

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,
NAPLES, FLORIDA, ON WEDNESDAY, APRIL 15, 1981, AT 9:02 A.M.

Present: R. B. Anderson
Mayor

C. C. Holland
Harry Rothchild
Wade H. Schroeder
Randolph I. Thornton
Edward A. Twerdahl
Kenneth A. Wood
Councilmen

Also present: George M. Patterson, City Manager
David W. Rynders, City Attorney
Roger Barry, Community Development Director
John McCord, City Engineer
Reid Silverboard, Chief Planner
Franklin Jones, Finance Director
Mark Wiltsie, Purchasing Agent

Reverend Howard Hugus
Charles Andrews
Sam Aronoff
Clayton Bigg
Harold Yegge
Jo Ann Ward
Gilbert Kessler
Grover Cook
Frank Sweeny
Olive Kent
Marjorie King
Tyler Janney
Louis Doria
Robert Carsello
Richard Grant
David Humphrey
Elizabeth Sita
Baxter Kelly
William Shearston
Dennis Lynch
Walter Keller
John Nagel
Arnold Lamm
Scott Foster
Mr. & Mrs. Richard Grant
Richard C. Grant
Ben Anderson
Lodge McKee
Ed Ranney
Joseph Gaynor
Egon Hill
Robert E. Lee Hall
Joseph Kingsley
Marcie Black
Robert Tiffany
John C. Hucks

Ted Smallwood
Toivo Tammerk

News Media: Ned Warner, TV-9
Chad Hautmann, Naples Star
Dennis Husty, Fort Myers News Press
Brian Blanchard, Miami Herald
Jerry Arnold, WRGI
Susan Gardner, TV-9
Jerry Pugh, TV-9
Brad Rittner, WBBH-TV

Other interested citizens and visitors

Mayor Anderson called the meeting to order at 9:02 a.m.; whereupon Reverend Howard Hugus of the Emmanuel Lutheran Church delivered the Invocation, followed by the Pledge of Allegiance to the Flag.

AGENDA ITEM 3. APPROVAL OF MINUTES

Mayor Anderson called Council's attention to the minutes of the Regular Meeting of April 1, 1981; whereupon Mr. Twerdahl moved approval of the minutes as submitted, seconded by Mr. Wood and carried on consensus of Council.

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

AGENDA ITEM 4-a. PUBLIC HEARING and Naples Planning Advisory Board recommendation to approve: Alley Vacation Petition No. 81-A1 Petitioner: Richard C. Grant, Trustee Location: East/west alley southwest of the intersection of Second Avenue North and Seventh Street North. Request to vacate the north 10 feet of the east/west alley abutting the south side of Lots 1-6, Block 22, Tier 7, Plan of Naples.

Mayor Anderson opened the Public Hearing at 9:05 a.m.; whereupon City Attorney Rynders read the below titled resolution by title for Council's consideration.

A RESOLUTION VACATING AND ABANDONING A PORTION OF THE EAST/WEST ALLEY IN BLOCK 22, TIER 7, PLAN OF NAPLES, SUBJECT TO THE CONDITIONS SET FORTH HEREIN, RESERVING A UTILITY EASEMENT THEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mayor Anderson noted the presence of the petitioner, Richard C. Grant, and Mr. Grant addressed Council in support of his petition. City Attorney Rynders noted that the condition of compensation had been agreed to in the amount of \$4165, using the same formula as used in the past. Marjorie King, Olive Kent, Louis Doria, Tyler Janney and Arnold Lamm, citizens, spoke against the petition. City Attorney Rynders reviewed the criteria for Council vacating a piece of property. There being no one else to speak for or against, the Mayor closed the Public Hearing at 9:40 a.m. Mr. Twerdahl moved to accept the recommendation of the Planning Advisory Board to approve Alley Vacation Petition No. 81-A1 and approve the resolution, seconded by Mr. Schroeder. In response to a question from Mr. Holland, Mr. Grant noted that the people he represented intended to build whether the alley was vacated or not, but that he could not reassure Council members that it would be done. Robert Carsello, one of the developers, again noted their intentions to build, but conceded that there was a possibility that something might happen to prevent that. After further discussion, Mr. Twerdahl withdrew his motion.

Mr. Rothchild moved to deny the petition, seconded by Mr. Thornton and motion failed on roll call vote, 2-5 with Councilmen Holland, Schroeder, Twerdahl and Wood and Mayor Anderson voting no. Mr. Twerdahl again moved to approve Alley Vacation Petition No. 81-A1 and adopt Resolution 3747, seconded by Mr. Schroeder and carried on roll call vote, 5-2 with Mr. Rothchild and Mr. Thornton voting no.

AGENDA ITEM 4-b. Recommendation of the Naples Planning Advisory Board to deny: Non-conformity Petition No. 81-N1, and Special Exception Petition No. 81-S3
 Petitioner: Napcon, Inc. Location: 260 Third Street North (White Sands Club)
 Request to approve a change and an extension of an existing non-conformity and a Special Exception, to accommodate a proposed time-share/interval ownership facility at the White Sands Club, located in the "R3T-12", Multi-family Residential district.

Mayor Anderson noted the presence of petitioner's representative, Attorney Joseph Gaynor. Attorney Gaynor addressed Council at length on his interpretation of the existing ordinance which he felt should allow his clients to proceed with their plans for selling their units as condominiums including interval ownership sales. City Attorney Rynders reviewed the material presented and the staff's position regarding their contention that there was a change in use. Joseph Kingsley, citizen, offered his opinion that interval ownership was a complete different usage than condominium. Gilbert Kessler, citizen, noted that a petition had been presented to the City opposing approval of this matter and asked that it be read before Council. Mayor Anderson noted that all Council members had a copy of the petition in their packets. Marcie Black, resident of the area, spoke against approval of the non-conformity and special exception petitions. Roger Barry, Community Development Director, outlined the basis on which the Planning Advisory Board had made their decision. Mr. Thornton moved to accept the recommendation of the Planning Advisory Board to deny Non-conformity Petition No. 81-N1 and Special Exception Petition No. 81-S3, seconded by Mr. Schroeder. City Attorney Rynders asked Marcie Black several questions about the transient lodging facility she owns in the neighborhood and about her observations of the past use of the White Sands Apartment-Motel. Motion carried on roll call vote, 7-0.

Let the record show that Mayor Anderson recessed the meeting at 11:15 a.m. and reconvened it at 11:30 a.m. with all members of Council present.

AGENDA ITEM 4-c. Recommendation of the Naples Planning Advisory Board to deny: Variance Petition No. 81-V3 Petitioner: Colonial Enterprises, Inc. Location: 1148 Third Street South (Colonial Cheese and Gourmet Shop) Appeal from Section 6.22 (F)(1)(C) of the Zoning Ordinance which prohibits "ground signs" in the "C1", Retail Shopping district; in order to retain a non-conforming ground sign at the Colonial Cheese and Gourmet Shop in the Third Street Shopping district.

Mayor Anderson noted that the petitioner was not present. Mr. Thornton moved to accept the recommendation of the Planning Advisory Board to deny Variance Petition No. 81-V3, seconded by Mr. Wood and carried on roll call vote, 7-0.

AGENDA ITEM 4-d. Recommendation of the Naples Planning Advisory Board to deny: Variance Petition No. 81-V4 Petitioner: James G. Brooks Location: 800 Harbour Drive Appeal from Section 5.9(F)(1) and Section 6.15(G) of the Zoning Ordinance which requires a 20 foot wide landscaped front yard area in the "HC" Highway Commercial district, and a 24 foot wide access aisle in the on-site parking area; in order to provide a 10 foot wide landscaped front yard area and an access aisle width of 22 feet to facilitate the construction of an office building.

Mayor Anderson noted the presence of Walter Keller, representative for the petitioner, who addressed Council speaking in support of the petition. Mr. Rothchild moved to oppose the recommendation of the Planning Advisory Board to deny Variance Petition No. 81-V4, seconded by Mr. Holland. City Attorney Rynders read the below captioned resolution by title.

A RESOLUTION GRANTING A VARIANCE FROM THE PROVISIONS OF SECTION 5.9(F)(1) AND SECTION 6.15(G) OF APPENDIX "A" - ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, TO FACILITATE CONSTRCTION OF AN OFFICE BUILDING AT 800 HARBOUR DRIVE; AND PROVIDING AN EFFECTIVE DATE.

Motion failed 2-5, with Councilmen Schroeder, Thornton, Twerdahl and Wood and Mayor Anderson voting no.

AGENDA ITEM 4-e. Recommendation of the Naples Planning Advisory Board to approve: Special Exception Petition No. 81-S2 Petitioner: The Moorings Country Club of Naples Location: 2500 Crayton Road Request to construct a 416 square foot addition to the food preparation area, a 338 square foot addition to the locker room area, and a 563 square foot addition to the office area, of the Clubhouse facility.

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

A RESOLUTION GRANTING A SPECIAL EXCEPTION TO PERMIT EXPANSION OF THE MOORINGS COUNTRY CLUB FACILITY AT 2500 CRAYTON ROAD, NAPLES; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved to accept the recommendation of the Planning Advisory Board to approve Special Exception Petition No. 81-S2 and adopt Resolution 3748, seconded by Mr. Twerdahl and carried on roll call vote, 7-0. For the record, Conflict of Interest forms signed by Councilmen Thornton and Rothchild are attached (Attachment #1).

AGENDA ITEM 4-f. First reading of an ordinance and Naples Planning Advisory Board recommendation to approve: Proposed Zoning Ordinance Text Amendment Relative to Roof Decks Within the Definition of a "Story" Petitioner: City of Naples An ordinance amending Appendix "A" - Zoning of the Code of Ordinances of the City of Naples, Florida, by amending the definition of the word "story" in Section 14(40); and providing an effective date. Purpose: To include roof decks in the definition of "story".

City Attorney Rynders read the above titled ordinance by title for consideration by Council on First Reading. Roger Barry, Community Development Director, reviewed the background of the proposed ordinance. After a discussion of the possible incidences of this occurring, Mr. Thornton moved to defer action on this matter until the next meeting, seconded by Mr. Rothchild and carried on roll call vote, 5-2 with Councilman Holland and Mayor Anderson voting no.

*** *** ***

Let the record show that Mayor Anderson recessed Council for lunch at 11:55 a.m. and reconvened at 1:10 p.m. with Councilman Holland absent,

*** *** ***

AGENDA ITEM 4-g. First reading of an ordinance and Naples Planning Advisory Board recommendation to approve: Proposed Zoning Ordinance Text Amendment Relative to Time-share/Interval Ownership. Petitioner: City of Naples
An ordinance amending Appendix "A" - Zoning, of the Code of Ordinances of the City of Naples, Florida, by adding definitions for the terms "Time-share Estate" and "Time-share Lodging"; amending the definition of the term "Transient Lodging Facility"; amending Section 5.8 "R3T-18", Multi-family district, Section 5.9 "HC" Highway Commercial district, Section 5.13 "C2-A" Waterfront Commercial district, to permit time-share lodging as a special exception use; amending Section 6, entitled "Supplementary District Regulations", to provide maximum density requirements and regulations relating to lot coverage, parking and sales promotional activities for time-share lodging facilities; and providing an effective date.

City Attorney Rynders read the above captioned ordinance by title for Council's consideration on First Reading. Council members questioned Roger Barry, Community Development Director, regarding the locations of the zoning districts listed as areas in which interval ownership might be permitted.

*** *** ***

Let the record show that Mr. Holland arrived at 1:25 p.m.

*** *** ***

After a lengthy discussion, Mr. Twerdahl moved to adopt the ordinance as amended by deleting Sections 2 and 3 on page two. Mr. Schroeder suggested a further amendment to limit the density to 12 per acre. Mr. Twerdahl accepted the amendment and Mr. Schroeder seconded Mr. Twerdahl's motion and carried on roll call vote, 7-0.

AGENDA ITEM 5. Appointment of members to Naples Planning Advisory Board. Requested by Mayor Anderson.

Mayor Anderson reviewed the list of applicants for these openings. Mr. Twerdahl moved to reappoint Clayton Bigg and Donald Boyes, seconded by Mr. Thornton.

*** *** ***

Let the record show that Mr. Rothchild left the Council table at 1:44 p.m.

*** *** ***

Council members desiring to do so commented on Mr. Twerdahl's motion.

*** *** ***

Let the record show that Mr. Rothchild returned to the Council table at 1:45 p.m.

*** *** ***

Mr. Twerdahl repeated the motion to adopt Resolution 3749 appointing Clayton Bigg and Donald Boyes, seconded by Mr. Thornton. City Attorney Rynders read the below referenced resolution by title for consideration by Council, noting the insertion of the names of Clayton Bigg and Donald Boyes in the body of the resolution.

A RESOLUTION APPOINTING TWO MEMBERS TO THE PLANNING ADVISORY BOARD TO FILL THE VACANCIES CREATED BY THE EXPIRATION OF THE TERMS OF CLAYTON BIGG AND DONALD BOYES; AND PROVIDING AN EFFECTIVE DATE.

*** *** ***

Let the record show that Mr. Rothchild left the Council table at 1:46 p.m.

*** *** ***

AGENDA ITEM 10. Request by Airport Authority for temporary use permit - temporary structure for Miami Air on airport property.

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

A RESOLUTION GRANTING A TEMPORARY USE PERMIT TO ALLOW AIR MIAMI, AN AIR FLORIDA COMMUTER CARRIER, TO LOCATE AND USE A MOBILE HOME AT THE CITY OF NAPLES AIRPORT FOR A PERIOD NOT TO EXCEED ONE YEAR FROM DATE HEREOF, FOR THE PURPOSE OF CONDUCTING ITS OPERATIONS; AND PROVIDING AN EFFECTIVE DATE.

Mr. Holland moved to adopt Resolution 3753, seconded by Mr. Thornton and carried on roll call vote, 7-0.

AGENDA ITEM 11. Application for public safety planning assistance. Requested by Police Department.

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

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN APPLICATION FOR FEDERAL FUNDS UNDER THE CUBAN/HAITIAN ENTRANTS SECURITY AND SAFETY PROGRAM TO COVER THE COST OF AN ALL TERRAIN BEACH PATROL VEHICLE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Holland moved to adopt Resolution 3754, seconded by Mr. Schroeder. Mr. Rothchild and Mr. Wood expressed their negative feelings about applying for this small amount of Federal aid. Motion carried on roll call vote, 4-3 with Mr. Rothchild, Mr. Thornton and Mr. Wood voting no.

AGENDA ITEM 12. Action regarding avoiding a significant traffic increase on Crayton Road relative to Seagate Drive connection. (Pursuant to April 14th Council Conference Item #5.)

Council noted that they had a lengthy discussion on this matter at the Workshop yesterday. In addition to Mayor Anderson's suggestion of re-emphasizing Resolution 2631 passed by a previous Council in opposition to the County's proposed plan, Mr. Thornton wanted alternate plans ready for presentation to the County. City Manager Patterson noted that the Traffic Coordinating Committee consisting of the City Engineer, the Community Development Director and the Chief of Police were going to meet on this subject. Mr. Schroeder noted that the opening of these roads through to Seagate Drive were in the approved Planned Unit Development for this area, but it was not to be done until the amount of traffic required it. It was the consensus of Council that the City staff would work up alternative plans and Mayor Anderson would then forward these to the County with a covering letter. Wilbur Trueblood, president of the Moorings Property Owners Association and Robert E. Lee Hall, vice-president of the Park Shore Association, spoke in opposition to the County's proposed plan to open these streets. Mr. Holland suggested contacting the residents of Pelican Bay to obtain their support in opposing this.

AGENDA ITEM 13. Purchasing: Bid award - Construction of water main extension along Coach House Lane - Engineering Department.

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

A RESOLUTION AWARDING THE BID FOR CONSTRUCTION OF A WATER MAIN EXTENSION ALONG COACH HOUSE LANE: AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved to adopt Resolution 3755, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

City Manager Patterson asked if Council members wished to review actual contracts after they had reviewed the packet material and approved the awarding of such contracts. It was the consensus of Council that this would not be necessary.

Mayor Anderson noted that the final draft of the proposed County charter would be ready soon and he suggested that it be presented to Council at a Workshop Meeting so that Council could take a position on it. It was the consensus of Council to do this.

There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Anderson adjourned the meeting at 2:30 p.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 05-06-81

FORM 4
MEMORANDUM OF VOTING CONFLICT

DATE ON WHICH VOTE OCCURRED:
April 15, 1981

PART A

Name: ROTHCHILD, Harry Telephone: 261-3205
(LAST) (FIRST) (MIDDLE) (A/C) (NUMBER)
Address: 600 Regatta Road Naples 33940 (Collier)
(STREET) (CITY) (ZIP CODE) (COUNTY)

PART B

Agency is a unit of [check one]: () State of Florida; (X) County, City or other Political Subdivision
Name of Agency: City of Naples
Position held in Agency: City Councilman

PART C

MEMORANDUM OF CONFLICT OF INTEREST IN A VOTING SITUATION [Required by Florida Statutes §112.3143 (1975)]

If you have voted in your official capacity upon any measure in which you had a personal, private, or professional interest which inures to your special private gain or the special private gain of any principal by whom you are retained, please disclose the nature of your interest below.

1. Description of the matter upon which you voted in your official capacity:
Motion to approve Special Exception Petition of The Moorings Country Club of Naples to permit construction of an addition to the clubhouse facility.

2. Description of the personal, private, or professional interest you have in the above matter which inures to your special private gain or the special private gain of any principal by whom you are retained:
Membership in the Moorings Country Club of Naples.


3. Person or principal to whom the special gain described above will inure:
a. () Yourself b. (X) Principal in whom you hold membership: The Moorings Country Club of Naples
(NAME)

PART D

FILING INSTRUCTIONS

This memorandum must be filed within fifteen (15) days following the meeting during which the voting conflict occurred with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the meeting minutes. This form need not be filed merely to indicate the absence of a voting conflict. Florida law permits but does not require you to abstain from voting when a conflict of interest arises; if you vote, however, the conflict must be disclosed pursuant to the requirements described above.

PART E


SIGNATURE OF PERSON DISCLOSING

April 30, 1981
DATE SIGNED

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1975), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.

FORM 4 MEMORANDUM OF VOTING CONFLICT

DATE ON WHICH VOTE OCCURRED:

April 15, 1981

PART A

Name: THORNTON, Randolph I. Telephone: 261-3623
(LAST) (FIRST) (MIDDLE) (A/C) (NUMBER)
Address: 4155 Crayton Road, Naples, Florida 33940 (Collier)
(STREET) (CITY) (ZIP CODE) (COUNTY)

PART B

Agency is a unit of [check one]: () State of Florida; (X) County, City or other Political Subdivision

Name of Agency: City of Naples

Position held in Agency: City Councilman

PART C

MEMORANDUM OF CONFLICT OF INTEREST IN A VOTING SITUATION [Required by Florida Statutes §112.3143 (1975)]

If you have voted in your official capacity upon any measure in which you had a personal, private, or professional interest which inures to your special private gain or the special private gain of any principal by whom you are retained, please disclose the nature of your interest below.

1. Description of the matter upon which you voted in your official capacity: Motion to approve Special Exception Petition of The Moorings Country Club of Naples to permit construction of an addition to the clubhouse facility.

2. Description of the personal, private, or professional interest you have in the above matter which inures to your special private gain or the special private gain of any principal by whom you are retained:

membership in the Moorings Country Club of Naples

3. Person or principal to whom the special gain described above will inure:

a. (X) Yourself b. (X) Principal in which you hold membership: The Moorings Country Club of Naples
by whom you are retained: (NAME)

PART D

FILING INSTRUCTIONS

This memorandum must be filed within fifteen (15) days following the meeting during which the voting conflict occurred with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the meeting minutes. This form need not be filed merely to indicate the absence of a voting conflict. Florida law permits but does not require you to abstain from voting when a conflict of interest arises; if you vote, however, the conflict must be disclosed pursuant to the requirements described above.

PART E

Randolph D. Thornton
SIGNATURE OF PERSON DISCLOSING

Apr 24 1981
DATE SIGNED

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1975), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.



City of Naples

735 EIGHTH STREET, SOUTH - STATE OF FLORIDA 33940

TO: R. B. Anderson, Mayor
 FROM: Harry Rothchild, Councilman
 DATE: April 13, 1981

In your March 31, 1981 memorandum to me, you have chosen to ignore my repeated statements that the basis for my criticism of the City Attorney in the auction matter is contained in the transcripts of the proceedings of the council meetings. Although these transcripts are and have been available to you, possibly the following will refresh your recollection:

1. As the transcript of the October 1, 1980 meeting of Council shows, the City Attorney induced Councilman Holland to move passage of the City Attorney's weak draft of the Auction Ordinance by his response to Mr. Holland's question:

Mr. Holland: "You think this ordinance will give us sufficient control over so-called fly-by-nights that come in--- "

City Attorney: "Yes. It will not alter nor change in any way our control over these transient auction operators."

Mr. Holland: "I move passage of the ordinance at First Reading."

Mr. Twerdahl: "I'll second."

The motion passed by a vote of 6-0.

Because the City Attorney had included in his draft a provision eliminating the prohibition of night auctions (with respect to both transient and permanent auctions), he had to have known that his answer to Councilman Holland was untrue. In fact his proposed provision with respect to which this deception occurred would have reversed a 24 year policy of the Naples City Council.

2. Section 5-10 "Hours of Sale" of our auction ordinance specifically provided that:

"No auction sale----shall be conducted between the hours of six o'clock P.M. and eight o'clock A.M. or on Sunday or on legal holidays."

City Attorney Rynders repealed this provision by the use of the following provision in his proposed ordinance:

"Section 2. Section 5-10 of Chapter 5 of the Code of Ordinances of the City of Naples entitled "Hours of Sale" is hereby repealed."

3. As reflected by the transcript of the October 15, 1980 council meeting, in comparing the then existing Auction Ordinance with the proposed one, you, too, Mr. Mayor, obscured the fundamental elimination of the Hours of Sale provision by saying:

"-----but the ordinance was noticeably deficient in that it made no reasonable provision for someone who wanted to go into business on a permanent basis. And that's all this proposed ordinance does."

In the light of the foregoing, it was not surprising that the City Attorney followed your comment by saying "So that we need to amend the ordinance---and permit somebody to come in and set up a permanent located auction. That's the only thing that this ordinance does." That statement is not true!

4. Burdened by the above-written record, which he couldn't wish out of existence, the City Attorney at the March 18, 1981 council meeting, less than a month ago, tried to avoid the consequence of his earlier misstatement and in so doing compounded the untruths with the following "explanation":

City Attorney: "The only specific statement of fact was Mr. Holland's statement and if the Council will recall back to that meeting, the Auction Ordinance that was introduced consisted of a few words which permitted -- which was, it permitted full-time auctions to do business in the City. A matter which was not permitted previously. At the meeting, when the First Reading of that ordinance took place, I explained to the Council our ordinance does not now permit full-time auction businesses to come into the City; only temporary, ten days or less. I explained that the total function of the ordinance I was presenting would simply allow them to come in under the same terms and conditions that the temporary ordinance or temporary auctions could come in. Mr. Holland asked me if this ordinance would be as strict in the future. I said to him that it

Page 3
April 13, 1981

would be for the simple reason that no other change in that ordinance was made at all except to permit full-time auctions to come in."

Any fair-minded person reading that statement would have to conclude that no amount of rationalizing would justify it in the light of the facts. The underlined portion of his statement is completely false!

5. It is obvious from the several quotations taken from the transcripts of the meetings of the City Council that Mr. Rynders deliberately gave untruthful answers to questions from members of the City Council and further deliberately withheld information from them. Fortunately, for the protection of the people of Naples, the proposed ordinance was subsequently and drastically strengthened.

6. As you are aware, I was out of the city when all of this ugly business began at the October 1, 1980 meeting of the Council. But the transcript of the discussion of this matter at that meeting has been studied by me and fortunately is available to all interested persons. Anyone reading that transcript would have to conclude that the City Attorney had left his true function and for some reason, was an advocate of a policy matter, with you, Mr. Mayor, as the co-salesman for the proposed ordinance. There are other questionable statements and answers to be found in the file, but the ones chosen should suffice.

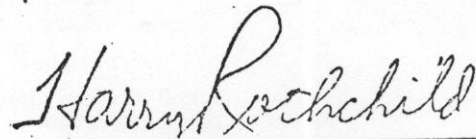
It has always been my understanding that the City Council has the authority under the City Charter to establish policy matters and that a City Attorney is one who may be employed by the City Council who shall perform such duties as directed by the City Council.

I know of no direction having been given to City Attorney Rynders to formulate policy matters, which is and by right should remain with the City Council, which was elected to perform those functions.

You spoke of "good government" in your memorandum to me, Mr. Mayor. It should come as no surprise to the residents of Naples who have known me through the years when I say, with what I hope is pardonable pride, that I have devoted countless hours and many years in an earnest effort to achieve "good government". I yield to no one, either on the City Council or in the City Administration in my dedication to clean, honest and responsible government.

Since the subject of this memorandum deals with honesty, integrity and creditability, I turned to the writings of "Honest Abe" Lincoln for an appropriate observation. Mr. Lincoln is quoted as saying, "If you once forfeit the confidence of your fellow citizens, you can never regain their respect and esteem".

Although this memorandum is addressed to you, Mr. Mayor, the subject matter is directed to the people of Naples. The question is - do we want honest government in Naples? Are the taxpayers willing to pay \$56,640 this year for the services of a City Attorney who gives untruthful answers to our City Council? Why did he give these answers? I believe the answer can be found in the record. Let us try to find the answers.



Harry Rothchild
Councilman

HR:nm

P.S. All of the underscoring in this memorandum was added by me. To avoid any suggestion that any of the quotations in this memorandum were taken out of context, interested persons are referred to the full text of the transcripts of the appropriate meetings, all of which are available at the City Clerk's office.

cc: Council Members
City Attorney
City Manager



City of Naples

735 EIGHTH STREET, SOUTH - STATE OF FLORIDA 33940

OFFICE OF THE ENGINEERING DEPARTMENT

Engineering Memo #81-22

TO: George Patterson

FROM: John McCord *JMC*

DATE: March 23, 1981

REFER: 80/81 CIP RD 80-18
Rebuild/Resurface 4th Street Between
3rd Avenue, North and 5th Avenue, South

SUBJ: Request for City Council Agenda Item,
April 1, 1981 Meeting, Pertaining to
Purchase Order Award to Hole, Montes &
Assoc. for Design Services



Based on our recent review of this Department's progress through the design elements of our Capital Improvement Program for Streets to date, we are running approximately forty-five (45) calendar days behind schedule. We have carefully reviewed the projects remaining for this fiscal year and feel this situation cannot be made up due to such things as the recent loss of our Associate Engineer as well as employee vacations yet to be taken. Again, this situation only relates to "in house" design of projects not "in house" construction of street projects which we feel is close to our scheduled time line construction schedule.

Due to next year's proposed CIP continuing in this year's effort to utilize our highly productive/cost effective abilities in street construction, we do not feel it wise to hold projects over and delay construction which we can achieve yet this year. Because of this we have taken the liberty of acquiring a proposal for design (only) services for this particular project from Hole, Montes & Assoc., Naples.

As you will recall, this firm recently completed their contract for design and construction supervision services for three beach end projects accelerated into this year's program by Council some months ago. The firm performed excellently and brought the design element of the project in under the authorized cost ceiling.

Attached please find the proposal from Hole, Montes & Assoc. which I have reviewed and find to be an acceptable firm hour involvement for the design element of the project. If our Department were to undertake the design, the hours expended would be much the same as documented from previous like undertakings.

In conclusion, I respectfully request that our City Council authorize our Manager to issue a purchase order for design services to Hole, Montes & Assoc. on the basis of a Cost Plus, Fixed Fee with a total not to exceed the proposal amount of \$13,525. It should be noted that the Consultant Competitive Negotiations Statute does not apply to projects of this nature where construction costs are below \$100,000 (i.e. this project is anticipated to cost \$76,800).

JRM:sdm

Attachment

xc: Hole, Montes & Assoc. w/o Attachment

Consulting Engineers - Land Surveyors
 715 TENTH STREET, SOUTH
 P. O. BOX 1516
 NAPLES, FLORIDA 33939
 PHONE: 813 / 262-4617



March 20, 1981

Mr. John McCord, P.E.
 City Engineer
 City of Naples
 735 Eighth Street South
 Naples, FL 33940

RE: 4th Street
 File No. 181.18

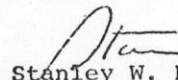
Dear Mr. McCord:

Please find enclosed our estimate of the engineering costs of full engineering services for preliminary and final design.

If you have any questions regarding this matter, please do not hesitate to contact us.

Very truly yours,

HOLE, MONTES & ASSOCIATES, INC.


 Stanley W. Hole, P.E.
 SWH/RTA/sam

Enclosure

4th Street - Naples

Preliminary Design

| | | | | |
|-------------------------|------------|---|---------|------------------|
| Principal Engineer | 8 hours | @ | \$42.50 | \$ 340.00 |
| Associate Engineer | 16 hours | @ | \$34.00 | 544.00 |
| Engineer | 40 hours | @ | \$25.50 | 1020.00 |
| Survey Crew(3 man crew) | 32 hours | @ | \$38.25 | 1224.00 |
| Draftsman | 144 hours | @ | \$17.00 | 2448.00 |
| | <u>240</u> | | | <u>\$5576.00</u> |

Design, Plans & Specifications

| | | | | |
|--------------------|------------|---|---------|------------------|
| Principal Engineer | 16 hours | @ | \$42.50 | \$ 680.00 |
| Associate Engineer | 16 hours | @ | \$34.00 | 544.00 |
| Engineer | 96 hours | @ | \$25.50 | 2448.00 |
| Draftsman | 104 hours | @ | \$17.00 | 1768.00 |
| Technician | 16 hours | @ | \$ 8.50 | 136.00 |
| | <u>248</u> | | | <u>\$5576.00</u> |

| | | |
|-----------------------|----------------------------|----------------|
| <u>248</u> <i>ABA</i> | COST OF ENGINEERING | \$11152.00 |
| <i>Fixed</i> | Fee at 15% | <u>1673.00</u> |
| | TOTAL <i>Not To Exceed</i> | \$12825.00 |

| | |
|-----------------------|---------------|
| Aerials 1" = 100' | \$500.00 * |
| Aerial Survey Control | <u>200.00</u> |
| TOTAL | \$700.00 |