



City Council Chamber
735 Eighth Street South
Naples, Florida 33940

City Council Workshop Meeting - May 16, 1994 - 9:00 a.m.

Mayor Muenzer called the meeting to order and presided.

ROLL CALL

ITEM 1

Present:

Paul W. Muenzer, Mayor
Alan R. Korest, Vice Mayor

Council Members:

Ronald M. Pennington
Marjorie Prolman
Fred L. Sullivan
Fred Tarrant
Peter H. Van Arsdale

Also Present:

Dr. Richard L. Woodruff, City Manager
Maria J. Chiaro, City Attorney
Missy McKim, Community Dev. Director
John Cole, Chief Planner
Dr. Jon Staiger, Natural Res. Mgr.
Flinn Fagg, Planner I
Richard Gatti, Engineering Mgr.
Mark Thornton, Comm. Services Director
William Harrison, Finance Director
George Henderson, Sergeant-at-Arms
Tara Norman, Deputy City Clerk
Marilyn McCord, Deputy City Clerk

News Media:

Amy Chodroff, WNOG
Eric Staats, Naples Daily News
Carl Loveday, WNOG
Denes Husty, Ft. Myers News-Press

See Supplemental Attendance List
Attachment 1

Other interested citizens and visitors.

City Council Workshop Meeting - May 16, 1994

ITEM 2

ITEMS TO BE ADDED

Council Member Sullivan submitted a draft of a letter to County Commissioner Tim Constantine with reference to the affordable housing site on North Road and asked that an item be added to the agenda. **It was the consensus of Council that this issue be added as Item 11.**

ITEM 3

DISCUSSION OF POSSIBLE REGULATIONS FOR OUTDOOR PERFORMANCES BY ONE MAN BANDS.

City Manager Woodruff explained that the City regulates outdoor musical performances by two or more people but does not regulate performances involving one person.

James Gruzka, 850 River Point Drive, appeared on behalf of the residents of the Beau Mer condominium which is located on the island between the two Gordon River bridges. An ordinance amendment was being requested. He said that residents of Beau Mer and Bay Club, another nearby complex, had for approximately two and a half years been disturbed by the noise from outdoor musical performances at Rosie's Waterfront Cafe. Documentation had been provided to the City Council and is contained in the file for this meeting in the City Clerk's Office. Chief Planner John Cole said that the staff had investigated these complaints but that the performances did not exceed the 60 decibel level threshold in the Code of Ordinances. He said that the owner of the cafe had been contacted but that the business had since changed hands.

City Manager Woodruff noted that he had advised the Beau Mer residents that the Council did not look lightly upon creation of law. He also said that staff would begin work on such an ordinance only after receiving the direction of Council.

Council Member Pennington said he felt the present noise ordinance was inadequate and, as previously discussed by the Council, instituting frequency rather than decibel measurements might be more effective. Mayor Muenzer pointed out, however, that any change in a City-wide regulation would apply to a wide range of activities, including presentations in City parks. Council Member Van Arsdale cautioned against addressing area-specific problems with City-wide regulations and reminded Council that Beau Mer was in a commercial area where noise was generated by a variety of sources.

It was also noted that similar situations in the past had been addressed through mediation between the business and nearby residents as in the case of Nick's and River Lights restaurants. City Manager Woodruff suggested that staff be authorized to undertake such an effort in this case if the problem continued under the new ownership of Rosie's Waterfront Cafe.

It was the consensus of Council that this course be pursued with a report by staff approximately in August to include further reference to how similar problems were addressed in the past.

(It is noted for the record that during the above discussion Council Member Tarrant objected to the

City Council Workshop Meeting - May 16, 1994

general public not being permitted to speak during workshop meetings. It was the consensus of Council, however, to retain the current procedure and provide for input from the public only during formal meetings.)

ITEM 4

REPORT FROM SITE COMMITTEE CONCERNING LOCATIONS FOR THE CULTURAL CENTER

City Manager Woodruff explained that the staff was making a report 45 days earlier than the July 1st deadline so that direction could be altered should Council not be in agreement. He quoted the following mission statement: "The City Council directed the staff to analyze alternative sites to Camber Park for a location to site the Naples Players and the Art Association." Dr. Woodruff indicated that the staff had termed the alternatives being presented "Project Compromise."

Dr. Woodruff then reviewed the following concepts derived from staff meetings, some of which had included representatives of Naples Plan 1994: 1) Use public parking lots; 2) Buy private land; 3) Trade public/private land; 4) Mitigate space lost in Cambier Park; 5) Separate arts and players; 6) Close streets or avenues; 7) Create cultural triangle; and 8) Build public plaza.

Community Development Director McKim displayed graphics showing the following alternative locations for a Naples Players theater in the downtown area in conjunction with a "cultural triangle" made up of the theater, a Naples Art Association facility in Cambier Park, and the existing Cambier Park bandshell tied together by spacial paving and landscaping. (City Manager Woodruff recognized Planner Flinn Fagg for his work in producing the aforementioned graphics.)

- "Tiffany Site" east of Jerry's Cleaners on Sixth Avenue South
- Parking lot across the street from the "Tiffany Site"
- Parking lot behind Wynn's Market
- Site created by closure of Seventh Street South between Fourth and Fifth Avenues

Staff recommended the Seventh Street site, called the "Central Plaza" as enumerated in Attachment 2. It was noted that because the street was dedicated for public purposes and not restricted to use as a roadway, placement of a theater and plaza on this property would be permissible.

In further discussion, Dr. Woodruff described the "black box" proposed for placement in Camber Park and designed for smaller theater productions. The black box would accommodate groups other than the Naples Players and would be built through private donations. When constructed, however, operation and maintenance would be funded by the City and the facility would be under the direct jurisdiction of the Community Services Department. Exact placement in the park would depend on input from a professional planner hired to compile a master plan for Cambier.

Council Member VanArsdale complimented the staff for its work on this proposal and asked local architect Alfred French to comment. Mr. French said that his initial reaction was very positive and that he was very enthusiastic about the proposal.

It was the consensus of Council that this report be accepted and scheduled for formal

City Council Workshop Meeting - May 16, 1994

~~discussion at the May 18th regular meeting, being added to the agenda as Item 21.~~

ITEM 5

WATERFRONT ENTERPRISE FUNDING

Finance Director Harrison explained that the information being provided was in response to Council's request for the staff to develop an enterprise fund for the fishing pier so that depreciation could be identified to fund future repairs. In addition to establishing a pier enterprise fund (presented as Option 1), other enterprise fund alternatives were being proposed which would tie together City waterfront activities in various configurations. A "Naples Beach Fund" (Option 2) would include the pier, Lowdermilk Park, County beach maintenance payments and parking meter/ticket collections; a "Waterfront Fund" (Option 3) would add the city dock to that group.

Annual depreciation for the pier was shown at \$100,000 in each of the enterprise fund configurations; renewal and replacement was estimated at \$10,000 for various beachends because it was felt that due to recent upgrades only minor expenditures would be required in the foreseeable future.

Concern was expressed by various Council Members regarding the commingling of funds from the city dock with other waterfront enterprise operations so that the dock might be used as a funding source. Mayor Muenzer also pointed out that the majority of the users of the city dock are City residents, therefore, if city dock revenues were used, the burden of funding for beach maintenance could become unequal in relation to the contribution made to beach maintenance from the County general fund. Mayor Muenzer noted, however, that 28% of the revenues received from the County for the beach program were still generated by City residents. He said he would rather see city dock rates frozen or reduced. Council Members Sullivan and Pennington also expressed concern that the city dock could be used to fund other operations now that the facility was well managed and had gained in reputation around the state.

Dr. Woodruff noted that one of the strongest reasons for recognizing the operation of waterfront activities as a whole was the fact that they are used by the entire County, not just City residents. Although there is a current beach funding agreement with the County, establishment of a waterfront enterprise fund would allow better tracking of expenses when the agreement is renegotiated in approximately two years. Mr. Harrison also explained that although there would be a fund summary, behind that summary would be operating division budgets just like the general fund so that each operation would have its own line items.

It was the consensus of Council that Option 2 be implemented which would retain the separation of the City Dock and Naples Landing from other waterfront activities.

It is noted for the record that Deputy City Clerk Tara Norman acted as recording secretary for the preceding portion of the meeting and Deputy City Clerk Marilyn McCord acted as recording secretary through Item 8.

City Council Workshop Meeting - May 16, 1994

ITEM 6

DISCUSSION OF BEACH DESIGN

Dr. Michael Stephen utilized visual aids to describe where beach restoration should be done and where sand has already been placed. He explained that the Beach Renourishment Plan calls for essentially straightening out the shoreline where it has become indented due to erosion. Dr. Stephen reviewed the work which is a part of the Doctors Pass Inlet Management Plan.

Plans include placing one million cubic yards of sand on the Naples beach. Natural sediment transport will move the beach width. Fill will be primarily placed at many of the public access points, which allows for the highest return of funds from the State. Dr. Stephen explained that over a period of time the beach will begin to build from 18th Avenue South to Gordon Pass. That whole area presently suffers from a lack of available sand. There may be some dissatisfaction with the overall Plan, said Dr. Stephen, however the Plan does consider the natural system. He said, "Where we have a County-wide funding mechanism, it should not be a matter of political boundaries."

In reply to Council Member Tarrant, Dr. Stephen said that over the years there has been a gradual reduction in the amount of sand offshore, therefore sand is no longer available offshore. Groins also contributed to the ineffectiveness of the beach.

For the record, Council Member Sullivan stated, "We are in fact considering the Inlet Management Plans to be an intricate part of beach renourishment." Natural Resources Manager Jon Staiger reminded Council that the Army Corps of Engineers is responsible for dredging Gordon Pass. If feasible, it is hoped that some of the dredged sand will go back to the Naples beach.

ITEM 7

~~DISCUSSION OF THE NAPLES SHOPPING CENTER ENTRANCE AT MOORINGLINE DRIVE~~

Mr. Al DeSmedt, 322 Harbour Drive, who is a resident of the area being discussed, addressed Council. He said that the Naples Shopping Center entrance at Mooringline Drive is becoming a very dangerous situation and increasing traffic in the center of the Center.

City Manager Woodruff reviewed the history of the situation, explaining why the alley was blocked off. Council at that time required the installation of a buffer in the form of landscaping which actually created two alleys. Council Member Van Arsdale noted that because of all traffic being forced to use the main entry, it is undoubtedly unsafe.

It was the consensus of Council that staff should contact the property owners and determine whether there is any interest in exploring other alternatives for the Naples Shopping Center entrance.

LUNCH RECESS: 12:20 p.m. - 1:30 p.m.

ITEM 8

City Council Workshop Meeting - May 16, 1994

DISCUSSION OF POTENTIAL ANNEXATION OF PELICAN BAY

Attorney Pamela Mac'Kie, President of the Naples Better Government Committee, addressed Council. She said that the purpose of the letter which she had sent to Council was to point out that the Committee believed unquestionably that it is in the best interest for Naples to annex Pelican Bay, citing tax benefits, power base benefits, and better representation at the County level. Ms. Mac'Kie noted that a good job had been done of educating City residents on this issue; it is also appropriate to provide information to the Pelican Bay residents.

Ms. Mac'Kie referred to the recent straw poll of Pelican Bay residents which showed a majority wanted to be a part of the City. She requested Council, if possible, to send a letter or other information which would outline the advantages of annexation. Ms. Mac'Kie said that such information would be a show of good faith.

Vice Mayor Korest noted that in recent years no new communities have incorporated in Florida. The difficulties and expense of doing so are great compared to an area realigning itself with a like-minded community. Mr. Korest continued, "I don't feel we should be in a selling mode particularly. I happen to believe in the merits of annexation. It offers great benefits for both parties. It shouldn't be based on tax revenues but on how do we build a community for the future. We certainly don't want a proliferation of small cities."

Council Member Van Arsdale said that he too would support annexation, but it should be something the people want and not a politically-driven issue. He said that there are many intangible issues involved with annexation that need to be reviewed and debated.

Council Member Sullivan said, "We've never presented to anyone, especially ourselves, the pros and cons of this decision in a truly organized, in-depth manner. We've looked at tax rates, but that's not all that's involved. We haven't examined the impact of lifestyle, etc. When I ran for re-election I said we ought to look very carefully at the impact of the annexation of Pelican Bay into the City. In order to do that, as Council we should present all the facts in a fair and objective manner so that everyone understands what's going on and whether or not they should support the decision. It's the people's decision, it's not ours, as to whether or not to annex. Our responsibility is to provide all the information available to all the voters so they all understand the impact. Unless we do that, we're not doing the job we were put here to do. Our responsibility is to move forward. Not long ago we were talking very actively about annexation. I'm pleased we have an opportunity to move forward. Let's provide the information to the people and let them finally decide. I was very disappointed when I saw the straw vote results. However, I've seen many such polls taken. On very rare occasions have straw votes been even close to the ultimate results. It's only fair to ourselves and to the people to provide the opportunity to be heard. I fully support any movement in that direction."

Council Member Prolman commented that although Council should not be in a selling mode, it should make its feelings known. She went on to say, "We need to be sensitive to the fact that there was a straw vote. Some people out there are not too enthusiastic about pursuing this."

City Council Workshop Meeting - May 16, 1994

Council Member Pennington said that in his opinion a financial analysis was probably the only factual matter that can be provided, noting, "For every pro there's a con." Mr. Pennington said that he believed annexation would provide a mutual advantage. He cautioned that Council must be careful in spending taxpayers' money on a mailing to the Pelican Bay residents. Beyond providing factual information, he said, it is the opinion of the people of Pelican Bay. Mr. Pennington concluded, "I think it's totally inappropriate for us to move further. We have our Comp Plan which speaks to annexation and Pelican Bay is not an element in our Comp Plan. We shouldn't spend any more staff time or effort."

Council Member Tarrant said that, unlike Mr. Sullivan, he was very pleased with the straw vote. It indicated the relative interest of annexation, he said. Mr. Tarrant referred to beach access. He continued, "I don't think there's a single member of City Council who during campaigning didn't make comments about preserving the small town atmosphere of Naples. I don't believe in basically doubling the size of Naples and don't think it will in any way improve the quality of life. It's a beautiful community, but I'm only concerned about the citizens of Naples. I share Ron's (Pennington) believe and concern; I don't think it's appropriate for the City to get involved at the staff level to get together this information that ultimately, no matter how hard we try, won't have a slant one way or the other. I prefer to remain aloof on this issue."

Mayor Muenzer stated that the City's policy has been not to solicit areas for annexation, but to let areas come to the City. He said that he has met with representatives from Pelican Bay and supplied some financial data. The legality of anything sent out must be considered. The Mayor said that the City Attorney would also need to write a statement with respect to beach access. He added, "If we are going to do a response, Maria (City Attorney Chiaro) will advise exactly what we can include with respect to beaches."

City Attorney Chiaro confirmed that legally the City can do a mailing to initiate this action. She will further review the possibilities of whether or not the City can answer questions related to beach access.

Attorney Mac'Kie told Council that the only way a governmental entity can take a beach access is through the power of eminent domain, first proving necessity.

It was the consensus of Council that the City Attorney, City Manager, and Vice Mayor Korest will prepare a document for distribution to the Pelican Bay residents. The document will be presented to Council for endorsement and will need the majority concurrence of Council. The Mayor requested Council to respond to the City Manager with respect to this issue. All questions should be directed to Dr. Woodruff.

ITEM 9

DISCUSSION OF LEGAL STATUS WITH REGARD TO SABAL BAY APPEAL

Council Member Sullivan referred to the recent Workshop discussion as to whether or not the City

City Council Workshop Meeting - May 16, 1994

would join with other petitioners in the case of a decision to put in abeyance the final decision from the hearing officer with respect to the original Sabal Bay determination. Mr. Sullivan noted that there was a perception by many people that there had been a change in the City's policy regarding that legal matter.

Mayor Muenzer stated that he was comfortable that the City was not giving up any rights; he simply wanted to place a moratorium on this issue. The Mayor said, "Some things led me to believe it was prudent at this time not to expend any more funds as long as I was convinced we weren't giving up any rights. I asked Maria (City Attorney Chiaro) if this was a decision I could make; she said 'yes.' I heard some people were unhappy with the action I took. I do know there were varying opinions on this. I get frequent advice and opinions. I made the decision. If Council supports it, that's fine. If not, that's also fine. But, I did what I thought was right and what I thought was in the long-range interest of the City."

It is noted for the record that Deputy City Clerk Tara Norman acted as recording secretary from this point in the meeting until adjournment.

City Attorney Chiaro indicated that while the City did not join the most recent motion, the results of Council's current discussion will be transmitted to the Department of Environmental Protection (DEP). The DEP is also aware of all motions to date and the posture of all parties; the City is aligned and continues to be aligned with the Citizens to Preserve Naples Bay, the Audubon Society and Conservancy in opposition to granting a permit for the Sabal Bay project, Ms. Chiaro stated.

Clifford Barksdale, representing the Sabal Bay project, pointed out that it had been their understanding that the Council had authorized the Mayor to proceed in settlement negotiations and that a full session had been held with all parties present. His organization, he said, was working very diligently to make changes in the project which they felt would satisfy most of those involved in the litigation. He also said that he did not see how anyone's legal position would be harmed by according Sabal Bay additional time by placing the issue in abeyance. Nevertheless, a motion for another DEP hearing was also being pursued by Sabal Bay on the advice of their attorneys in order to protect their position.

Mayor Muenzer confirmed that the Council in September of 1992 had authorized him along with a team of advisors to meet with the various parties with reference to a compromise and to report back to Council if anything significant had occurred to influence the City to change its position. He said that after the meeting, he and his advisors had determined that there was nothing significant to report to the Council at that time. Although he said he had been aware that there now were potentially significant changes to be presented, he did not know what those changes were and, based on his previous understanding with Council, did not feel that any rights would be relinquished by not joining this most recent motion against abeyance.

Various Council Members questioned the need for holding in abeyance until December 30th the DEP proceedings; Mr. Barksdale indicated that the earliest possible date that the proposed plan

City Council Workshop Meeting - May 16, 1994

revisions could be presented was September 30th with Council review subsequent to that date.

Council Member Pennington asked City Attorney Chiaro to explain the difference in standing between an intervener and the principals in this action. Ms. Chiaro reviewed the history of this issue stating that, as one of the local governmental entities whose approval must be achieved, the City not only denied the petition but intervened on the side of the Conservancy, Audubon Society and Citizens to Preserve Naples Bay as an interested party, over and above its function of local review of the petition. On the question of whether the City's action was equal to that to those organizations or was merely symbolic, Ms. Chiaro said she hesitated to designate the City's action as either. Rather, she explained, the City has an interest the same as the organizations and also a separate posture as a local governing body recommending denial of the permit. Nevertheless, the City is an active participant in the eyes of the state and is recognized as strongly aligned with interested parties, Ms. Chiaro concluded. She related a comment which the DEP had made to her to the effect that it was important for the petitioners (Citizens to Preserve Naples Bay, etc.) to oppose the abeyance as they are main parties. The motion to oppose the abeyance is, however, not the main issue but merely a motion on time frame, therefore, there is no obligation for the City and other parties in opposition to the Sabal Bay permit be in a legally identical position.

With reference to the chance that a motion for abeyance would be granted, City Attorney Chiaro stated that the DEP attorney had indicated that such a motion would be closely reviewed because it is considered unusual, regardless of whether opposition to the motion was indicated. Further, Ms. Chiaro quoted the DEP attorney as stating that this case was causing concern, and she said it was her feeling that it was unlikely an abeyance of the length requested would be granted, although some limited extension of time could be approved with a statement that the order would be issued by a certain date.

While noting his respect for Mayor Muenzer, Council Member Tarrant said he disagreed with not joining the other parties in opposing the abeyance requested by Sabal Bay.

Wheeler Conkling of Citizens to Preserve Naples Bay then addressed the Council. He reiterated the basic principles under which Citizens to Preserve Naples Bay, the Audubon Society and Conservancy have been operating with regard to Sabal Bay: The groups are partners with the City in preventing the Sabal Bay marina and share the responsibility to defend the City from the "attack of a multi-million dollar developer." The City is on the same side as these groups and these groups intend to win by agreeing on a renewed strategy to push for a final order to deny the Sabal Bay permit, he said.

Mr. Conkling noted that issuance of this final order would in no way prevent Sabal Bay from proposing a compromise. He also cautioned that the City and the other groups not be misled by the developer's strategy of both asking for an abeyance and at the same time asking for a new hearing. Mr. Conkling urged the Council to join the motion against the abeyance, noting that the City was the "heavy hitter" in the matter and the representative of its citizens. In conclusion, Mr. Conkling predicted that if a new state administration takes office in November, the case could be decided in

City Council Workshop Meeting - May 16, 1994

favor of Sabal Bay.

Sewell Corkran, 213 Ninth Avenue South, also urged the City to join Citizens to Preserve Naples Bay and the other organizations in the most recent motion, noting the high standing given local governments in administrative hearings. He expressed the view that an intervener had the full rights of a petitioner and that being a local government, the City's position was even stronger. In conclusion, Mr. Corkran said that in order to preserve Naples Bay, all parties in opposition to the project should remain unified.

It was the consensus of Council that a resolution be placed on the May 18th regular meeting agenda for the City to join the Citizens to Preserve Naples Bay, Audubon Society and Conservancy in opposition to the motion by Sabal Bay to place the case in abeyance.

Mr. Conkling proposed that those opposing the Sabal Bay permit evolve a strategy to capitalize on Governor Chiles' concern for the environment and indicated that a call he had made to the Governor's administrative assistant for environmental affairs regarding the need to bring the matter to a conclusion had been favorably received.

ITEM 11

DISCUSSION OF LETTER TO COUNTY COMMISSIONER TIM CONSTANTINE WITH REFERENCE TO AFFORDABLE HOUSING

Council Member Sullivan requested Council's concurrence to forward the letter to Commissioner Constantine which is included as Attachment 3.

It was the consensus of Council that the letter be forwarded.

ITEM 10

REVIEW OF AGENDA ITEMS FOR THE MAY 18, 1994, REGULAR MEETING

It was noted that an incorrect ordinance was included in the packet for Item 6 and that a corrected copy would be provided prior to the meeting. No items will be removed from the consent agenda for separate consideration. Items 21 and 22 will be added with reference to a site for downtown cultural facilities and with reference to the Sabal Bay issue.

CORRESPONDENCE & COMMUNICATIONS

Mayor Muenzer reminded Council of the joint meeting at 5:30 p.m. that afternoon of the Community Redevelopment Agency and CRA Advisory Board.

Council Member Pennington also noted that at 7:00 that evening a town meeting in Norris Community Center had been scheduled by Collier County. County Manager Neil Dorrill was scheduled to speak on City/County relations, Mr. Pennington stated.

Mr. Pennington also mentioned that an urban bicycle guide was to be distributed by the Metropolitan Planning Organization. Because the initial 5,000 quantity was expected to be rapidly depleted, it is anticipated that the MPO will request a City contribution to additional printing costs.

ADJOURN

City Council Workshop Meeting - May 16, 1994

4:00 p.m.

Paul W. Muenzer, Mayor

Janet Cason
City Clerk

Tara A. Norman
Deputy City Clerk

Marilyn A. McCord
Deputy City Clerk

These minutes of Naples City Council approved on June 1, 1994.

Supplemental Attendance List

Werner Haardt
James Flagler
Eugene Schmidt, Naples Airport Authority
Kim Kobza
John Passidomo
Edwin Putzell
Robert Noble
Philip Morse
Alfred French
J. Dudley Goodlette
Marvin Cecil
Jill Stephen
Bruce Green
Mark Weakley
Robert Rier

Michael Watkins
Michael Stephen
James Lennane
Pam Mac'Kie
Clifford Barksdale
Wheeler Conkling
Sewell Corkran
Brian Warner
Justina Ford
Ralph Martin



Index
City Council Workshop Meeting
May 16, 1994
Convened 9:00 am / Adjourned 4:00 pm

ADJOURN	10
AFFORDABLE HOUSING	
Letter to County Commission Chairman Tim Constantine	10
AGENDA REVIEW - MARCH 18, 1994, REGULAR MEETING	10
BEACH DESIGN DISCUSSION	5
CULTURAL CENTER SITE COMMITTEE REPORT	3
CORRESPONDENCE & COMMUNICATIONS	10
ITEMS TO BE ADDED	2
NAPLES SHOPPING CENTER ENTRANCE	5
OUTDOOR PERFORMANCES BY ONE MAN BANDS	
Discussion of possible regulations.....	2
PELICAN BAY - POTENTIAL ANNEXATION	6
SABAL BAY APPEAL - LEGAL STATUS	7
WATERFRONT ENTERPRISE FUNDING	4