



City of Naples

City Council Minutes

Regular Meeting 6-19-91

City Council Chambers
735 Eighth Street South
Naples, Florida 33940

| -SUBJECT- | ORD. NO. | RES. NO. | PAGE |
|---|--------------------|---|-------------------------|
| <u>ANNOUNCEMENTS:</u> MAYOR ANDERSON: Proclaimed July 4, 1991 as a Day of Honor dedicated to local members of the Armed Forces - citizens are invited to sign yellow ribbon for Florida Freedom Festival. CITY MANAGER: Recognized Randy Durniak as Sunset Optimist Club's Officer of the Year. Thanked Mr. and Mrs. Wesley Hurley for donation of 23' Wellcraft to marine patrol Unit. | | | 1 |
| <u>APPROVAL OF MINUTES:</u> March 21, 1991 Special April 17, 1991 Regular May 1, 1991 Regular May 10, 1991 Special May 15, 1991 Regular May 28, 1991 Workshop June 1, 1991 Workshop June 5, 1991 Regular | | | 2 |
| <u>PURCHASING:</u> -BID AWARD for various Street Trees. -BID AWARD for four sewage pumps. | | 91-6404 91-6405 | 3 4 |
| <u>RESOLUTIONS:</u> -APPROVE a request to construct a single-family residence gulfward of the Coastal Construction Setback Line. -APPROVE funding in the amount of \$10,057, for urban forest management. -APPROVE continuation of the self-funded health plan. -APPROVE a firm to conduct an audit of the City's financial transactions. -APPROVE a new position for an additional member on Beach Renourishment/Maintenance. | | 91-6406 91-6409 91-6410 91-6411 91- | 4 7 9 11 12 |
| <u>ORDINANCES - Second Reading:</u> -APPROVE substituting the wording "Council Members" for "Councilmen" -APPROVE unregistered vehicles from parking any any street right-of-way or in any public access parking area. | 91-6407 91-6408 | | 6 6 |
| <u>CORRESPONDENCE AND COMMUNICATIONS:</u> | | | 16 |

City Council Chambers
735 Eighth Street South
Naples, Florida 33940



CITY COUNCIL MINUTES
Regular Meeting

Time 9:00 a.m.

Date 6-19-91

Mayor Anderson called the meeting to order and presided.

ROLL CALL

ITEM 2

Present: Kim Anderson, Mayor

John M. Passidomo, Vice Mayor

William E. Barnett

R. Joseph Herms

Alan R. Korest

Paul W. Muenzer

Fred L. Sullivan

Council Members

Also Present:

Dr. Richard L. Woodruff,
City Manager

Norris C. Ijams, Acting
Asst. City Manager

David W. Rynders,
City Attorney

Terry Fedelem,
Parks & Pkways. Super.

Jon S. Staiger, Ph.D.,
Natural Res. Manager

George Henderson,
Sergeant-At-Arms

Paul C. Reble,
Police Chief

William Harrison,
Finance Director

Ann (Missy) McKim
Comm. Dev. Director

Larry Barnet,
Utilities Director

Kevin Rambosk, Acting
Comm. Services Dir.

Marilyn McCord,
Recording Secretary

See Supplemental Attendance List - Attachment #1

INVOCATION

ITEM 1

Dr. Monfort Duncan
East Naples United Methodist Church

ANNOUNCEMENTS

ITEM 3

Mayor Anderson announced that July 4, 1991 would be a Day of Honor for those armed forces who had participated in Operation Desert Storm as well as all other veterans. She read a proclamation from Governor Lawton Chiles declaring that a Freedom

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| Flame Memorial would be built to honor all veterans. A yellow ribbon will be in the rear lobby of City Hall for signatures until July 1st, when it will be sent to Tallahassee to be hung with others from around the State on July 4th at the Freedom Wall across from the Old Capitol Building. Mayor Anderson encouraged everyone to sign the ribbon. | | | | | |
| Mayor Anderson next announced that a full City Council packet would be available at every meeting, in the rear of the Chamber. | | | | | |
| City Manager Woodruff and Police Chief Reble introduced Officer Randy Durniak, who had been recognized by the Sunset Optimist Club as Officer of the Year. On behalf of Council and the City, the City Manager congratulated Officer Durniak and presented him with a plaque in recognition of his achievement. Chief Reble noted that Officer Durniak was typical of the Naples Police officers and that he was very proud of Randy. | | | | | |
| Next, City Manager Woodruff extended thanks to Mr. and Mrs. Wesley B. Herwig of Marco Island, for their donation of a 23-foot Wellcraft and motor to be used by the City's Marine Patrol Unit. | | | | | |
| *****CONSENT AGENDA***** | | | | | |
| APPROVAL OF MINUTES | | | | | |
| ITEM 4 | | | | | |
| March 21, 1991 - Special Meeting | | | | | |
| April 17, 1991 - Regular Meeting | | | | | |
| May 1, 1991 - Regular Meeting | | | | | |
| May 10, 1991 - Special Meeting | | | | | |
| May 15, 1991 - Regular Meeting | | | | | |
| May 28, 1991 - Workshop Meeting | | | | | |
| June 3, 1991 - Workshop Meeting | | | | | |
| June 5, 1991 - Regular Meeting | | | | | |
| MOTION: To <u>ACCEPT</u> the minutes as written. | | | | | |
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| *** | | | | | |
| Barnett | X | | X | | |
| Herms | | X | X | | |
| Korest | | | X | | |
| Muenzer | | | X | | |
| Passidomo | | | X | | |
| Sullivan | | | X | | |
| Anderson | | | X | | |
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| RES. NO. 91-6404 | | | | | |
| ITEM 5a | | | | | |
| A RESOLUTION AWARDED CITY BID #91-70 FOR THE PURCHASE OF VARIOUS STREET TREES; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFORE; AND PROVIDING AN EFFECTIVE DATE. | | | | | |
| Title read by City Attorney Rynders. | | | | | |
| City Manager Woodruff reminded Council that bids had been received competitively, and that the bid award would be made to the low bidder under the condition that staff would further review specifications and if reductions could be made, staff would proceed to re-advertise. | | | | | |
| Acting Community Services Director Rambosk narrated a short video which had been prepared by his staff. Mr. Rambosk described plantings to be done on Wedge Drive, River Point Drive, and in the Sandpiper area, referring to examples in the video of royal palm, carrotwood, and pygmy date palm trees. He told Council that the River Point Drive Condominium Association had given the City eight mature ficus trees which will be used in the linear park along Goodlette Road, consequently saving the City a considerable amount of money. Mr. Rambosk said that when the City removes those ficus trees for transplanting, he would prefer replacing them with plantings somewhat above what Code would require. | | | | | |
| Council Member Herms thanked Mr. Rambosk for the presentation and noted that it had helped to explain the situation more thoroughly. He said that he would support the bid award as requested but added that it would be valuable to strive to keep costs low. He said that his inclination would be to purchase smaller trees in order to landscape more streets. | | | | | |
| MOTION: To APPROVE the resolution with the condition that staff would further review specifications, and if those | | | | | |
| Barnett | X | | X | | |
| Herms | | | X | | |
| Korest | | | X | | |
| Muenzer | | X | X | | |
| Passidomo | | | X | | |
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| Barnett | | X | X | | |
| Herms | | | X | | |
| Korest | | | X | | |
| Muenzer | X | | X | | |
| Passidomo | | | X | | |
| Sullivan | | | X | | |
| Anderson | | | X | | |
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ITEM 5b

Barnett
Herms
Korest
Muenzer
Passidomo
Sullivan
Anderson

| | | | |
|---|--|---|---|
| | | X | X |
| | | | X |
| | | | X |
| X | | | X |
| | | | X |
| | | | X |
| | | | X |

(7-0)

ITEM 6

Title read by City Attorney Rynders.

Natural Resources Manager Staiger reviewed the petition and distributed a site plan which shows the contours of the fill which would be placed beneath the house. He said that the Department

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of Natural Resources (DNR) had requested that the petitioner place the pool in a fill path which would be washed away in the event of a storm surge.

City Manager Woodruff pointed out that the resolution is worded so that Council would be approving all the necessary items.

Mr. Lee E. Staton of the Winrow Group, agent for the petitioner, said that the pool structure is designed so that in a storm surge event it would fold into itself. He explained that the petitioners had been sensitive to the spatial perception setback requirements and had properly complied with DNR recommendations. In answer to Council Member Korest's question, Mr. Staton said that the Australian pine tree on the west end of the property would be removed.

Mr. Staton explained that on the site plan, the right side of the pool shadows the house, and that in concert with DNR requirements there would be elevated decks with lattice screening.

PUBLIC HEARING: Opened: 9:35 a.m.
 Closed: 9:40 a.m.

Architect Walter L. Keller, 1262 Third Street South, told Council that he had been asked by Mr. and Mrs. Gerald Pasternak of 25 Fourth Avenue South to review the site plans and to attend the meeting because they had been concerned about elevations and setbacks on the petitioner's property. Mr. Keller said that after speaking with the petitioner's representative, many of his concerns had been alleviated, and that he had been assured by the petitioner that water runoff would not go onto the Pasternak's property.

At Council Member Herm's request, Dr. Staiger compared the elevations to the Pasternak's house and pointed out that there was not a great difference in elevation between the two yards.

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| | | | Y E S | N O | |
| Barnett | X | | X | | |
| Herms | | X | X | | |
| Korest | | | X | | |
| Muenzer | | | X | | |
| Passidomo | | | X | | |
| Sullivan | | | X | | |
| Anderson | | | X | | |
| (7-0) | | | | | |
| Barnett | | X | X | | |
| Herms | X | | X | | |
| Korest | | | X | | |
| Muenzer | | | X | | |
| Passidomo | | | X | | |
| Sullivan | | | X | | |
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MOTION: To APPROVE the resolution as presented.

ORD. NO. 91-6407

ITEM 7

A ORDINANCE AMENDING SECTION 1.3 OF ARTICLE 1, PART A; SUBSECTIONS (1), (2) AND (4) OF SECTION 2.1 OF ARTICLE 2, PART A; SECTION 2.2 OF ARTICLE 2, PART A; SECTION 2.3 OF ARTICLE 2, PART A; SUBSECTION (1) OF SECTION 2.5 OF ARTICLE 1, PART A; SECTION 2.6 OF ARTICLE 1, PART A; AND SECTION 2.10 OF ARTICLE 2, PART A, OF THE CHARTER OF THE CITY OF NAPLES, FLORIDA, BY SUBSTITUTING THE WORDING "COUNCIL MEMBERS" FOR "COUNCILMEN;" AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO REFER TO MEMBERS OF COUNCIL AS "COUNCIL MEMBERS" RATHER THAN "COUNCILMEN" IN EACH AND EVERY PLACE THROUGHOUT THE CHARTER.

Title read by City Attorney Rynders.

MOTION: To ADOPT the ordinance at second reading.

ORD. NO. 91-6408

ITEM 8

AN ORDINANCE AMENDING SECTION 23-9 OF THE CODE OF ORDINANCES BY ADDING A SUBSECTION (S); AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO PROHIBIT UNREGISTERED VEHICLES FROM PARKING IN ANY STREET RIGHT-OF-WAY OR IN ANY PUBLIC ACCESS PARKING AREA OR LOT N THE CITY, WITH CERTAIN EXCEPTIONS.

Title read by City Attorney Rynders.

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current budget. The approval of the resolution would permit staff to file a grant but would not guarantee the City would be awarded the grant nor require that the City accept it. Dr. Woodruff also noted that final acceptance of the grant would only occur after consent by Council. He commented that the purpose of the project would be for taking inventory of the trees on publicly-owned property, in order to better plan a replacement schedule and determine what liabilities the City has with regard to diseased trees.

Superintendent of Parks & Parkways Fedelem explained that the proposed grant application requests funds of \$10,057, and that the City would be required to match that amount. The City's matching funds would consist of contracted services, in-kind salary expenses, and data collection unit. Mr. Fedelem also stressed that approval of the resolution would include the condition that it not be approved for assignment of grant without the approval of Council.

The City Manager pointed out that Mr. Fedelem was a specialist in certain types of trees, including palms.

In answer to Council Member Korest's question, Mr. Fedelem said that this particular project would only involve the City's rights-of-way. City Manager Woodruff asked Council to inform staff of any specific areas needing work.

Mr. Fedelem said that eventually the City would have a computer inventory of all City trees. In addition the inventory would note stumps, vacancies, etc., so that staff could plan for replacement.

Council Member Herms questioned the value of having a complete catalog of every tree on every street, rather than utilizing the funds for the purchase of trees. Council Member Barnett

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| | | | Y E S | N O | |
| Barnett | X | | X | | |
| Herms | | X | X | | |
| Korest | | | X | | |
| Muenzer | | | X | | |
| Passidomo | | | X | | |
| Sullivan | | | X | | |
| Anderson | | | X | | |
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just for the sake of change, but for good business. Mr. Haardt also pointed out that the entire program had not been put out to bid since 1981. In addition, the City had no person responsible in risk management for this \$65,000 asset.

Mr. Haardt urged staff to conduct a thorough review of the entire program. He also noted that self-administration of claims would result in worthwhile potential savings. Mr. Haardt told Council that he would be happy to help in any way.

Council Member Herms said that claims should be watched carefully as they are submitted. Finance Director Harrison explained that absolute maximum cap existed on the amount of money that would come out of the City's claims in a period of one year, and noted that this year the plan would have a fairly good year.

MOTION: To APPROVE the resolution with the following conditions:

1. Staff will immediately pursue other competitive bids.
2. The stop-loss will be increased to \$50,000.
3. The administration package will be continued under the same premium.

Barnett X X
Herms X
Korest X
Muenzer X
Passidomo X
Sullivan X
Anderson X

(7-0)

RES. NO. 91-6411

ITEM 11

A RESOLUTION RANKING THE TOP FIRMS IN ORDER OF PREFERENCE TO PROVIDE PROFESSIONAL AUDITING SERVICES FOR THE CITY OF NAPLES FOR FISCAL YEAR ENDING SEPTEMBER 30, 1991; AND PROVIDING AN EFFECTIVE DATE.

Finance Director Harrison briefly reviewed the background information. Council Member Sullivan,

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| Barnett | | | X | | |
| Herns | | | X | | |
| Korest | | | X | | |
| Muenzer | | X | X | | |
| Passidomo | | | X | | |
| Sullivan | X | | X | | |
| Anderson | | | X | | |
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his or her responsibilities, those people have a responsibility to advise Council so that it can respond accordingly. The Vice Mayor said that Frank Blanchard, because of his experience, provides a very valuable service to the committee as a non-voting member. He said that while Mr. Blanchard has extraordinary ability and experience in the area of beach renourishment, he could not conceive what this action might accomplish, since Mr. Blanchard is already a fully-participating member. He also said that while he could see the benefit of including the County, he had difficulty reconciling why the committee was enlarged from seven to eight members, and now an additional member is recommended, making it more unwieldy with nine. The committee was formed because Council recognized that there was a vacuum of public will at the County level to take responsibility for this issue, he concluded, and the City wanted to protect the interest of its constituents.

Mr. Ron Pennington, Chairman of the Beach Renourishment/Maintenance Committee, addressed Council. He said that the primary reason that the Committee had recommended to Council that it have a representative from the County was because things had continually been encountered which the County was doing, and although they had been communicated to the Committee primarily by Mr. Blanchard, he could not officially speak for the County. Therefore, noted Mr. Pennington, the Committee believed it to be essential to have a County representative, and Mr. Blanchard has ties in the County that are involved in the on-going beach restoration program. Mr. Pennington said that the County has requested State funding for fiscal year 1991-92, and is presently in the process of submitting requests for fiscal year 92-93, and the City needs to be a party to that so that there is no duplication of efforts. It is therefore essential, he stressed, for the Committee to have County participation. Mr. Pennington nevertheless noted that a committee could become too large, and expressed concern about adding additional members.

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| Mr. Pennington also noted that it is not up to the Committee to choose the County representative, although the County would probably recommend Mr. Blanchard. Dr. Staiger, he said, maintains communication with the County, but the Committee would be more comfortable with someone formally representing the County. Because Mr. Blanchard had been a party to everything the Committee had done to date, it would be advantageous if he were chosen, rather than having to educate someone else, Mr. Pennington said. | | | | | |
| Vice Mayor Passidomo stated that he would be in full support of this appointment if it is symbolic of a spirit of cooperation. | | | | | |
| In answer to Council Member Herm's question with regard to committee member attendance at meetings, Mr. Pennington said that one member had been present at only the first two meetings and he was unaware of that person's future plans. Dr. Staiger noted that this individual had been out of town and no return date was known. | | | | | |
| At this point Council discussed exploring the possibility of changing the resolution to reduce the Committee's size. Mayor Anderson suggested that Council either modify the resolution or table the item until a conversation can be held with the aforementioned absent Committee Member. | | | | | |
| MOTION: To <u>TABLE</u> the resolution. | | | | | |
| Ms. Fern Aitchinson concurred with Vice Mayor Passidomo and Council Member Muenzer with respect to the committee becoming unwieldy. She agreed that Mr. Blanchard had been very helpful but that Dr. Staiger should continue to be the liaison between the City and the County with regard to beach restoration. | | | | | |
| <u>City Manager Woodruff told Council that staff would contact the absent Committee Member, ascertain her intentions and possibility of her return to Naples, and bring this matter up at the</u> | | | | | |
| Barnett | X | | X | | |
| Herns | | | X | | |
| Korest | | | X | | |
| Muenzer | | | X | | |
| Passidomo | | | X | | |
| Sullivan | | X | X | | |
| Anderson | | | X | | |
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| <p><u>the June 28th deadline, and return to Council on July 17th for review and formal adoption. The adopted resolution will then be immediately forwarded to the County.</u></p> <p>*****</p> <p>Council Member Muenzer requested that a special meeting be held relative to discussion of the employment contract between City Attorney Rynders and City Council. He said it was important to do so before Council Members leave for vacations, and such discussion should be held with a full Council. Vice Mayor Passidomo said that it was his understanding that City Attorney Rynders would be apprising Council in writing of his intentions and suggested that Council reflect upon that, and if there were then continuing questions, Council could address them at that time.</p> <p>Council Member Muenzer stated that there should be discussion concerning what the replacement policy would be should there be a vacancy. Council Member Barnett said that he felt it was only fair to know that there was in fact going to be a vacancy.</p> <p>Council Member Herms stressed that direction was needed concerning legal staff and that a special meeting would at least open the topic for discussion. Vice Mayor Passidomo noted that Attorney Rynder's communication to Council would address concerns with regard to protecting the interests of its constituents, and if it does, there is no reason to meet. Council Member Herms referred to the Sunshine Law and said that it prohibits Council from discussing the matter outside of a noticed meeting. Vice Mayor Passidomo said that the Mayor and every Council Member had the prerogative to communicate in writing if they had questions with regard to the contents of City Attorney Rynder's memorandum.</p> <p>City Attorney Rynders told Council that he had prepared a memorandum stating that he would be</p> | | | | | |
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| continuing to work until December 31, 1991, at which time his plans are to continue the practice of local government law elsewhere. | | | | | |
| MOTION: To schedule a special meeting at 1:45 p.m. for the purpose of discussing the City Attorney. | | | | | |
| Vice Mayor Passidomo said that in order to adequately represent the issues of its constituents, Council must assure itself that while Attorney Rynders remains in the employment of the City that he will rigorously perform his obligations, that he will render legal services to the City in a forthright manner, that his pursuit of other job alternatives will not interfere with his ability to pursue his contractual obligations that he currently has with the City, and that Council put that in the proper context. The members of Council may decide they prefer to speak with Attorney Rynders personally. Until that is done, said the Vice Mayor, it seems that those are the issues that Council must address, and he suggested that that be done individually with Mr. Rynders. If there are continuing questions, then the issue should be addressed, but he would not support a special meeting at this time. | | | | | |
| Council Member Korest said that he did not feel comfortable dealing with the issue at that time. To have a meeting within two hours to discuss the issue would not be correct procedure, in his opinion, and he said he would not vote in favor of a special meeting. Council Member Sullivan commented that a meeting that afternoon was precipitous and he wanted time to digest the information in the memorandum from City Attorney Rynders and the opportunity to discuss with him on a one-to-one basis specifically what his plans are and what the approach would be in terms of reasonable employment with the City. He said that in all justice, he could not support a meeting that afternoon. | | | | | |

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| Mayor Anderson also expressed a desire to review Mr. Rynders' memorandum and have adequate time for discussion. | | | | | |
| Council Member Herms said that the press would now be approaching Council Members for opinions. In the past, he said, Council had lobbied in the press for its position concerning different issues, which in his opinion did a great disservice to the citizens and to Council. Mr. Herms encouraged everyone on Council to reflect on this matter but to be proactive. If a sufficient number of Council Members request a special meeting, or if Mayor Anderson makes a determination to call a special meeting, some of the issues could be dealt with as early as that day or the next. Mr. Herms said that in his opinion the future of the City was involved in this issue, and he encouraged Council not to procrastinate. | | | | | |
| Council Member Muenzer noted that not only was the December 31st date a critical factor, but discussion was necessary to determine Council's desires with regard to a replacement policy before a search firm can be selected. | | | | | |
| Vice Mayor Passidomo agreed that Council needed to be aware of all the options, but time was needed to digest how it would react to yet another change in management. | | | | | |
| Mayor Anderson recommended that since Council had made great strides in making proactive decisions during the past month, in order to continue that healing process she recommended that Council designate Human Resources Director McShane, City Manager Woodruff, and a Member of Council to view the alternatives available, while Council continues to digest the information provided in order to make the most productive and proactive response that it can. She suggested that the proposed committee focus on the acceptance of recommendations in City Attorney Rynders' memorandum, and noted that there were several options available to Council, including whether a | | | | | |

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| <p>firm should be retained to represent the City, whether Council should move into a full or part-time contract, whether Council should appoint its next legal counsel by resolution or by a firm contract; then it should look at the specifics of that contract. Mayor Anderson suggested requesting recommendations from a committee for the July 15th workshop.</p> <p>Discussion ensued, and City Attorney Rynders assured Council that the Charter only prohibits Council from taking action that is not on an agenda.</p> <p>Vice Mayor Passidomo said that Council should not delegate to a committee the question of whether Council should continue to retain City Attorney Rynders in accordance with terms that are in mutual best interest. He also stressed that Council must work diligently on its future plans for the legal department.</p> <p>Mayor Anderson stated that moving this issue to a July 16th workshop, removes it from emotionalism and puts it into a state of pure fact and civilized logic. Secondly, she said, she would expect every Council Member to be exceedingly involved in the retaining of a new counsel.</p> <p>Council Member Sullivan said that pursuit of individually-sought alternatives would be counterproductive, in his opinion, and he would not want to make a precipitous judgment as to how this particular issue should be handled. He noted that Council had some other issues to review than simply business-type considerations and must take a realistic view as to what is involved. There will be a period of transition, so the method which is used in replacing the City Attorney is only one step in the process. Council must accomplish the replacement, negotiate a contract, then allow a period of transition. Council must determine the actual circumstances under which it will accomplish the function of City Attorney in the future. He said that he did not want to make a hasty decision</p> | | | | | | | |

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City Council Minutes

Date 6-19-1991

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City Council Minutes

Date 6-19-91

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CITY OF NAPLES, FLORIDA

City Council Minutes

Date 6-19-1991

COUNCIL
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ADJOURN: 11:45 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 July 17, 1991.

SUPPLEMENTAL ATTENDANCE LIST

Lyle Richardson
Charles Andrews
Ron Pennington
Walter L. Keller

Werner W. Haardt
Ann Colabrese
Fern Aitchinson
Richard F. Reynolds

NEWS MEDIA

Wendy Fullerton, Ft. Myers News-Press
Gina Binole, Naples Daily News
Traci Griffith, WNOG
Eric Strat, Naples Daily News
Jerry Pugh, Palmer Cable