

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,
NAPLES, FLORIDA, ON WEDNESDAY, FEBRUARY 17, 1982, AT 9:02 A.M.

Present: Stanley R. Billick
Mayor

R. B. Anderson
C. C. Holland
Harry Rothchild
Wade H. Schroeder
Randolph I. Thornton
Kenneth A. Wood
Councilmen

Also present: Franklin C. Jones, City Manager
David W. Rynders, City Attorney
Janet Cason, City Clerk
William Savidge, Public Works Director
John McCord, City Engineer
Stewart Unangst, Purchasing Agent

Roger Barry, Community Development
Director
Bill Hanley, Acting Finance Director
Reid Silverboard, Chief Planner
Mark Wiltsie, Assistant to the
City Manager

Ron Wood
Charles Andrews
Mr. & Mrs. Craig Kiser
Sam Aronoff
Richard Hechler
Dennis Lynch
Mr. & Mrs. Arnold Lamm
Mr. & Mrs. John A. Smith
Jack Miller
Jim McLaughlin
Ken Muszynski

Bob Palmer
Lyle Richardson
Gilbert Weil
William Shearston
Robert Russell
James McGrath
Jerry Loughran
Terry Kehoe
Robert Ghiotto
Ted Smallwood

News Media: Dory Owen, Miami Herald
Steve Kaskovich, News Press
James Moses, Naples Daily News
Tom Lowe, WEVU-TV

Lynn Levine, TV-9
Jerry Pugh, TV-9
Kathy McClintock, WINK-TV

Other interested citizens and visitors.

Mayor Billick called the meeting to order at 9:02 a.m.; whereupon Councilman Wood delivered the Invocation followed by the Pledge of Allegiance to the Flag.

AGENDA ITEM 3. APPROVAL OF MINUTES

Mayor Billick called Council's attention to the minutes of the Regular Meeting of February 3, 1982; whereupon Mr. Anderson moved approval of the minutes as presented, seconded by Mr. Holland and carried by consensus.

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

AGENDA ITEM 4- a. Petitioner: National Trust Company/Jack Conroy Location: Portions of former Seaboard Coast Line Railroad right-of-way lying between 1st Avenue South and 14th Avenue North.

(1) PUBLIC HEARING and Naples Planning Advisory Board recommendation to approve: Street and Alley Vacation Petition No. 81-A9 Request to vacate unimproved platted streets and alleys lying in a portion of the former Seaboard Coast Line Railroad right-of-way between 5th Avenue North and 8th Avenue North.

(2) PUBLIC HEARING and Naples Planning Advisory Board recommendation to approve: Preliminary Plat Plan No. 81-SD1 Request to approve a proposed Subdivision of approximately 8.33 acres of the former Seaboard Coast Line Railroad right-of-way lying north of 1st Avenue South and south of 5th Avenue North.

(3) PUBLIC HEARING and Naples Planning Advisory Board recommendation to approve: Preliminary Plat Plan No. 81-SD2 Request to approve a proposed Subdivision of approximately 11 acres of the former Seaboard Coast Line Railroad right-of-way lying between 5th Avenue North and 8th Avenue North extended.

(4) PUBLIC HEARING and second reading of ordinance. Comprehensive Plan Amendment No. 81-CP Request to amend the City of Naples Comprehensive Plan to accommodate a proposed office development on a portion of the former Seaboard Coast Line Railroad right-of-way lying between 5th Avenue North and 6th Avenue North extended.

An ordinance amending the Future Land Use Element of the City's Comprehensive Plan to accommodate a proposed office and multi-family development on a portion of the former Seaboard Coast Line Railroad right-of-way lying north of 5th Avenue North and south of 6th Avenue North; and providing an effective date. Purpose: To amend the Future Land Use Element and Future Land Use Plan Map of the Comprehensive Plan to permit a proposed general office and multi-family development on the above-described property.

(5) PUBLIC HEARING and second reading of ordinance. Rezone Petition No. 81-R11 Request for a Change of Zone from "C3", Heavy Business, and "R1-7.5", Single-family Residential, to "PD", Planned Development and designated for general office and Mutli-family Residential uses, for a portion of the former Seaboard Coast Line Railroad right-of-way lying between 5th Avenue North and 8th Avenue North extended.

An Ordinance rezoning property located north of 5th Avenue North and south of 8th Avenue North, being a portion of the former Seaboard Coast Line Railroad right-of-way, from "C3", Heavy Business and "R1-7.5", Single-family Residential, to "PD", Planned Development, designated for general office and Multi-family Residential uses; directing that the Zoning Atlas of the City be amended to reflect said rezoning, and providing an effective date. Purpose: To rezone said property at the request of the owner in order to accommodate a proposed general office and Multi-family development.

Mayor Billick called Council's attention to the above captioned ordinances for Council's consideration on Second Reading and to the below referenced resolutions.

A RESOLUTION RELATING TO THE VACATION OF CERTAIN UNIMPROVED PLATTED STREET AND ALLEY RIGHTS-OF-WAY LYING BETWEEN 5TH AVENUE NORTH AND 8TH AVENUE NORTH; PROVIDING THAT FINAL ACTION ON THE PETITION TO VACATE IS NOT APPROPRIATE AT THIS TIME AND THAT THE COUNCIL WILL APPROVE SAID PETITION AT SUCH TIME AS THE CONDITIONS HEREINAFTER REFERRED TO HAVE BEEN MET; AND PROVIDING AN EFFECTIVE DATE.

A RESOLUTION APPROVING THE PRELIMINARY SUBDIVISION PLAT FOR A PROPOSED SUBDIVISION CONSISTING OF APPROXIMATELY 8.33 ACRES, LOCATED BETWEEN 1ST AVENUE SOUTH AND 5TH AVENUE NORTH, BEING A PORTION OF THE FORMER SEABOARD COAST LINE RAILROAD RIGHT-OF-WAY, SUBJECT TO THE CONDITIONS OUTLINED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

A RESOLUTION APPROVING THE PRELIMINARY SUBDIVISION PLAT FOR A PROPOSED SUBDIVISION CONSISTING OF APPROXIMATELY 10.995 ACRES, LOCATED NORTH OF 5TH AVENUE SOUTH AND SOUTH OF 8TH AVENUE NORTH, BEING A PORTION OF THE FORMER SEABOARD COAST LINE RAILROAD RIGHT-OF-WAY, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mayor Billick noted that this was a continued Public Hearing; whereupon Richard Hechler, citizen, addressed Council and requested that the Public Works Director and the City Engineer be present whenever this item was scheduled for a final hearing. There being no one else to speak for or against, Mr. Anderson moved to continue the Public Hearing on all matters in this Agenda Item until March 17, 1982, seconded by Mr. Rothchild. Mr. Rothchild again noted his opinion that the City should not accept monies or exchange of land for vacations and asked for a definitive memorandum from City Attorney Rynders prior to a further hearing on the above matter. Motion carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 4-b. Naples Planning Advisory Board recommendation to deny: Special Exception Petition No. 81-S13 Petitioner: Lee Light, M.D. Location: 850 Central Avenue. Request to approve six (6) off-site parking spaces to be located at the Mobil Oil Service Station at the northwest corner of U.S. 41 and Central Avenue; in order to meet the parking required for the 850 Central Avenue Building. Continued from Regular Council meeting of December 16, 1981. (Petitioner has requested continuance of this item to Regular Council meeting of February 3, 1982.)

Mayor Billick noted that the petitioner's counsel had requested a continuance of this Public Hearing. There being no one to speak for or against on this date, Mr. Rothchild moved to continue the Public Hearing on this item to March 17, 1982, seconded by Mr. Anderson and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 5. Presentation of audit and financial reports for fiscal year 1980-81. Presented by Rogers, Silva, Moon and Company. Requested by Rogers, Silva, Moon and Company.

Mayor Billick noted the presence of Ron Wood, representing Rogers, Silva, Moon and Company, who offered to answer any question regarding the audit report. He reviewed the Management Letter prepared for Council (Attachment #1) and the remedies discussed with Acting Finance Director Bill Hanley for the three minor problem areas covered in the letter. Mr. Rothchild noted the monies received for vacations over the past four years and asked the disposition of these funds on the books. Mr. Wood responded that in his opinion the accountability of all funds had been proper. City Manager Jones

noted that the records were available and the vacation receipts were only in the neighborhood of approximately \$15,000 per fiscal year. Richard Hechler, citizen, asked that the Management Letter recommendations be read into the record (Attachment #1) and he also asked if the auditors audited all of the financial reports and other reports required by the bond holders of various city projects and if they were all complete and done on time, to which Mr. Wood responded in the affirmative. Mayor Billick reviewed the Management Letter suggestions submitted by the auditors and the response from the Acting Financial Director (Attachment #2).

AGENDA ITEM 6. Discussion/action on proposed Utility Relocation Agreement between the City of Naples and Collier County for Pine Ridge Road improvements between U.S. 41 and Airport Road: Requested by County Engineer.

AGENDA ITEM 6-a. A resolution authorizing the Mayor and City Clerk to execute the Utility Relocation Agreement with the County.

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

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A UTILITY RELOCATION AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS AND THE CITY OF NAPLES, RELATIVE TO THE RELOCATION OF THE CITY'S FACILITIES ALONG PINE RIDGE ROAD NECESSITATED BY THE FOUR LANING OF PINE RIDGE ROAD; AND PROVIDING AN EFFECTIVE DATE.

City Manager Jones reviewed the material in his memorandum of February 9, 1982 (Attachment #3). Mr. Holland noted information he had received that some of the lines were within the County right-of-way and some were in easements that had been obtained privately. In response to this question about who was liable in the case of a line in a private easement, William Savidge, Public Works Director, noted that there was one portion of line in a private easement and that the County was to pay for that relocation. Mr. Anderson moved adoption of Resolution 3948, seconded by Mr. Rothchild and carried on roll call vote 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 6-b. A resolution authorizing the City Manager to negotiate a fee with the County's road contractor to accomplish the relocation.

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

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO NEGOTIATE A FEE WITH THE CONTRACTOR ON THE JOB TO PERFORM NECESSARY UTILITY RELOCATION AND ADJUSTMENT WORK IN CONJUNCTION WITH THE WIDENING OF PINE RIDGE ROAD; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY PURCHASE ORDERS AND DOCUMENTS RELATING THERETO, WAIVING THE REQUIREMENT FOR COMPETITIVE BIDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Anderson asked if the negotiations couldn't be aimed towards a cost plus a fixed fee to which the City Attorney responded that would be possible if it seemed to be in the best interests of the City. In response to a question from Mayor Billick regarding a memo from Public Works Director Savidge (Attachment #4) in which Mr. Savidge noted the practicability of competitive bidding on a portion of this relocation, City Manager Jones explained that most of the work contemplated was along the construction and could be negotiated with the road contractor. He further noted that in one instance there was a large installation where the road would approach the end of the construction period and staff felt it would be better to use the bid procedure on that and that this was

referred to in his memorandum of February 9, 1982 (Attachment #3) and Agenda Item 6-c. Mr. Holland pursued his opinion that all of the work could be put out for bid as an alternative to the bid for the road construction. Mr. Rothchild noted that it had been indicated that there was \$75,000 in the budget and the resolution authorizing the negotiations did not contain a cap on the amount to be negotiated. Mr. Savidge indicated that the total cost would probably exceed the \$75,000 budgeted this year and would be covered by monies to be budgeted in next year's budget which would coincide with the construction itself. Mr. Schroeder moved that the resolution be adopted as presented, seconded by Mr. Anderson. Mr. Rothchild moved to amend the motion to include a maximum of \$175,000.00 in Section 1, seconded by Mayor Billick. Mr. Holland indicated his opinion that there should be more information in the packet from CH2M Hill about the relocation of these lines. Mr. Rothchild suggested suspending any action until Mr. Smallwood of CH2M Hill arrived so Council could ask for more information. Mr. Hechler, citizen, spoke in opposition to negotiations without a cap or Council review of the negotiations before they were finalized. Motion to amend failed on roll call vote, 0-7; Mr. Anderson, no; Mr. Holland, no; Mr. Rothchild, no; Mr. Schroeder, no; Mr. Thornton, no; Mr. Wood, no; Mayor Billick, no. Mr. Wood read the second Whereas clause of the Utility Relocation Agreement, as adopted with Resolution 3948, into the record. Mr. Holland again noted that he did not want to approve negotiations until he heard from the man that is doing the engineering work for the County for this road, the City's consulting engineer and City Engineer McCord. Mr. Anderson called for a vote on the motion on the floor to adopt the resolution as presented and motion failed on roll call vote, 3-4; Mr. Anderson, yes; Mr. Holland, no; Mr. Rothchild, no; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, no; Mayor Billick, no. City Manager Jones suggested placing this item on the next Workshop to go over the whole project in depth including Agenda Item 6-c.

AGENDA ITEM 6-c. A resolution authorizing CH₂M Hill to prepare plans and specifications for the relocation for a fee not to exceed \$5995.00. Requested by County Engineer.

Council considered the below reference resolution in conjunction with discussion on Agenda Item 6-b.

A RESOLUTION AUTHORIZING CH₂M HILL TO PREPARE PLANS AND SPECIFICATIONS FOR THE RELOCATION OF UTILITY LINES IN CONJUNCTION WITH THE WIDENING OF PINE RIDGE ROAD; AND PROVIDING AN EFFECTIVE DATE.

City Manager Jones had suggested including treatment of this item at the next workshop meeting at the same time as reviewing material pertinent to Agenda Item 6-b. Mr. Holland moved to remove Agenda Item 6-c from the Agenda, seconded by Mr. Rothchild and carried on roll call, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 7. A resolution commending Janet Cason, City Clerk, for being accepted into the Academy for Advanced Education of the International Institute of Municipal Clerks; and providing an effective date. Requested by Councilman Wood.

At Mayor Billick's request, Councilman Wood read the above titled resolution in its entirety for Council's consideration. Mr. Rothchild moved adoption of Resolution 3949, seconded by Mr. Anderson and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes. Mr. Schroeder moved that a properly embellished scroll be ordered and presented to Mrs. Cason in proper framing, seconded by Mr. Wood and Mayor Billick indicated that this was approved by consensus.

A. Request to reverse decision made by Council at Meeting of February 3, 1982 to reject all bids for motor grader.

B. Award bid to lowest bidder meeting specifications for motor grader.

City Attorney Rynders read the below captioned resolution for Council's consideration.

A RESOLUTION RESCINDING RESOLUTION NO. 3944 WHICH REJECTED ALL BIDS RECEIVED ON A ROAD GRADER; AWARDING THE BID TO THE LOWEST BIDDER MEETING CITY SPECIFICATIONS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Rothchild noted three memos that were included in this packet that were not included in the packet of February 3, 1982, indicating that Equipment Management Director McGhee, City Engineer McCord and Streets & Drainage Superintendent Kipp were in favor of the motor grader that had met the City's specifications. Mr. Rothchild then moved adoption of Resolution 3950, seconded by Mr. Holland. There followed a lengthy discussion of the requirement for a new grader and the bidding and purchasing procedures and practices of the City. Mr. Schroeder and Mr. Anderson questioned the requirement for the new equipment. Mr. Holland and Mr. Rothchild questioned the advisability of not following the usual bid procedure. Mr. Wood suggested removing the item from the Agenda but did not make a motion to that effect. John Smith and Richard Hechler, citizens, spoke in support of a standard bidding procedure. Jerry Loughran, representing the dealer handling one of the machine that did not meet the specifications spoke in support of reconsidering the specifications. Mr. Rothchild noted that he had confirmed with Mr. McGhee the advantages of the specifications as set forth regarding the turning radius and that the motor be manufactured by the same manufacturer who manufactured the machine. Motion carried on roll call vote, 4-3; Mr. Anderson, no; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, no; Mr. Thornton, no; Mr. Wood, yes; Mayor Billick, yes.

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Let the record show that Mayor Billick recessed the meeting at 10:43 a.m. and reconvened it at 10:53 a.m. with the same members of Council present.

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AGENDA ITEM 9. Discussion/action with respect to Napcon vs. City of Naples court action. Consideration of alternatives for further action, if any. Requested by Councilman Rothchild.

City Attorney Rynders read the Judge's opinion letter dated February 4, 1982 (Attachment #5). He further outlined his reasons for disagreeing with the judge and noted his recommendation to appeal the action. Mr. Rothchild asked for a definition of the basis on which the City Attorney would base his appeal to which the City Attorney quoted the definition of a transient lodging facility in Section 14, subsection 43 and noted his opinion that the change was in the use of the building from transient use (less than a month's rental) of 25% of the property to transient use (a week at a time) of 100% of the property. Mr. Rothchild noted his opinion that the definition was not precise enough. In answer to a question from Mr. Anderson, Mr. Rothchild replied that he was in favor of appealing, but he felt the Council should direct the City Attorney to do so. Mr. Schroeder moved that the City Attorney be instructed to appeal the Napcon case, seconded by Mr. Anderson. Gilbert Weil, citizen, spoke in support of appealing the case. Motion carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes. In response to a question from Mr. Holland, City Attorney Rynders noted the City ordinance changing zoning where time share facilities were permitted to certain areas and which also "took out transient lodgings of any kind in the R3T-12, etcetera". The City Attorney further noted a change suggested by Mayor Billick in Section 4 to state specifically that "a change from any other transient lodging use to a time share use is to be construed as a change under that code", which he felt should be incorporated into the ordinance soon.

AGENDA ITEM 10. Discussion/action regarding consideration of methods to be employed to remedy any defect in our zoning law which was designed to restrict Interval Ownership/Time Sharing to the area previously selected. Requested by Councilman Rothchild.

Mayor Billick noted that most of the discussion held under Agenda Item 9 also pertained to Agenda Item 10 and asked if there was anything further anyone wished to add other than the recommendation made by City Attorney Rynders regarding Mayor Billick's suggested addition to the zoning ordinance. John Smith, citizen, suggested contacting an attorney who may be a specialist in interval ownership/time sharing, possibly one who may have assisted in drafting some of the language of the state legislation on the matter. He further voiced his concern about the management and maintenance of these units. The City Attorney responded that he had contacted one attorney who had assisted in the drafting of some of this legislation who had indicated that not much cooperation would be forthcoming from that sector in terms of prior control. City Attorney Rynders also added that he had no problem with hiring an expert on any issue the City needed particular expertise on; however, he stated he had enough experience to litigate these zoning issues up to Federal District Court of Appeal. He additionally noted that the maintenance was generally handled by local brokerage firms that he felt would keep them up. Mr. Hechler, citizen, asked if there were other defects in the zoning in connection with other situations regarding use of property and he alluded to some violations he had heard of. He advocated aggressive zoning and zoning inspection. Mr. Schroeder noted the difficulty of tracking down the running of a business from a residential area, to which Dennis Lynch, citizen, noted that checking legal ads in the newspapers provided one source of finding out about this type of activity.

AGENDA ITEM 11. A resolution of the City Council electing a member of City Council Vice Mayor, pursuant to Section 2.4 of the Charter; and providing an effective date.

Mayor Billick read the above titled resolution by title for consideration by Council; whereupon Mr. Rothchild nominated Mr. Holland and Mr. Thornton nominated Mr. Schroeder. Mr. Wood seconded the first nomination; whereupon Mayor Billick noted that nominations did not need to be seconded. Mayor Billick stated that the vote would be by roll call; Mr. Anderson, Mr. Schroeder; Mr. Holland, Mr. Holland; Mr. Rothchild, Mr. Holland; Mr. Schroeder, Mr. Schroeder; Mr. Thornton, Mr. Schroeder; Mr. Wood, Mr. Holland; Mayor Billick, Mr. Holland. In response to a comment by Mr. Anderson, Mr. Schroeder moved that the vote be unanimous, thereby adopting Resolution 3951 electing C. C. Holland as Vice Mayor, seconded by Mr. Anderson. City Attorney Rynders read the above titled resolution by title for Council's consideration. Motion carried by consensus.

AGENDA ITEM 12. Purchasing:

AGENDA ITEM 12-a. Resolution to award and/or reject bids for street construction material. Requested by the Engineering Department.

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

A RESOLUTION RELATING TO THE CITY'S ANNUAL REQUIREMENTS OF STREET CONSTRUCTION MATERIAL; REJECTING ALL BIDS RECEIVED ON BID ITEMS 1 THROUGH 5; AWARDING BIDS FOR BID ITEMS 6 THROUGH 12 AND AUTHORIZING THE CITY MANAGER TO ISSUE PURCHASE ORDERS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Holland noted the amount of discussion that had been held in the past on purchasing procedures and indicated his desire to have a complete discussion on the purchasing procedures at the next workshop meeting. He further noted that he had obtained a list of percentage increases on the price of items 1 through 5 over last year. He noted that the City's bid on Item 1 was less than the County and D.O.T. were paying now for

the same materials. Mr. Holland moved adoption of Resolution 3952 as amended to award Items 1 through 12 to the lowest bidders, seconded by Mr. Rothchild. He noted that the percentage increases on Items 1 and 2 were in line with the other increases that were recommended for award. He also noted the County's practice of having a pre-bid conference on this type of bid. Mr. Rothchild noted a letter received from James A. McLaughlin of Highway Pavers (Attachment #6). Mr. McLaughlin addressed Council and reiterated the points made in his letter. In response to a question from Mr. Rothchild concerning a change of recommendations in Purchasing Agent Unangst's memoranda dated February 8 and February 12 (Attachments #7 and #8), Mr. Unangst explained that he had received information that there would be another bidder for the items in questions that had received only one bid at this time. City Manager Jones and Mr. Schroeder expressed their agreement with Mr. Holland to include the subject of purchasing procedures at the next workshop. Mr. Anderson noted his feeling that with only one bid, there was no competition demonstrated. After further discussion, motion carried on roll call vote, 5-2; Mr. Anderson, no; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, no; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 12-b. Bid award - vacuum operated V-notch gas chlorinator - Public Works Department.

City Manager Jones read the below referenced resolution by title for consideration by Council.

A RESOLUTION AWARDING THE BID FOR TWO (2) VACUUM OPERATED V-NOTCH GAS CHLORINATORS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Rothchild moved adoption of Resolution 3943, seconded by Mr. Anderson and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 12-c. Reject bid - Water Treatment Plant modifications - Public Works.

City Manager Jones read the below titled resolution by title for Council's consideration.

A RESOLUTION REJECTING ALL BIDS RECEIVED FOR MODIFICATIONS TO THE WATER TREATMENT PLANT; AND PROVIDING AN EFFECTIVE DATE.

Ted Smallwood reviewed the material in his letter dated January 14, 1982 (Attachment #9). Mr. Rothchild noted a memorandum from Public Works Director Savidge dated September 10, 1981 (Attachment #10), which he felt answered a lot of the questions he had when this item came up at the last meeting and he was in agreement with the alternative suggested in the memorandum. Mr. Hechler, citizen, noted his concern about the low bidder's misinterpretation of information regarding the bid and the fact that it was mentioned in the resolution; whereupon City Attorney Rynders noted that as long as the City was not holding him to his bid, there should be no problem with that. Mr. Holland moved adoption of Resolution 3954, seconded by Mr. Schroeder and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

Mr. Anderson noted that he had installed a smoke detector in his single family residence even though it was not required by the City's ordinance and that this resulted in a goodly reduction in his household insurance premium. He also noted that he had forwarded a copy of the improved rating of the Naples Fire Department to his insurance company and again was notified of a reduction in his premium.

Gilbert Weil, resident of Park Shore, noted his and his neighbors' concern about 4-laning Seagate up to West Road and opening West Road into Seagate Drive. He referred to the Barr Dunlop report which recommended postponement of this action until the amount of traffic necessitated it. Mr. Anderson noted that a letter had been sent to the County during his administration noting the Barr Dunlop report and Council's adoption of it. He also noted the County's interpretation of the report as acknowledging a future need for opening this road. Mayor Billick noted that he had discussed this with City Manager Jones and that contact with the County would be continued.

Mr. Anderson asked that City Manager Jones check into the delay by the County in the letting of the Coastland Boulevard contract. City Engineer McCord noted that the County was experiencing difficulties with the consultants who were designing the road.

Mr. Schroeder noted three items included in Legislative Bulletin Vol. IX, No. 7, Sewage Treatment Act, Wire Transfer of Revenue Sharing Funds and Rulemaking, adding his recommendation that Mayor Billick should write to local legislators taking a favorable position on these items. Mr. Rothchild commented that these recommendations usually were forthcoming from the City Manager or the City Attorney. It was the consensus of Council that the Mayor write the letters supporting the legislation referred to in the Legislative Bulletin.

There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Billick adjourned the meeting at 12:40 p.m.

Stanley R. Billick, Mayor

Janet Cason
Janet Cason
City Clerk

These minutes of the Naples City Council were approved on 03/03/82

ROGERS, SILVA, MOON & CO.

PROFESSIONAL ASSOCIATION
 CERTIFIED PUBLIC ACCOUNTANTS

WALTER R. ROGERS, CPA
 KEVIN J. SILVA, CPA
 JACK R. MOON, CPA
 RONALD A. WOOD, CPA
 JOHN R. HALL, CPA
 DONALD W. GUYLOR, CPA
 SHELTON F. STAMMER, CPA

MAPLES OFFICES 882-1040
 MARCO ISLAND 994-7002
 FT. MYERS 482-4800

November 1981

Honorable Mayor and Members of the City Council
 City of Naples
 Naples, Florida 33940

We have examined the financial statements of the City of Naples for the year ended September 30, 1981 and have issued our report thereon dated November, 1981. As a part of our examination we made a study and evaluation of the City's system of internal accounting control to the extent we considered necessary to evaluate the system as required by generally accepted auditing standards. Under these standards the purpose of such evaluation are to establish a basis for reliance on the system of internal accounting control in determining the nature, timing and extent of other auditing procedures that are necessary for expressing an opinion on the financial statements and to assist the auditor in planning and performing his examination of the financial statements.

The objective of internal accounting control is to provide reasonable but not absolute, assurance as to the safeguarding of assets against loss from unauthorized use or disposition, and the reliability of financial records for preparing financial statements and maintaining accountability for assets. The concept of reasonable assurance recognizes that the cost of a system of internal accounting control should not exceed the benefits derived and also recognizes that the evaluation of these factors necessarily requires estimates and judgments by management.

There are inherent limitations that should be recognized in considering the potential effectiveness of any system of internal accounting control. In the performance of most control procedures, errors can result from misunderstanding of instructions, mistakes of judgment, carelessness, or other personal factors. Control procedures whose effectiveness depends upon segregation of duties can be circumvented by collusion. Similarly, control procedures can be circumvented intentionally by management either with respect to the execution and recording of transactions or with respect to the estimates and judgments required in the preparation of financial statements. Further, projection

of any evaluation of internal accounting control to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions and that the degree of compliance with the procedures may deteriorate.

Our examination of the financial statements made in accordance with generally accepted auditing standards including the study and evaluation of the City's system of internal accounting control for the year ended September 30, 1981, that was made for the purposes set forth in the first paragraph of this report, would not necessarily disclose all weaknesses in the system because it was based on selective tests of accounting records and related data. However, such study and evaluation disclosed the following conditions that we believe to be material weaknesses.

- 1.) The bank reconciliations for the General Cash Clearing Account and the payroll account are both several months behind schedule. For better control these reconciliations should be performed on a more timely basis.
- 2.) Several instances were noted in which cash discounts for prompt payments were not taken advantage of. An effort should be made to take all such discounts offered.
- 3.) The maintenance shop inventory includes various items which appear to be obsolete. In the future we recommend that this inventory be reviewed and any obsolete items should be sold for salvage value and/or segregated from the regular inventory.

The foregoing conditions were considered in determining the nature, timing and extent of audit tests to be applied in our examination of the financial statements and this report of such conditions does not modify our report dated December 10, 1981, on such financial statement.

The suggestions and recommendations in this report represent further refinements in the accounting system and will enhance the control of the City's resources. We would like to express our thanks to all City employees for their cooperation and assistance during our examination.

Respectfully submitted,

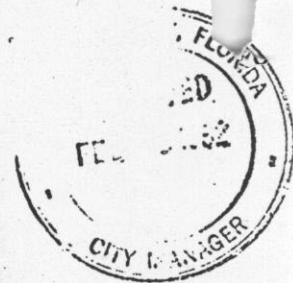
Rogers Silva Moon & Co.
 Rogers, Silva, Moon and Company



City of Naples

--- MEMO ---

TO: FRANK JONES, CITY MANAGER
 FROM: BILL HANLEY, ACTING FINANCE DIRECTOR *BH*
 SUBJECT: AUDITORS MANAGEMENT LETTER RESPONSE
 DATE: 1/22/82



I have received the management letter from our auditors for the review period 10/01/80 thru 9/30/81. Their letter identifies three areas in need of improvement and I would like to address these points as follows:

The first area in need of corrective action is the bank reconciliations for our payroll, and general cash clearing account. The two accounts got behind at one point because of a problem in reconciling a relatively small difference. Our accounting department concentrated on locating this difference before they moved on to the next month's reconciliation. The statements are now up to date and will continue to be done on a current basis.

The second area of criticism concerned our inability to take advantage of cash discounts that were offered. The Accounts Payable section does take advantage of those discounts offered by our most common vendors who we know provide us with cash discounts, however when we have payables for new vendors or one who is used infrequently and offers the City a discount we sometimes miss these due to the departments not getting them to us in time or if we do have them in time without knowing a discount is available to us we have no method for prioritising these items. I am proposing a cash/purchase order whereby a City employee can take this document with him to the vendor and fill out the amount to be paid right on the check portion of the purchase order. In addition to other savings this would provide us with instant cash discounts. Also, to catch those discounts from our regular purchase orders, I will initiate a method to flag the items where these discounts are available to us such as colored stickers.

The final area of concern is the obsolete items now in the maintenance shop inventory. I have discussed this matter with Ray McGhee and he says he has a plan for eliminating all obsolete items from his inventory. Briefly, he wants to review all items purchased that are three years old or older that haven't been utilized or have no useful purpose anymore because of changes in equipment. Once we can identify these, we can attempt to get credit for them from the vendor we purchased those items from or we can sell at an auction or sell for material content at a salvage yard.

In closing, I have confidence that these efforts I have mentioned will rectify each of the situations mentioned in the management letter. Should you have any questions regarding this letter or the remedies I have proposed, please don't hesitate to discuss them with me.

AGENDA ITEM #16
2/17/82

ATTACHMENT #3



City of Naples

MEMO
February 9, 1982

TO: Hon. Mayor and Members of Council
FROM: Franklin C. Jones, City Manager
SUBJECT: Relocation of Utility Lines Along Pine Ridge Road

This Agenda item consists of three actions that the City Council must take to accomplish the relocation of the water and sewer utility lines in connection with the widening of Pine Ridge Road by the County.

The utility lines to be relocated are all City owned and serve customers in the City's service area. None of these lines will be transferred to County ownership. The cost of the relocation must be paid by the City under the terms of a permit which authorized our use of their right-of-way. A copy of that permit is attached.

There is no firm estimate of the final cost of the relocation, because actual conditions encountered during the construction will effect the cost. We have included \$50,000 in the Water Budget and \$25,000 in the Sewer Budget for utility main relocation work.

I am recommending that the Council take the following action:

1. Adopt a resolution authorizing the Mayor and City Clerk to execute the Utility Relocation Agreement with the County.
2. Adopt a resolution authorizing the City Manager to negotiate a fee with the County's road contractor to accomplish the relocation.
3. Adopt a resolution authorizing CH2M Hill to prepare plans and specifications for the relocation for a fee not to exceed \$5995.00.

Respectfully submitted,
Franklin C. Jones
Franklin C. Jones
City Manager

FCJ:bb
Att.

ATTACHMENT #4



City of Naples

MEMO

TO: FRANK JONES, CITY MANAGER
FROM: W. F. SAVIDGE, PUBLIC WORKS DIRECTOR
DATE: JANUARY 18, 1982
RE: RECOMMENDATION FOR PREPARATION OF PLANS AND SPECIFICATIONS
Sta. 81 + 63.06, Pine Ridge Road

The relocation of an 8" Sewer Force Main, a 12" Raw Water Line and a 16" Treated Water line will be necessary to accommodate the four laning of Pine Ridge Road. This work is practical to put out for competitive bidding and will require detailed plans and specifications.

The estimated budget to prepare plans and specifications for bidding and construction and relocation of these city owned facilities including materials, provide 25 sets of plans and specifications for the bidding process, To prepare permit applications for submission by the City to the Department of Environmental Regulations is \$5,995.

I recommend CH2M Hill be authorized to perform this work for the cost of \$5,995.

The estimate for the contract of this work will be available upon completion of the design.

Funds have been budgeted in the Water C.I.P. Budget in anticipation of this work.

W.F. Savidge
W. F. Savidge

NFS/mlr

ATTACHMENT #5 - page 1



WILLIAM J. NELSON
CIRCUIT JUDGE

TWENTIETH JUDICIAL CIRCUIT OF FLORIDA

LEE COUNTY COURTHOUSE
2120 MAIN STREET
FORT MYERS, FLORIDA 33901
813-335-2111

February 4, 1982

Mr. George Vega, Jr., Esq.
2660 Airport Road
Naples, Florida 33942

Guy M. Burns, Esq.
One Plaza Place N.E.
Suite 700
St. Petersburg, Fla. 33701

Re: Napcon, Inc. vs. City of Naples, Case No. 81-0717CA-01

Gentlemen:

After analyzing the evidence in the above-styled case, it is the opinion of this Court that:

1. The subject property, hereinafter referred to as White Sands, prior to April, 1980, was a transient lodging facility as defined by Section 14, Subsection 43, of the City of Naples Zoning Ordinance.
2. Subsequent to April, 1980, and after renovation and conversion to a time share facility, White Sands continued to be a transient lodging facility as defined by Section 14, Subsection 43 of the Ordinance.
3. The renovation and conversion of White Sands did not extend, enlarge or change significantly any non-conformities which existed prior to the renovation and conversion of White Sands and therefore, the Plaintiff would not be required to follow the procedures contained in Section 4(c)(1) of the City of Naples Zoning Ordinance.

The Court therefore rules in favor of the Plaintiff and grants relief prayed for which should include: 1) declaring the prior actions of the Defendant invalid; 2) enjoining Defendant from interfering with the lawful use of the subject property owned by the Plaintiff.



ATTACHMENT #5 - page 2

February 4, 1982
Page Two
George Vega, Jr., Esq.
Guy M. Burns, Esq.

Plaintiff may prepare a judgment in conformity with the findings of the Court.

Very truly yours,

William J. Nelson
William J. Nelson
Circuit Judge

WJN/mkg

cc: Court file

Highway Pavers Inc.

ATTACHMENT #6

5590 Shiloh Street
P. O. Box 8809
Naples, Florida 33941
(813) 507-2181

February 15, 1982



City of Naples
Mayor Stanley Billick
Councilman R. B. Anderson
Councilman C. C. Holland
Councilman H. Rothchild
Councilman W. H. Schroeder
Councilman R. Thornton
Councilman K. A. Wood

Re: City of Naples Bid #82-01
Annual Street Construction Material

Gentlemen:

We are in receipt of a memo dated February 12, 1982, from Stewart K. Unangst, Purchasing Agent (copy attached) recommending rejection of bids received for items #1 through #5 on the above referenced, based on the fact that only one bid was received for each item.

Highway Pavers Inc. highly objects to this recommendation based on the following facts:

1. Bid #82-01 was advertised officirly in the Naples Daily News on January 7, 1982, therefore other vendors had the same opportunity to bid as did we.
2. Items #1 and #2 are 7.3% and 5.2% higher than the present prices being paid by the City which is a minimal raise considering inflation.
3. Items #1 and #2 are at or below current posted list prices being paid by private industry.
4. It is not uncommon to receive only one bid on street materials, in fact, this has been the rule rather than the exception for the past few years.
5. It would be grossly unfair to take re-bids, as our prices have now been exposed at a public opening.

Due to the aforementioned facts and because we believe it to be in the best interests of the City of Naples, we respectfully request that the City of Naples award bid #82-01 in its entirety as recommended in Mr. Unangst's memo of February 8, 1982 (copy attached).

Respectfully submitted,

HIGHWAY PAVERS INC.

James A. McLaughlin
James A. McLaughlin
Division Manager

cc: F. Jones, City Manager
J. McCord, City Engineer
S. K. Unangst, Purchasing Agent

ATTACHMENT #7



City of Naples

735 EIGHTH STREET, SOUTH - STATE OF FLORIDA 33940

OFFICE OF THE PURCHASING AGENT

TO: VENDORS BIDDING ON STREET CONSTRUCTION MATERIAL (ANNUAL), BID #82-01

FROM: STEWART K. UNANGST, PURCHASING AGENT

SUBJECT: AWARD OF BID

DATE: FEBRUARY 8, 1982

Please be advised that City Council is scheduled to consider a resolution awarding the above referenced bid as follows:

- Items #1, 2, 6, 7, Highway Pavers, Inc. Naples, FL.
- 9, 9A, 11 & 12
- Items #3, 4, 5, & 10 Macasphalt, Inc. Ft. Myers, FL.
- Item #8 Brisson Enterprises, Inc. Naples, FL.

This resolution will be considered at the February 17, 1982 City Council meeting, Council Chambers, 735 8th Street, South, Naples. Any objection your firm may have to this award should be presented to this office, in writing, no later than February 15, 1982.

Enclosed is a bid tabulation for your review. Thank you for bidding on these items.

Sincerely,
Stewart K. Unangst
Stewart K. Unangst,
Purchasing Agent

SKU/x1
Encl: 1



January 14, 1982
FC30500.J1

Mr. Franklin C. Jones
City Manager
City of Naples
735 8th Street, S.
Naples, FL 33940

Dear Mr. Jones:

Subject: Water Treatment Plant Modifications

Per your request, I am providing herein a summary of events and actions that were taken following receipt of bids on May 12, 1981, for the above referenced project.

Three bids were received on May 12, 1981 as follows:

- Hydro Construction
5215 Clarendon Crest
Bloomfield Hills, MI \$165,000
- Mechanical and Chemical
Equipment Co., Inc.
1749 W. Brandon Blvd.
Brandon, FL 33511 \$359,800
- Westra Construction
4905 15th Street, E.
Bradenton, FL 33507 \$480,850

The budget for this project was established on July 7, 1980, at \$180,505.

On May 14, 1981, a Mr. Ramsey, President of Hydro Construction, called my office to advise me that he had made a mistake on his bid and that he wished to withdraw his bid from consideration. He advised that he had prepared the bid without visiting the site, as required by the contract documents, and had based his bid upon telephone conversation. He also advised that he had misinterpreted the intent of the project. He said that he was not able to obtain quotations from materials suppliers and had erred in estimating the project.



City of Naples

723 EIGHTH STREET, SOUTH - STATE OF FLORIDA 33940

OFFICE OF THE PURCHASING AGENT

TO: VENDORS BIDDING ON STREET CONSTRUCTION MATERIAL (ANNUAL),
FROM: STEWART K. UNANGST, PURCHASING AGENT / BID #82-01
SUBJECT: REJECTION OF BIDS
DATE: FEBRUARY 12, 1982

Please be advised that some of the information in our letter dated February 8, 1982 (Subject: Award of Bid) was incorrect.

The City Council is scheduled to consider a resolution to reject items #1 through #5 and seek new bids. This recommendation is based on the fact that only one bid was received for each item. All other items on this bid are scheduled for award.

Any objection your firm may have to this action should be presented to the City Council at the February 17, 1982 meeting (approximate time: 10:50 A.M.).

Sincerely,

Stewart K. Unangst
Stewart K. Unangst,
Purchasing Agent

SKU/x1

Mr. Franklin C. Jones
Page 2
January 14, 1982
FC30500.J1

I informed Mr. Ramsey that he should notify the City's purchasing agent in writing, advising him as to the nature of the error in submitting his bid. (I confirmed by telephone with the major suppliers that, indeed, they had not been contacted nor had they quoted Hydro Construction.)

The claim of Mr. Ramsey, that he had not obtained quotations from materials suppliers or subcontractors on this project, was also confirmed on page 3 of his bid proposal where he had indicated that the major instrument and electrical subcontractors would be selected following award of the contract. The bid proposal form specifically requires the bidder to list the names of instrumentation and the subcontractor to be utilized.

I further confirmed with the major suppliers that quoted this project that their quotations totalled approximately \$270,000, or \$105,000 above Hydro Construction's bid. I discussed these findings with Mr. William F. Savidge. After discussing this matter with Mr. Savidge, it was the consensus that the City should look to alternate natives in completing this project, in that the second low bidder had quoted a price considerably in excess of the budget allocated for this project and far above that which we felt was justified for the intended improvements.

Following a meeting with Mr. Savidge and with his concurrence, I contacted several suppliers that had not quoted the project to ascertain what material costs may be if the City were to purchase the materials directly through the competitive bidding process. Based upon the indicated prices, I again met with Mr. Savidge to discuss the possibilities of the City's purchasing the materials directly through competitive bidding, with the City's personnel doing the installation and hiring local manpower and construction equipment, when and if needed.

After discussion of this alternative, Mr. Savidge and I agreed this alternative appeared most viable.

One other factor which influenced our thinking, at that point in time, was the anticipated near-future completion of the new plant expansion. The completion of the expansion would relieve the demands on the plant and thereby give the City the opportunity to schedule rebuilding the existing filters with its own forces.

It was our opinion, based upon our attempts to investigate similar projects completed by Hydro Construction, that it would not be in the City's best interest to award this contract to Hydro Construction.

Mr. Franklin C. Jones
Page 3
January 14, 1982
FC30500.J1

I trust the above adequately addresses the circumstances and activities surrounding the evaluation of the above bids.

If we may provide additional information, please contact us.

Yours very truly,

CH2M HILL



Ted R. Smallwood, P.E.

ljl

xc: Mr. William F. Savidge



City of Naples

735 EIGHTH STREET, SOUTH - STATE OF FLORIDA 33940

TO: FRANK JONES, ACTING CITY MANAGER

FROM: W. F. SAVIDGE, PUBLIC WORKS DIRECTOR

DATE: SEPTEMBER 10, 1981

RE: C.I.P. WATER BUDGET

The 1980-81 C.I.P. Water Budget includes \$182,700 for refurbishing seven filters at Water Plant #2.

We are planning to replace the gravel and sand in five of them and do this with our own supervision and hiring of temporary help for the labor involved. This part of the project is underway.

We took bids on the major part of the project which consisted of replacing the sand and gravel and all valves and control appurtances for Filter 1 and Filter 2. Ted is planning to recommend these bids be rejected in that the low bidder made an error in his bid and has requested the bid be retracted.

The next bid was \$359,800 or \$194,800 higher than the low bid. In view of the above facts, I agree with Ted's recommendation that the bids be rejected and that we readvertise for the materials only. We will plan to install the equipment ourselves with the assistance of outside contractors, temporary help and in-house supervision and labor.

Time will permit us to schedule the work at our convenience. However, we should purchase the materials as soon as possible to avoid any increase due to inflation. Upon award of the material bid, we will prepare new estimates for the installation for your consideration.

We should be able to complete the job in this manner within the budgeted funds \$182,700, plus some additional engineering to re-bid the material.

With your approval, we will prepare a specification package for the material bid request.

W. F. Savidge

W. F. Savidge

WFS/nlr

*approved
Frank Jones*