federal form 637, the enabling document, the City had been charged that tax since January 1, 1990. Through March 31, 1991, said Councilman Sullivan, \$27,000 in taxes had been paid by the City. While investigating the issue, Councilman Sullivan was told that the Internal Revenue Service (I.R.S.) had withdrawn the exemption. He thought it best to clarify the situation at a Workshop before "wild reports" began, based on rumor and innuendo.

Community Services Director Holley explained that since January 14 attempts had been made to clarify the situation.

Finance Director Harrison stated that the City had been reimbursed for diesel fuel taxes paid at the Equipment Maintenance location, and that the same process will be utilized to obtain the Dock's tax reimbursement.

Councilman Korest commented that it was an unfortunate situation but seemed to be under control at this point, however, he suggested using certified mail for correspondence of this nature, in the future.

At the Mayor's request, Finance Director Harrison described the safeguard measures that had already

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been, or would be, instituted. He said that the normal policy would be to set up an active file whenever instituting procedures with I.R.S. or any other agency. That file would be reviewed frequently as standard office procedures.

Mayor Anderson said that in her opinion the Finance Director should be responsible for financial matters. Councilman Sullivan replied that his opinion was somewhat opposite: the department most affected, in this case Community Services, should be responsible. He said that this issue deals with the department's single biggest revenue item and that the Community Services Director should be responsible for ensuring that such matters are handled correctly and in a timely way. Councilman Korest added that it is in fact Mr. Holley's responsibility, but that the Finance Director should handle such issues administratively.

Councilman Muenzer explained that during the summer of 1990 Ms. Mary Woody of the I.R.S. made a specific recommendation to the City that if a log were maintained and cash register receipts utilized, it could obtain an exemption. Councilman Muenzer asked why Ms. Woody's recommendations had not been followed, who made the decision to absorb the tax in the cost of the fuel, and if anyone did the obvious and called other municipalities who sell fuel to determine if they had lost their exemptions. Community Services Director Holley replied that City fuel prices were compared with those of other municipalities at the time the City was going to pursue the exemption. There had been staff discussion with regard to including the tax in the cost of fuel, said Mr. Holley, and that subject was reviewed by former City Manager Jones.

Acting City Manager Coggan clarified that Ms. Woody's recommendations involved obtaining the tax exemption. Once the City had its exemption, it needed to maintain a log, but that was not a requirement of receiving the exemption. He explained that the initial reimbursement requests

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were for the government maintenance facility, for internal use only. I.R.S. had stated it never received the form requesting reimbursement at the Dock.

Mayor Anderson asked if all communications to other governmental agencies are now verified by certified mail. Finance Director Harrison will report to Council which communications generated in the Finance Department are handled by certified mail.

Councilman Herms asked if anyone had talked with former Finance Director Hanley as to why the decision was made not to proceed in this matter. He said that he had received a call from a representative of Standard Oil Co. who had investigated this situation after getting calls from people who had purchased fuel at the Dock. Councilman Herms said further that this individual had said he had called Mr. Holley.

Community Services Director Holley confirmed that he recalled a conversation with a man who asked whether or not the City was in the process of obtaining an exemption. He said that his staff had been calling I.R.S. at least twice a week, that the exemption had been actively pursued since January. He further explained that the form submitted by the City had never been rescinded.

Councilman Sullivan said that in his opinion Council should make such decisions as including the tax in the price of diesel fuel. He said that it appears that the impacts of the decision had never been considered other than the fact that the Dock would have to reduce its profit. The impact on taxpayers was the real consideration which should have been addressed, however, he concluded.

Vice Mayor Passidomo said that he could not disagree with this and that this particular item "fell through the cracks." Council needs to set the record straight and determine where responsibility lies, he said and that the Finance

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Department is the only resource for the department heads in such situations and should be taken advantage of. However, the ultimate responsibility is with the department head. Community Services Director Holley will provide a weekly report regarding the status of the tax exemption.

Acting City Manager Coggan suggested that Council draw a line of responsibility for the new City Manager. He told Council that Carroll Oil Co., the City's supplier of diesel fuel, had removed the fuel tax from last month's bill. That issue is being taken under advisement because staff does not believe that the oil company can arbitrarily remove the tax.

Councilman Sullivan said that he was satisfied that progress is being made to prevent such things from happening in the future. He added that he suspects, because so much was happening in the Finance Department, this particular item had little priority placed on it.

In answer to Councilman Herm's question, Acting City Manager Coggan said that a portion of the diesel tax goes to the road program.

ITEM 3

**DISCUSSION OF ADOPTION OF CITY'S
MINIMUM HOUSING CODE AND STANDARD
UNSAFE BUILDING ABATEMENT CODE.**

Community Development Director McKim told Council that she had proposed the Unsafe Abatement Code be approved at the same time as the Standard Housing Code ordinance. She explained that staff could make any changes requested.

Councilman Muenzer suggested doing a walk-through of several houses and apartment units in order to compare the proposed Housing Code to the Codes in existence in the County and neighboring communities. He said that he was reassured to learn that the City Code is "catching up" to

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those in nearby areas. When setting up the Code's policies and procedures, staff will include the term "voluntary inspection" on the forms to be used for these comparative inspections. Councilman Muenzer said that by performing such an inspection soon on an older Naples residence, the City will know whether or not its new Code is realistic.

Mayor Anderson asked if the new Code contains the necessary language which would allow the Building Official or his agent to enter residences for inspection purposes. Mrs. McKim replied that staff would look to Council for direction with regard to actively surveying and identifying structures. A specific procedure will be added to the Code providing the process for inspection of multi-family residences, which will differ from the inspection process for single-family homes.

Staff will amend the Code to eliminate the term "ice box", and discussion ensued with regard to standards necessary in bathing/shower areas. Staff will amend the Code to include "all bathing areas should be impervious to water to a five or five and one-half foot level". Staff will also research ways in which affordable housing could be incorporated into the Code.

Councilman Korest observed that it would be difficult for some of the mobile homes in Naples to pass the Code requirements and asked if there had been much input from the building community with regard to adopting the Code. Building Official Steve Uman said that there had been a great deal of input with regard to the Building Code, but not to the Housing Code. Mr. Uman said that the City needs to have a Housing Code and added that he is comfortable with the degree of inspection capabilities that the proposed Code would afford.

Councilman Sullivan said that various properties in the mobile home park would not comply and should be a specifically designated exception.

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Acting City Manager Coggan asked that the Fire Department be notified of any Code infractions in the mobile home park. Mrs. McKim assured Council that any information her department submits will be routed to all appropriate departments. Mayor Anderson stressed the importance of improving the communication between the departments.

ITEM 4

**DISCUSSION OF TROPICOOOL FESTIVAL,
GERMAIN CONCERT AND CRAYTON COVE STREET
DANCE.**

Community Services Director Holley told Council that this will be the second year in which the City has worked with the Chamber of Commerce on the Tropicool Festival, although it will be the last Tropicool event held in the City.

Councilman Sullivan expressed concern that once again a part of Naples that is very sensitive to annual events are being the focus of such events. Acting City Manager Coggan recommended that all future events be presented as line items and discussed individually.

Acting City Manager Coggan clarified that the Tropicool brochure is the Chamber's and not the City's. Community Services Director Holley explained that the City is co-sponsoring the Germain concert and the Crayton Cove Street Dance and all other Tropicool events had to go through the permitting process. He said further that additional insurance would not be purchased for the event.

ITEM 5

**REVIEW OF ITEMS ON MAY 1, 1991 REGULAR
MEETING AGENDA.**

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<p>ITEM 6 - Councilman Muenzer requested that Natural Resources Manager Staiger bring to the May 1st meeting the Keywadin Island Study and all available information with regard to the impact from dredging upon the Island.</p> <p>ITEM 11 - Councilman Muenzer asked if Clyde's was within the acceptable distance from Cafe Neon, the petitioner. Community Development Director McKim will recheck the distance between Clyde's and Cafe Neon and have that figure available at the May 1st meeting.</p> <p>ITEM 12 - Councilman Barnett suggested that this item be removed from the agenda and advise the petitioner to return to the P.A.B. Mayor Anderson said that Chief Planner Cole believed that returning to P.A.B. would not serve a great purpose.</p> <p>Vice Mayor Passidomo inquired if, by returning to the P.A.B., the petitioner would be afforded enough time, and Councilman Muenzer noted that if time had been a factor, the petitioner should have asked for an answer from P.A.B. initially.</p> <p>Councilman Sullivan said that he would prefer to listen to the petitioner on May 1st. Councilman Korest noted that he had been upset at that P.A.B. meeting with the absence of the petitioner. P.A.B. had no choice, he said, but to pursue the matter. To go back to P.A.B. and go through the process would probably be best if the petitioner is willing, said Councilman Korest.</p> <p>Mayor Anderson told Council that it is very important to note that the Community Development Department is working very hard to come up with some compromise situations and that she appreciates the amount of effort put into this issue.</p> <p>Mrs. McKim said that the petitioner is able to proceed with the loading docks at this time. She said the plan does not require a field decision or a variance, but other approval may be coming</p>							

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before Council to do some work to the alleyway. That could be a decision separate from the building permit. Mrs. McKim also said that she would appreciate the opportunity to notify the adjoining property owners, but noted that even without the closing of the alley, she believed that the plan works.

Vice Mayor Passidomo stated that if the petitioner comes before Council, it should be with the understanding that Council will address the merits and not override the P.A.B. He added that the petitioner is legally entitled to a hearing.

Community Development Director McKim will notify the petitioner prior to the May 1st meeting and ask if he desires to remain on the agenda.

ITEM 16 - Acting City Manager Coggan advised that this Item had been withdrawn from the agenda.

ITEM 20 - Mayor Anderson said that she is very pleased that the City is doing such an in-depth study of water, sewer and solid waste rates.

Mayor Anderson asked if Council had any items to workshop which had not yet been scheduled. Councilman Muenzer said that the County is drafting an ordinance with regard to the concentration of sexually orientated businesses. City Attorney Rynders will report to Council at its May 1st meeting whether or not the City will be governed by that particular ordinance.

Mayor Anderson reminded Council of the April 30 Workshop with Ralph Andersen & Associates to review applications for City Manager. She said that Bob Murray, the firm's representative, will have a matrix available to assist in rating the applications.

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ADJOURN: 11:44 a.m.

Kim Anderson
KIM ANDERSON, MAYOR

Janet Cason
JANET CASON
City Clerk

Marilyn McCord
Marilyn McCord
Recording Secretary

These minutes of the Naples City Council were
approved on May 15, 1991.

SUPPLEMENTAL ATTENDANCE LIST

Charles Andrews
Nicole Polayse

Werner W. Haardt
Sue B. Smith

Other interested citizens and visitors.

NEWS MEDIA

John Lunsford, Naples Daily News
Tracy Griffith, WNOG T.V.
Gina Binole, Naples Daily News
Sally Kidd, WINK T.V.
Tom Morgan, The Naples Express
Tim Engstorm, Ft. Myers News Press