

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,  
NAPLES, FLORIDA, ON WEDNESDAY, MARCH 17, 1982, AT 9:06 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. Rynder, City Attorney  
John McCord, City Engineer  
Reid Silverboard, Chief Planner  
Stewart Unangst, Purchasing Agent  
Roger Barry, Community Development  
Director  
William Savidge, Public Works  
Director

Reverend Edward Gammon  
Charles Andrews  
Charles Long  
Ed Kant  
William Blackwell  
Mike Kirby  
Mr. & Mrs. Light  
Mr. & Mrs. Prescott  
Lucille Woods  
Mary Wood  
John Warner  
Fred Yoder  
John Thwing  
Bruce MacCluggage  
Richard S. MacCluggage  
Tom Morgan  
Arndt Mueller  
Jim McGrath  
Anita Utter  
Charles Moehlke  
Jack Conroy

Gilbert Weil  
Lyle Richardson  
Sam Aronoff  
John Norman  
Mr. & Mrs. Craig Kiser  
Philip Sowersby  
Richard Hechler  
Mr. & Mrs. Nelson Rose  
George Vega  
Larry Ingram  
Bruce Green  
Mr. & Mrs. Glenn Mackay  
Lew Parks  
Mr. & Mrs. Morton Byrd  
Tony Dorta  
Henrietta Mazzapella  
Jim Smith  
Michael Volpe  
Dr. & Mrs. Lee Light  
Rogert Hawkins  
Sue Smith

News Media: James Moses, Naples Daily News  
Dory Owen, Miami Herald  
Denys Husty, Naples Star  
Scott Stewart, TV-9  
Lynn Levine, TV-9  
Jerry Pugh, TV-9

Other interested citizens and visitors.

Mayor Billick called the meeting to order at 9:06 a.m.; whereupon Reverend Edward Gammon of the Vanderbilt United Presbyterian Church 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 Workshop Meeting of March 2, 1982 and the Regular Meeting of March 3, 1982; whereupon Mr. Anderson moved adoption of the minutes of both meetings as presented, seconded by Mr. Schroeder and carried by consensus. Mayor Billick commented on the disposition of the discussion during the Regular Meeting of March 3, 1982, concerning groin removal and stated that his direction was to the consultant, the City Manager and the City Engineer to remove the groins they considered unsafe without coming back to Council for more discussion.

AGENDA ITEM 4. Discussion/action with respect to proper procedure regarding the vacation of alleys, streets, etc., including a determination as to the propriety or legality of exacting a charge for any such vacation. Requested by Councilman Rothchild.

Mr. Rothchild read a lengthy statement into the record, copy of which is on file in this meeting packet in the City Clerk's office. City Attorney Rynders read the below titled resolution by title for Council's consideration.

A RESOLUTION DIRECTING THE CITY MANAGER TO REFUND ALL MONEYS COLLECTED BY THE CITY OF NAPLES AS COMPENSATION FOR THE VACATION OF EASEMENTS AND RIGHTS-OF-WAY; PROVIDING THAT SUCH REFUNDS SHALL IN NO WAY AFFECT OR INVALIDATE THE VACATION OF ANY EASEMENTS OF RIGHTS-OF-WAY BY THE CITY; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton noted his opinion that the resolution should have been signed by the City Attorney with reference to his approval as to form and legality and Mr. Schroeder added his concurrence. Mr. Rothchild continued his statement. Mr. Schroeder moved adoption of the resolution, seconded by Mr. Thornton. Mr. Thornton noted his confidence in City Attorney Rynders and his legal advice. The City Attorney then read his memorandum of March 11, 1982 into the record, copy of which is part of the packet on file in the City Clerk's office, in support of his position that the acceptance of compensation was legal and proper. Mr. Anderson added his comments in support of the City accepting compensation for something of value. Mr. Thornton called the question. Mayor Billick ruled that the question would not be called until the discussion had been exhausted. Mr. Schroeder seconded the call for the question and called for a vote. Motion failed on roll call vote, 1-6; Mr. Anderson, no; Mr. Holland, no; Mr. Rothchild, no; Mr. Schroeder, no; Mr. Thornton, yes; Mr. Wood, no; Mayor Billick, no. Mr. Schroeder made his comments in support of the procedure that had been used recently in the vacation of alleys, easements and streets. William Blackwell and George Vega, local attorneys, spoke in opposition of City Attorney Rynders' interpretation of the cases cited by the City Attorney and also in opposition to the procedure being used by the City in recent vacations, particularly the cases in which they had represented the petitioner. Mr. Vega suggested asking for another Attorney General's Opinion on the matter. Mr. Holland spoke in opposition to the present procedure being used by the City concerning vacations and noted that there was a return to the City in the way of taxes on the property after it has been vacated and is then on the tax rolls. Craig Kiser, local attorney, noted that the present ordinance did not address itself to the procedure the City had recently been using. Gilbert Weil, citizen and retired attorney, suggested that the City seek another Attorney General's Opinion on the specific issue. Mayor Billick stated his opinion that Council needed further clarification; i.e. an Attorney General's Opinion or something further than that. Mr. Rothchild voiced his opinion that a court decision might be the solution to the problem and suggested that someone file a suit involving this principle in what he felt could be a "friendly" suit. He further stated that he would like to withdraw the resolution and await the filing of such a suit or, failing that, that the City Attorney draft a proposed letter to the Attorney General for an opinion on the matter. Mr. Thornton pointed out that there was a motion on the floor and it had been seconded. City Attorney Rynders again read the above mentioned title. Motion 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.

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Let the record show that Mayor Billick recessed the meeting at 10:55 a.m. and reconvened it at 11:14 a.m. with the same members of Council present.

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Mayor Billick noted petitioner's request to have Agenda Item 5-d postponed and asked Council's indulgence to act on that request. It was the consensus of Council to do so.

AGENDA ITEM 5-d. Naples Planning Advisory Board recommendation to deny: Special Exception Petition No. 82-S9 Petitioner: Robert E. and Ruth S. Carroll, owners; Barnett Bank Trust Co., N.A., Trustee Location: Northwest corner of West Lake Drive and Sixth Avenue South.

Request to permit a 64-space parking lot to be located in the "R3-12", Multi-family Residential zone district; and request to use the facility as parking located within 600 feet of a proposed commercial development, to meet a portion of the required parking needed for the proposed commercial development.

In response to petitioner's request, Mr. Holland moved to continue Agenda Item 5-d until April 7, 1982, seconded by Mr. Schroeder and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Rothchild, yes; Mr. Holland, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

RETURN TO REGULAR AGENDA

AGENDA ITEM 5. Community Development Department/Naples Planning Advisory Board:

AGENDA ITEM 5-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-CP3 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 an 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 opened the concurrent Public Hearings at 11:15 a.m.; whereupon City Attorney Rynders read the below caption resolutions by title for consideration of Council and the above referenced ordinances by title for Council's consideration on Second Reading.

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 NORTH 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.

Jack Conroy, petitioner, answered various questions from Council concerning the details of this development. He noted that access to Goodlette Road had been limited by negotiations with the prospective purchases and the County. Lew Parks, District Engineer for Florida Power & Light, addressed Council and distributed a drawing dated January 5, 1982, showing the location of their poles and guys in the area under discussion. Mr. Conroy noted his intent to work closely with Florida Power and Light in conjunction with this development. Roger Barry, Community Development Director, noted that the plat plan approvals were preliminary and approval of final plat plans would come before Council. Richard Hechler, citizen, felt that maintenance of any drainage pond should be paid by the developer. Roger Barry noted that drainage maintenance is usually paid by users. Mr. Hechler also noted his feeling that this added density might have an unfavorable impact on the evacuation routes for the City in the event of any emergency. Sue Smith, citizen, noted her opinion that City services were strained at present and the addition of this density could further increase the demand for these services. There being no one else to speak for or against, Mayor Billick closed the Public Hearings at 12:10 p.m. Mr. Holland moved adoption of Resolutions 3963, 3964, 3965 and Ordinances 3966 and 3967 on Second Reading, 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.

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Let the record show that Mayor Billick recessed the meeting for lunch at 12:15 p.m. and reconvened it at 2:05 p.m. with all members of Council present.

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AGENDA ITEM 5-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 in order to meet the parking required for the 850 Central Avenue Building. (Continued from Regular Meeting of 2/17/82).

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

A RESOLUTION GRANTING A SPECIAL EXCEPTION TO PERMIT THE USE OF SIX OFF-SITE PARKING SPACES BY THE 850 CENTRAL AVENUE BUILDING, SUBJECT TO THE CONDITIONS ENUMERATED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Michael Volpe, attorney representing the petitioner, addressed Council and noted petitioner's willingness to cooperate with the intent and spirit of the requirements of the ordinance. Mr. Rothchild stated that he believed the matter should be returned to the Planning Advisory Board. City Attorney Rynders suggested incorporating in the resolution the agreement numbered "2." in the memorandum from Roger Barry, Community Development Director, dated March 12, 1982 (Attachment #1). Council also noted the other agreements outlined in the same memorandum. Mr. Holland moved adoption of Resolution 3968, seconded by Mr. Thornton. In response to a question from Mr. Rothchild regarding the three year lease from the Shell Station and the fact that a ten year lease from the Mobil station had been discussed and denial recommended by the Planning Advisory Board, Roger Barry and Attorney Volpe explained that the Mobil station operator did not have the leeway to provide the ten year lease, whereas the Shell station operator did have the authority to provide the three year lease. The City Attorney noted his desire to see a copy of the lease the station operator has with the Shell Company. Mr. Rothchild repeated his objection to passage since the Planning Advisory Board had recommended denial with the ten year lease and this was only based on a three year lease. Jane Byrd, owner of the adjacent property, spoke in support of passage of the resolution because of the problem they had with visitors to the 850 Central Avenue Building using their property for parking. Mr. Anderson noted the suggestion to include agreement "2." in the resolution. Mr. Thornton moved to amend the motion to include that agreement, seconded by Mr. Schroeder 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. Motion on the floor carried on roll call vote, 6-1; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, no; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 5-c. Naples Planning Advisory Board recommendation to approve: Special Exception Petition No. 82-S8 Petitioner: Texaco, Inc.; B & S Texaco Location: 694 Ninth Street North Request to permit retail grocery sales in a 12' x 18' portion of an existing gasoline service station; in conjunction with a gasoline service station.

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

A RESOLUTION GRANTING A SPECIAL EXCEPTION TO PERMIT RETAIL GROCERY SALES IN A PORTION OF THE EXISTING TEXACO SERVICE STATION, LOCATED AT 694 NINTH STREET NORTH, SUBJECT TO THE CONDITIONS ENUMERATED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Petitioners Richard S. MacCluggage and Bruce MacCluggage, and John Thwing, representative of Texaco, addressed Council in support of the petition. In answer to a question from Mr. Holland, they acknowledged that their intention was to add beer to the sales and to handle a minimum of grocery items such as bread and milk and a few related items in order to augment their declining income. Mr. Thornton moved to adopt the resolution, seconded by Mr. Anderson. Mr. Holland cited an instance wherein Council had denied an application to a person who wanted to have gas dispensing tanks in conjunction with a convenience store on Fifth Avenue North and Goodlette Road and he could not see the wisdom in having drive-through beer sales on the Trail, mainly because of the traffic hazard. After further discussion, motion failed on roll call vote, 3-4; Mr. Anderson, no; Mr. Holland, no; Mr. Rothchild, no; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, no; Mayor Billick, yes.

TRANSCRIPT OF AGENDA ITEM 5-e. - REGULAR MEETING OF NAPLES CITY  
COUNCIL HELD ON MARCH 17, 1982

AGENDA ITEM 5-e. First Reading of Ordinances and Naples Planning  
Advisory Board recommendation to approve:

Change of Text Petition No. 82-1

An amendment to Section 11 of Appendix "A" - Zoning, of the City of Naples Code of Ordinances; to require the affirmative vote of five (5) members of the City Council to approve an ordinance rezoning property; and adding a new Section 12.1 to Appendix "A" - Zoning, of the City of Naples Code of Ordinances, requiring the affirmative vote of five (5) members of City Council to approve amendments to the City's Comprehensive Plan.

An ordinance amending Section 11(G) of Appendix "A" - Zoning, of the Code of Ordinances of the City of Naples, Florida, relating to the procedure for rezoning property, changing the text of the zoning ordinance and expanding or changing nonconformities; and providing an effective date. Purpose: To require the affirmative vote of five (5) members of the City Council to approve an ordinance rezoning property.

An ordinance relating to the Comprehensive Plan of the City of Naples; amending Appendix "A" - Zoning, of the Code of Ordinances of the City of Naples by adding a new Section 12.1 thereto; and providing an effective date. Purpose: To require the affirmative vote of five (5) members of the City Council to approve amendments to the City's Comprehensive Plan.

CITY ATTORNEY RYNDERS: Mr. Mayor, (read above titled ordinance relating to the Comprehensive Plan by title).

MR. SCHROEDER: I was the one that requested this be put in motion. My comment is that the proposed amendments to the zoning ordinance do not represent the idea of having five affirmative votes in order to change a zoning matter. Somebody did not take into account the recommendation of the PAB which stated 'Mr. Bigg moved that this recommendation for approval of the five member vote on

rezoning ordinance on amendments to the Comprehensive Plan be submitted to Council, seconded by Mr. Johnson and passed unanimously', with the listing of votes. But when the amendments to the ordinance come through today, it says, 'Action on nonconformity petitions may be taken by resolution, adopted by a majority vote of the Council members present without a public hearing by City Council'. Drop down a few lines, 'Rezone in change in text petitions shall be acted upon by ordinance'. New, 'An ordinance changing the text of the zoning ordinance may be adopted by a majority vote of the Council members present. The affirmative vote of five members of the City Council shall be required to approve an ordinance rezoning property.'

MAYOR BILLICK: So, you're saying that this proposed ordinance doesn't properly reflect (inaudible)...

MR. SCHROEDER: It's not properly drafted to indicate that there shall be five affirmative votes to make a change in the Comprehensive Plan or in the zoning. And I recommend that it be returned to the office of the City Attorney for re-drafting properly.

MR. WOOD: May I have a comment from the City Attorney, Mayor, please? We have two ordinances here dated the same but not a revision of one, so we have duplicate ordinances here.

C.A. RYNDERS: I think what the PAB did, Wade, was they adopted that recommendation with regard to rezonings, but not with regard to non-conformity petitions. And that's why that language is in there. You and I discussed this this morning.

MR. SCHROEDER: But you destroy the controls on rezoning if you can pass non-conformity petitions, three to two.

C.A. RYNDERS: To some degree, yeah. And if (inaudible)...

MR. SCHROEDER: Well, it's destroyed. Actually, it would take three to one, because four is a quorum and in order to pass it, it would be three to one.

C.A. RYNDERS: O.K. I think -- I'm not sure that the PAB considered it in that light. I think they were considering the issue of rezonings requiring five members on the Council to vote.

ROGER BARRY: I'm not sure I understand Mr. Schroeder's point. Do you feel that there should be the same five vote majority relative to a non-conforming petition, as well?

MR. SCHROEDER: Yes.

MR. BARRY: O.K. Well, that was never discussed.

MR. SCHROEDER: Because that is a change in zoning.

MR. BARRY: No.

MR. SCHROEDER: Yes, it is.

MR. BARRY: No.

MR. SCHROEDER: Well, there's no (inaudible)...

MR. BARRY: A change of zone petition affects the zoning designation on a piece of property. A non-conformity petition is a separate petition process all together.

MR. SCHROEDER: It's part of the control of zoning.

MR. BARRY: Well, so is a special exception and variance and, you know. So are all of our other petitions. The only reason that language shows up in there at all is because when the City Attorney's office drafted what they did, the section of the ordinance to be changed included reference to the non-conformity petition. If it was the Council's intent to have the non-conformity petition process addressed as well, I -- we have no problem with that. We'll just take back to the Board. They didn't address it and we didn't understand that was your direction.

MR. SCHROEDER: Well, it's my feeling that those petitions do affect the zoning of property.

MR. BARRY: Well, how many other petitions that affect the zoning, then, in that general term, do you wish them to (inaudible) look at that?

C.A. RYNDERS: (inaudible) when this first came up, the request was that the changes in zone require the approval of five members of Council and I gathered that (inaudible)...

MR. SCHROEDER: And the Comprehensive Plan, too, David.

C.A. RYNDERS: ...and the Comprehensive Plan. That's why we have two ordinances here. It's not a duplicate. There are two ordinances, one is on the Comprehensive Plan; one is on the zoning ordinance itself.

MR. WOOD: I stand corrected.

C.A. RYNDERS: And when this was drafted, we are required in drafting these sort of documents to set forth in full the whole section. We're not -- we can't just put down extracts here, because that really doesn't apprise people correctly of what we have actually changed. And in putting in the full section, we naturally had to include the language relating to changes in text and changes in non-conformity petitions which had not been addressed either at the Council meeting where the suggestion first came up or at the PAB meeting later.

MAYOR BILLICK: I wonder if it would be all right if we discussed this as is, to see how this one comes out before we (inaudible)...

C.A. RYNDERS: That would be fine -- or we might want to send it back for those other two additions, or whatever.

MR. WOOD: Can we do this, in view of the fact that they are both 5-e.

C.A. RYNDERS: They are both included in this one section.



MR. ANDERSON: I don't -- I think it would complicate this whole issue unnecessarily to send it back and load things like this on to it, given Roger's comments about 'well, what about special exceptions, variances and whatever'. The main thrust of the motion, it seems to me, is to take five votes to change zoning designation and the Comprehensive Plan. That was the main thrust of the conversation. I didn't pick up anything else myself. And in keeping with that I would like to make a motion that these ordinances, both of them, be adopted on First Reading.

C.A. RYNDERS: I'd have to read the title of the other one. The first one I've already read regarding the Comprehensive Plan. Oh, the purpose of the ordinance amending the Comprehensive Plan is to require the affirmative vote of five members of the City Council to approve amendments to the City's Comprehensive Plan. (Read the above title ordinance relating to zoning by title).

MR. ANDERSON: I make a motion that the two ordinances be approved on First Reading.

MR. WOOD: Mr. Mayor.

MAYOR BILLICK: Yes.

MR. ANDERSON: No, I'm trying to see if we've got a second.

MAYOR BILLICK: Is there a second?

MR. SCHROEDER: Andy, I will second.

MAYOR BILLICK: Motion made and seconded.

MR. WOOD: Mr. Mayor, may I please point out that there have been times in my sitting on this Council, when there have only been five members. What happens? .

MR. SCHROEDER: It takes five votes.

MR. WOOD: That's a unanimous.

MR. SCHROEDER: No, it's five affirmative votes of the members of Council.

MR. HOLLAND: Mr. Mayor, what if you had only four people here? You couldn't take a vote, could you?

MR. SCHROEDER: No, sir.

MR. ROTHCHILD: Mr. Mayor, I'd like to talk on this thing. You might just as well sit back in your seats. On--whatever the date of this damn thing is, back in 1980, May 1980, the Council passed a 61 page ordinance. Sixty-one pages. And it was included in this sixty-one pages, that the majority vote was placed on our ordinance, was placed on our books. Prior to that, 1963, November, the Code was 'in the manner prescribed by law'. Prior to that in 1960, June, the zoning requirement was five-seventh vote of all members of the City Council. Prior to that in 1956, it was 'the manner prescribed by law'. And in 1953, it was three-fourths of all members. So, we

have gone all over the lot. But the last thing that was done was in May -- May 21, 1980, when in our judgment, we decided 'the majority of the Council members present'. Now, having said that, I'd like to go back (inaudible) my own memory. I was aware of the fact that this proposal was submitted on the last day -- the last meeting of the previous Council. And it was proposed by Messrs. Twerdahl and Schroeder. And I recall walking into the City Manager's office and expressing a little bit of surprise that two members, separately and individually, Frank tells me, they came in with the same idea. But I'll pass that one by. I'll accept that. But my comment that I made when this thing was introduced in January, 27th, I think, the last meeting of the Council before election. I wanted to know why these two members, who had been on the Council for four years, waited until the last meeting to submit this. And I also referred to the fact that this was sort of a strange, strange time, when there was being bruted about a suggestion that if Mr. Billick and Mr. Kiser were elected, that they together--those two together with Mr. Holland and Mr. Rothchild would ruin the beach. And, not only that, but there was a poison pen letter that was drafted and sent around. And I had serious doubts in my mind as to whether or not this was being presented to the Council because of their great interest in the City of Naples or whether it was in furtherance of the -- I'm at a loss for a word -- of the despicable suggestion that I would be part of a group that would ruin the City of Naples or its beach. So, I had serious doubts that that resolution would be continued, if their side won. If those -- if Mr. Twerdahl won, you could rest assured that this motion would be withdrawn. It would never be voted upon. They would want the control of the four that they had. But they were playing both ends against the middle, they were hedging their bets. And that's why this was presented. Now, I am absolutely satisfied that I am as interested in preserving the integrity, the beauty of the City of Naples. I'll yield to no one, Mr. Schroeder, or his poison pen writer. I'll yield to no one in my desire to protect the beauty of Naples. And I do believe that perhaps some control should be given. I do not like the idea of the majority voting for a change when we have only four members present and under our rules, we can have three votes. Or if we had five members present, we could have three votes. I do not like that. I believe in majority rule. We have seven members elected to the Council. And I would like to have a motion, I'd like to have a resolution -- and I would request the City Attorney to draft one. I'd like to have a resolution which would provide that any zoning change requires the affirmative vote of four members of the Council. That would be consistent with the majority rule and it would not place an inordinate control on the absolute minority of two people--or three people. So, therefore, I would vote against the adoption of this. I question the motives and I have no apologies to make. I question the motives of the two people who introduced this. It came at a time when it seemed as though it put them into the upper strata. They were going to protect the beauty of Naples. Well, I say fie on them. So, I would suggest that Council reject this idea and consider the proposal of a four affirmative votes for a change in zoning.

MAYOR BILLICK:

Is that proper at this time, Dave, to vote on?

C.A. RYNDERS:

Mr. Rothchild can make an amendment to amend the ordinances that are before us right now. (inaudible)...

MR. ROTHCHILD: I so -- I make that motion, as amended.

C.A. RYNDERS: (inaudible) and then (inaudible) you can get it out of the way. With a second, you can just (inaudible)...

MAYOR BILLICK: Did you second it, Ken?

(UNKNOWN): Yeah.

MR. ROTHCHILD: I'm making it four.

MR. WOOD: You amend it?

MR. ROTHCHILD: I amend it. I amend it to provide that any zoning change would require four affirmative votes on the Council.

MR. WOOD: I'll second it.

MR. ROTHCHILD: O.K. It's been made and seconded.

MR. HOLLAND: Does that include all four--or all three items?

UNKNOWN: Yes.

C.A. RYNDERS: Didn't -- to make sure everybody understands, there's two ordinances here. One of them deals with the Comprehensive Plan and one of them deals with the City's zoning ordinance which is in our Code. And I understand the motion for amendment to change the language which now says in each of these ordinances, five members to read four members. And that's fine. I presume the motion the motion was made for both ordinances. If (inaudible)...

MR. WOOD: Right.

MR. ANDERSON: It was.

MR. WOOD: Both ordinances.

MR. ANDERSON: Yeah, it was.

MAYOR BILLICK: Motion to amend. Is there discussion on the amendment?

MR. ANDERSON: Nope.

MAYOR BILLICK: Would you (inaudible) the Council on the motion to amend.

MR. WOOD: Jim has something to say.

MAYOR BILLICK: Oh, I'm sorry. Jim, please.

JIM SMITH: Yes, my name is Jim Smith and I'm president this year of Naples Board of Realtors and I'm also president of Investors Research and Development Corporation. And we are economic and urban consultants. I would like to speak to this only because it

would appear as if things were moving ahead on a first reading. We appeared before the Planning and Advisory Board and stated our position against having five affirmative votes being cast to change the Comprehensive Plan and/or zoning. The reason for that, to go into a little bit of history, and I won't take long because I know it's been a busy day. But the original land planning act for Florida was the Land and Water Management Act of 1972. To go back to the legislative intent of that, it was to guide and coordinate local decisions related to growth and development and to be implemented by local governments, local governments through existing processes. Then along came, in 1975, the local government Comprehensive Planning Act, which put a gun at the cities' and the counties' heads, saying if you don't plan it the way we want it, we're going to come in and plan it for you.

MR. SCHROEDER: They didn't say it that way. They said, 'If you don't plan, we will come in'. But they didn't say, 'If you don't plan it the way we want it'.

MR. SMITH: I maintain to you the end result nevertheless has been an inordinate growth in state bureaucracy in these fields. Our position is simply this, I was only giving that as a way of background. Planning and comprehensive plans--comprehensive plans and zoning--are not static things. Neither are cities. Changes do take place. Planning, by its very definition recognizes change. To put an undue hurdle, which we feel a five positive vote situation would be, is to in essence reduce your city--or your county--or wherever this takes place, to almost a status quo. We can't project ten years into the future and tell you what changes are going to take place, but we know they're going to come. We would have preferred a majority vote. Now, I've listened to some persuasive arguments by people on the Planning and Advisory Board, Earle Johnson being one, that certainly have convinced me that as a very, very reasonable compromise, four votes--the majority vote of a full Council--is certainly a reasonable compromise and in the best interests of the City of Naples. Naples Board of Realtors would simply like to go on record as supporting that decision and that would be to have four full votes of Council. I think that (inaudible)...

MR. ANDERSON: You mean four affirmative votes.

MR. SMITH: Four affirmative votes.

MAYOR BILLICK: Are there any other comments by the members of Council? I would like to say only that I dislike super majorities. Because the other side of that coin is you are giving a smaller and smaller minority the opportunity to hamstring the Council. It's a cute way to try to turn a minority into a majority. I am in favor of requiring that the majority of the elected Council must affirmatively vote. In other words, I am in favor of this. Beyond that, I would have no part of it. Would you please poll the Council?

MR. ROTHCHILD: (inaudible) now the amendment.

MAYOR BILLICK: Yes, voting on the amendment.

CLERK: Mr. Anderson...

MR. WOOD: As amended.

MAYOR BILLICK: On the amendment, yes.  
 MR. ANDERSON: On the amendment.  
 MAYOR BILLICK: Yes, four, we're voting on.

Mr. Anderson	Yes
Mr. Holland	Yes
Mr. Rothchild	Yes
Mr. Schroeder	No
Mr. Thornton	Yes
Mr. Wood	Yes
Mayor Billick	Yes

UNKNOWN: Now, the motion.  
 MR. ANDERSON: Now, we have to vote (inaudible)...  
 MR. ROTHCHILD: Now, we can vote on the motion itself.  
 MR. ANDERSON: Yeah.  
 MR. WOOD: On the amended ordinance.  
 MR. ROTHCHILD: Right.  
 C.A. RYNDERS: Both of them.  
 MAYOR BILLICK: Will you poll the Council, please.  
 MR. ROTHCHILD: Are we voting on both of them now?  
 MAYOR BILLICK: If you want to.  
 MR. ROTHCHILD: Yes, all right. We're voting on both.  
 MAYOR BILLICK: Right..

Mr. Anderson	Yes
Mr. Holland	Yes
Mr. Rothchild	Yes
Mr. Schroeder	

MR. SCHROEDER: I recognize when I'm whipped, Yes.

Mr. Thornton	Yes
Mr. Wood	Yes
Mayor Billick	Yes

MR. ROTHCHILD: Now, let's have no dirty tricks until the next election.  
 MAYOR BILLICK: The next (inaudible)...  
 MR. SCHROEDER: You know, Mr. Mayor, I just resent the hell out of the insinuations of that son of a bitch down there.

200 MR. ANDERSON: I don't (inaudible)...

MR. WOOD: Oh, now wait a minute (inaudible) this is ridiculous, Wade.

MAYOR BILLICK: All right, let's hold it. This is (inaudible)...

MR. ROTHCHILD: Why do you object? It wasn't an insinuation.

MR. ANDERSON: Well (inaudible)...

MAYOR BILLICK: All right, let's move on. The next (inaudible)...

MR. WOOD: (inaudible) can't control yourself any better than this, you ought to leave the room.

MAYOR BILLICK: The next (inaudible) Council--now, now, now. Let's cut it out. The next item on the Agenda is Item 6-a. Authorization to execute Naples Metropolitan Planning Organization Interlocal Agreement. The appointment of (inaudible)...

MR. WOOD: Compatibility with the County? We don't have the compatibility of the Council.

MAYOR BILLICK: ...the appointment of two members of Council to the Naples Metropolitan Planning Organization.

MR. WOOD: Gee.

MR. ANDERSON: I think we (inaudible)...

UNKNOWN: (inaudible) that kind of language.

MAYOR BILLICK: I'll tell you what let's do. Let's take a five minute break.

Let the record show that Mayor Billick recessed the meeting at 3:15 p.m. and reconvened it at 3:25 p.m. with all members of Council present.

MAYOR BILLICK: Will the meeting come to order, please. The chair will recognize Councilman Schroeder.

MR. SCHROEDER: Members of Council, I wish to apologize for my provoked language and I wish to withdraw from the slate--from the record, those intemperate words. The thought's still there, but the words, I wish to erase.

MR. ROTHCHILD: I will never forget it as long as I live. Both your statement and your cheap attempt to withdraw.

MR. WOOD: You don't accept (inaudible)...

MR. ROTHCHILD: No, I don't accept that. I think he ought to be censured for it.

MAYOR BILLICK: The next item on the Agenda, as I said, was 6-a and 6-b -- Authorization to execute Naples Metropolitan Planning Organization Interlocal Agreement and the appointment of two members of Council to the Metropolitan Planning Organization. I think there are resolutions, Dave.

AGENDA ITEM 6-a. Authorization to execute Naples Metropolitan Planning Organization Interlocal Agreement.

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

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NAPLES, COLLIER COUNTY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION, RELATING TO THE CREATION OF A METROPOLITAN PLANNING ORGANIZATION FOR THE NAPLES URBANIZED AREA; AND PROVIDING AN EFFECTIVE DATE.

Mr. Anderson moved adoption of Resolution 3969, seconded by Mr. Rothchild. Mr. Schroeder noted his opinion that there should be some reference made to the City being able to make some of their contributions "in kind" rather than in a strictly monetary fashion. Roger Barry, Community Development Director, noted that there were several subsequent agreements to be formalized and he felt that Council would have ample opportunity to cover that matter at a later date. The City Attorney pointed out where the language in 3.02 of the Interlocal Agreement had been modified to allow for that approach at a later time. Further discussion covered the points that while the City could expect very little direct benefit from federal funds for transportation, County improvements on approaches to the City could not be implemented without the MPO; and that the federal funds from FAA to the Airport Authority were directly affected by the MPO. Craig Kiser, citizen, spoke in support of Mr. Schroeder's point concerning "in kind" contributions and the inclusion of this provision at some time. Mr. Schroeder also noted his concern about statements in Exhibit IV, page 3, 4.00, copy of this and other related proposed agreements and the Interlocal Agreement are on file in this meeting packet in the City Clerk's office. Motion carried on roll call vote, 6-1; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, no; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 6-b. Appointment of two members of Council to the Naples Metropolitan Planning Organization.

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

A RESOLUTION APPOINTING TWO MEMBERS OF THE CITY COUNCIL TO THE METROPOLITAN PLANNING ORGANIZATION FOR THE NAPLES URBANIZED AREA; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder moved to appoint Mayor Billick to this Board, seconded by Mr. Anderson.  
Mr. Rothchild moved to appoint Vice-mayor Holland to this Board, seconded by Mr. Wood.  
 The motion appointing Mayor Billick 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. Motion appointing Vice-Mayor Holland 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. Therefore, Resolution 3970 was adopted by consensus of Council.

AGENDA ITEM 7. PUBLIC HEARING to consider proposed dredging activities within an existing boat slip and adjoining man-made canal. Our file DR 82-1. Owner: Royal Treadway. Agent: Bruce Green, P.E. Project Legal: Lot 11, Block 14, Unit 6, Aqualane Shores, P.B. 3, Pg. 20, Collier County. Project Location: 1995 Eighth Street South, Naples, Florida.

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

A RESOLUTION AUTHORIZING DREDGING ACTIVITIES WITHIN AN EXISTING BOAT SLIP AND ADJOINING MANMADE CANAL AT 1995 8TH STREET SOUTH, SUBJECT TO THE CONDITION SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mr. Anderson moved adoption of Resolution 3971, seconded by Mr. Wood. Mayor Billick opened the Public Hearing at 3:50 p.m.; whereupon Bruce Green, agent for the petitioner, presented himself to Council to answer any questions they may have. There being no one else to speak for or against, the Mayor closed the Public Hearing at 3:51 p.m. 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 8. PUBLIC HEARING and second reading of Ordinance.

An Ordinance relating to Parking for the handicapped; amending Section 8-3 of the Code of Ordinances to provide that certain provisions of the Standard Building Code shall be retroactive; providing a period of implementation; providing exceptions; providing for conformity of existing parking lots; providing an effective date. Purpose: To make the requirements of Section 508.3 relating to parking for the handicapped retroactively apply to existing privately owned public parking lots with more than 25 parking spaces, with certain exceptions.

City Attorney Rynders read the above titled ordinance by title for Council's consideration on Second Reading; however, he noted that he had not received the language for the amendments that Attorney William Register, the attorney for Handicapped In Action, was drafting as yet. He noted that he would provide copies of this to the Councilmen as soon as they were available and that he would circulate the proposed amended ordinance to the Chamber of Commerce, the Naples Board of Realtors and Coastland Mall, as requested. He further requested that the matter be continued to the next Council meeting. Mr. Anderson moved that Agenda Item 8 be continued to April 7, 1982, seconded by Mr. Rothchild and carried by consensus.

AGENDA ITEM 9. Request by Naples Beautification Committee for City participation in cost of installation of "Welcome to Naples" signs proposed for northern and eastern City limits.

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

A RESOLUTION RELATING TO THE INSTALLATION OF "WELCOME TO NAPLES" SIGNS AT THE NORTH TRAIL AND EAST TRAIL; PROVIDING THAT THE CITY WILL INSTALL SAID SIGNS, TOGETHER WITH LANDSCAPING AND LIGHTING; AND PROVIDING AN EFFECTIVE DATE.

The City Attorney noted that these signs would have to meet the City's sign standards. Mr. Thornton noted the City's efforts to reduce the proliferation of signs and that he would vote against the resolution. Mr. Wood questioned the size of the signs and whether or not they exceeded the City's permitted size. Lyle Richardson, Chairman of the Naples Beautification Council, addressed Council in support of the signs and reviewed the information in his letter of March 4, 1982 (Attachment #2).



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Let the record show that Mr. Wood left the Council table at 4:00 p.m.

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In answer to a question from Mr. Rothchild, Mr. Richardson also reviewed the other areas in which the Council was working. After further discussion Mr. Holland moved adoption of Resolution 3972, seconded by Mr. Rothchild and carried on roll call vote, 5-1; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, no; Mr. Wood, absent; Mayor Billick, yes.

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Let the record show that Mr. Wood returned to the Council table at 4:02 p.m.

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AGENDA ITEM 10. Engineering Consulting Services:

AGENDA ITEM 10-a. Action regarding procedure for selection of engineering consultants services for water and sewer projects. Deferred from regular meeting of March 3, 1982.

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

A RESOLUTION ESTABLISHING A POLICY RELATING TO ENGINEERING SERVICES FOR DESIGN OF PUBLIC WORKS PROJECTS ESTIMATED TO BE IN EXCESS OF \$100,000.00; AND PROVIDING AN EFFECTIVE DATE.

Mr. Anderson moved adoption of Resolution 3973, seconded by Mr. Schroeder. Richard Hechler, citizen, spoke against this resolution but was corrected by Mayor Billick in that Mr. Hechler was speaking to Agenda Item 10-b. Mr. Rothchild expressed his opinion that this policy did not need to be in resolution form. City Manager Jones noted his feeling that he would like to have this policy of going to the Consultants' Competitive Negotiations Act in resolution form. Sue Smith, citizen, addressed Council concerning her misgivings regarding other selection processes used by Council. After further discussion, motion carried 6-1; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, no; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 10-b. Action amending continuing consulting agreement with CH2M Hill. Deferred from regular meeting of March 3, 1982.

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

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES, DATED DECEMBER 3, 1969, BETWEEN THE CITY OF NAPLES, FLORIDA, AND CH2M HILL, SOUTHEAST, INC.: AND PROVIDING AN EFFECTIVE DATE.

Mr. Anderson moved adoption of the resolution. Richard Hechler, citizen, spoke in opposition to the resolution and noted his feelings that it was not in the City's best interest to continue this agreement. Mr. Rothchild suggested waiting a while longer for more information before passing on this, noting that it would continue in its present form without this amendment and that the amendment also contained a 30-day termination clause. City Engineer McCord repeated his assertion that the agreement seemed to be a monopoly. Mr. Rothchild noted a memorandum from Bill Savidge,

Public Works Director, (Attachment #3) that was an attachment to a memorandum from City Manager Jones (Attachment #4). In response to a question from Mr. Rothchild about presenting Mr. Savidge's recommendations to Council and not City Engineer McCord's, the City Manager noted that Mr. McCord had addressed himself to Council on the subject at the last meeting. Mr. McGrath, citizen, again noted his recommendation of having an in-house utility engineer. Mr. Anderson again moved adoption of Resolution 3974, seconded by Mr. Schroeder and motion carried on roll call vote, 6-1; Mr. Anderson yes; Mr. Holland, yes; Mr. Rothchild, no; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 11. Grant of easement to Florida Power & Light on airport property. Requested by Airport Authority.

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

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE EASEMENTS TO FLORIDA POWER AND LIGHT COMPANY FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING ELECTRIC UTILITY FACILITIES ON PROPERTY AT THE NAPLES AIRPORT: AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3975, 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.

AGENDA ITEM 12. Acceptance of utility easements - Seagate Drive and Gulf Shore Blvd. North. Requested by Public Works Department.

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

A RESOLUTION ACCEPTING A UTILITY EASEMENT FROM ROBERT T. BENSON, SR., ET AL, FOR THE PURPOSE OF INSTALLING AND MAINTAINING A WATER LINE ACROSS THE PROPERTY THEREIN DESCRIBED TO CONNECT THE CITY'S WATER SYSTEM FROM SEAGATE DRIVE TO GULF SHORE BOULEVARD NORTH; AND PROVIDING AN EFFECTIVE DATE.

Mr. Anderson moved adoption of Resolution 3976, seconded by Mr. Thornton. Mr. Holland asked if this could be done contingent upon the County opening Gulf Shore Boulevard through to Seagate Drive, as suggested in the Traffic Study. Bill Savidge, Public Works Director, confirmed that the City was mandated by the 180 District agreement to provide this water system service and it could not be contingent upon anything. 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 13. Discussion of test program for the use of fish (Triploid Grass Carp) for aquatic weed control. Requested by Engineering Department.

City Engineer McCord addressed Council to answer any questions that might arise concerning the recommendation to have the test program for the use of the fish as outlined in City Manager Jones' memorandum of March 11, 1982, (Attachment #5) and City Engineer McCord's memorandum of March 9, 1982 (Attachment #6). Mr. Anderson moved approval of the test program as outlined, 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.

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Let the record show that Mr. Anderson left the Council Chambers at 4:55 p.m.

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AGENDA ITEM 14. Appointment of Engineering Consultant Selection Committee - City Dock.  
Requested by City Manager

Mr. Thornton noted that Chairman of the Parks & Recreation Advisory Board Glenn Mackay had requested to be on this Committee. Mr. Holland noted that in the past there had been councilmen on various consultant selection committees; whereupon Mr. Wood volunteered to be on the Committee. Mr. Thornton moved to adopt Resolution 3977 as amended by adding Glenn Mackay and Councilman Wood, seconded by Mr. Schroeder. City Attorney read the below captioned resolution, noting the addition of Mr. Mackay and Councilman Wood, by title for Council's consideration.

A RESOLUTION APPOINTING A SELECTION COMMITTEE FOR THE PURPOSE OF EVALUATING VARIOUS PROFESSIONAL FIRMS REGARDING THEIR QUALIFICATIONS AND ABILITY TO PROVIDE ARCHITECTURAL AND ENGINEERING SERVICES RELATIVE TO CONSTRUCTION OF A MUNICIPAL DOCK FACILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion carried on roll call vote, 6-0; Mr. Anderson, absent; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

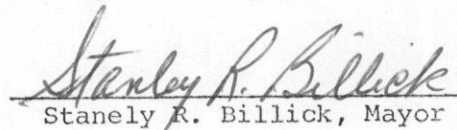
AGENDA ITEM 15. Purchasing: Bid award - Life station telemetry modifications and additions - Phase I - Wastewater Collection Division.


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

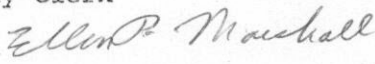
A RESOLUTION AWARDDING THE BID FOR LIFT STATION TELEMETRY MODIFICATIONS AND ADDITIONS (PHASE I); AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mayor Billick noted that there was only one bidder, but also noted the information in correspondence from City Manager Jones (Attachment #7), Bill Savidge, Public Works Director (Attachment #8) and CH2M Hill (Attachment #9). City Manager Jones answered some questions from Mr. Rothchild pertaining to the other companies in the field that may have bid and about the way the specifications were written. Greg Tate, CH2M Hill, answered further questions from Mr. Rothchild about companies in the field of the equipment being put out to bid. Richard Hechler, citizen, noted his feeling that a letter declining to bid would at least indicate that more than one company had been invited to bid. Mr. Savidge indicated his desire to have the equipment in question on line as soon as possible. After further discussion, Mr. Thornton moved adoption of Resolution 3978, seconded by Mr. Schroeder and carried on roll call vote, 5-1; Mr. Anderson, absent; Mr. Holland, yes; Mr. Rothchild, no; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Billick adjourned the meeting at 5:15 p.m.

  
Stanely R. Billick, Mayor

  
Janet Cason  
City Clerk

  
Ellen P. Marshall  
Deputy Clerk

ATTACHMENT #1-page 1 AGENDA ITEM #5-b.  
3/17/82



*City of Naples*

--- MEMO ---

ATTACHMENT #1 - page 2

TO: City Council  
FROM: R. J. Barry  
SUBJ: Special Exception Petition No. 81-S13  
Page 2.

TO: City Council  
FROM: Roger J. Barry, Community Development Director  
SUBJECT: Special Exception Petition No. 81-S13:  
Request to approve 6 off-site parking spaces for the  
850 Central Avenue Building - Lee Light, MD, Petitioner  
DATE: March 12, 1982

The above-referenced petition, submitted by Lee Light, M.D. relative to parking for the 850 Central Avenue Building, was contained from the February 17, 1982 Council meeting.

At that time, the petitioner was negotiating with Mobil Oil Company for the lease of 6 parking spaces at Frank's Mobil Station located at the northwest corner of U.S. 41 and Central Avenue. Dr. Light subsequently learned that Mobil Oil would not agree to the lease; and he then reinstated negotiations with the owner of the Shell Oil Service Station, located immediately east of the subject property, at the southwest corner of U.S. 41 and Central Avenue.

The attached letter, dated 3/10/82, from Michael Volpe, attorney for the petitioner, outlines the proposed lease agreement as well as several other stipulations which the petitioner proposes, relative to the off-site parking spaces.

Briefly, the lease provides for an initial lease of 6 parking spaces at the Shell Station for a term of 3 years, with an option to renew the lease for an unlimited number of three-year terms at the expiration of the initial term. The Florida Regional Office of Shell Oil Company has indicated that it has no objection to such an arrangement. This arrangement is similar to an earlier lease agreement approved by the City Council in 1974 - see attached Exhibit A.

In addition, the petitioner is proposing the following additional agreements:

1. The lease terms for the vacant space in the 850 Central Building will be for the same term as the lease with Shell for the off-site parking spaces;
2. The petitioner will immediately advise the City of any change or cancellation relative to the lease agreement, during the term of the lease of the off-site parking spaces.
3. The petitioner will agree that as vacancies occur in his building, subsequent rentals will be entered into with tenants whose parking requirements are such that the on-site parking spaces will be adequate to accommodate.

4. The petitioner will attempt to secure from Shell a more permanent arrangement with regard to providing additional parking spaces (construction/acquisition of additional parking spaces).

Staff Recommendation:

In our opinion, the proposed lease agreement meets the intent of the Zoning Ordinance relative to off-site parking, and we have no objection to it.

Therefore, we recommend approval of Special Exception Petition No. 81-S13, subject to stipulations 1 through 3 outlined above, and subject to the following:

The six (6) off-site parking spaces at the Shell Station shall be signed to indicate that they are reserved for the tenants of the 850 Central Avenue Building, and the on-site parking area shall be signed to indicate that additional parking spaces are available at the Shell Service Station.

*RJ Barry*  
RJB:d

ATTACHMENT #2

NAPLES CIVIC



ASSOCIATION

852 1st AVENUE, SOUTH

NAPLES, FLORIDA 33940

PH. (813) 262-2424

SERVING THE GREATER NAPLES AREA

NAPLES BEAUTIFICATION COUNCIL

March 4, 1982

Mr. Franklin C. Jones  
 City Manager  
 735 Eighth Street S.  
 Naples, Florida 33940



Dear Frank:

The Beautification Council has been meeting since July of last year and working on various things that would help upgrade our city and make it a more pleasant place to live. The council is made up of representatives of the Naples Civic Association, Aqualane Shores, Coquina Sands, Moorings, Olde Naples, Park Shore, Port Royal, and Royal Harbor Property Owners Associations, Naples Area Chamber of Commerce, and the Third Street South and Fifth Avenue South Merchant Associations. You can see it has a pretty wide input and is active in many areas.

One of the first projects to near completion is the installing of "Welcome to Naples" signs at the edge of the city at the East Trail and the North Trail. Enclosed is a drawing of the proposed sign which will be about 7 ft. wide and 4 ft. high. The sign is made of wood and will be maintained by SignCraft on a permanent basis. SignCraft also will furnish a suggested sign program for the city to use in the future, incorporating the same basic design.

The council considered the readability of the sign and other factors, and recommends this particular design.

The cost of both signs installed, including maintenance, is \$4500. This cost will be funded by the Naples Area Chamber of Commerce, Naples Area Board of Realtors, Inc., and the Naples Civic Association, as well as donations from property associations, to the extent of \$3500.

The Beautification Council will ask the City Council to appropriate \$1000 towards the installation of the two signs. They would also ask that the city be responsible for appropriate plantings, sprinkler system and lighting.

We would hope that we could have this item by the meeting of March 17 so we can proceed to have the signs made and installed before the end of April.

Sincerely,

Lyle S. Richardson  
 Chairman, Sign Committee

Enclosure

ATTACHMENT #4



AGENDA ITEM #10  
3/17/82

City of Naples

MEMO

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL  
FROM: CITY MANAGER FRANKLIN C. JONES  
SUBJECT: CONTINUING CONSULTING ENGINEERING CONTRACT -  
CH2M HILL  
ESTABLISHMENT OF CONSULTANT SELECTION POLICY

DATE: MARCH 12, 1982

Attached are two resolutions and supporting documents which are:  
1) amending the continuing consulting contract with CH2M Hill;  
and 2) establishing a consultant selection policy for engineering services.

In the case of the amendments to the CH2M Hill contract, I am recommending that the Council adopt the resolution authorizing the Mayor and City Clerk to execute the agreement. The amendments to the contract are intended to provide for three changes in the agreement:

1. The City's ownership of all documents resulting from any work accomplished under the contract.
2. The changes in the compensation provisions of the contract to provide the City with greater flexibility in payment methods for work performed under the contract.
3. The addition of an audit right clause to provide the City with specific rights of audit for work performed under the contract.

I have also attached a memo from Bill Savidge concerning the contract with CH2M Hill in which he outlines what benefits he feels the City would receive from the contract. I would also add that since the City intends to continue the relationship of having CH2M Hill as its general consultant and advisor for water and sewer projects, I feel it is best to have a contract which governs that relationship.

The resolution establishing the City's consultant selection policy is basically a restatement of the provisions of the State's Consultants' Competitive Negotiations Act prescribed under the Florida Statutes, Chapter 287.055. This resolution would merely clarify the City's policy that the selection of consultants for design work for projects with construction costs estimated at \$100,000 or more would be done under the provisions of the Consultants' Competitive Negotiations Act.

Respectfully submitted,

*Franklin C. Jones*  
Franklin C. Jones  
City Manager

FCJ/tan  
encs.

ATTACHMENT #3



City of Naples

MEMO

TO: FRANK JONES, CITY MANAGER  
FROM: W. F. SAVIDGE, PUBLIC WORKS DIRECTOR  
DATE: MARCH 12, 1982  
RE: CONTRACT WITH CH2M HILL

In my opinion, the agreement with CH2M Hill has the following advantages:

1. The firm is thoroughly familiar with the water and sewer operations and is best qualified to handle any troubled operational problems that occur, especially where time is a factor.
2. It gives the City Council an option to bypass the selection process when time or other factors make it in the best interest for the City to do so.
3. It does not restrict the City from using other engineers when it is in the best interest to do so.
4. It will reduce the work load for the staff as compared to agreement.
5. To some extent, it will better control the quality of the engineering services.

So long as the procedures in procuring engineering services are the same under the agreement as without an agreement, either way would probably work. However, the benefits of an agreement are obvious and desirable from my point of view.

*W. F. Savidge*  
W. F. Savidge  
MFS/nlr



*City of Naples*

--- MEMO ---

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL  
FROM: CITY MANAGER FRANKLIN C. JONES  
SUBJECT: AQUATIC WEED CONTROL  
DATE: MARCH 11, 1982

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The City Engineer has recommended that we undertake a test program to determine whether the stocking of retention lakes within the City with a type of fish called Triploid Grass Carp would be an effective means of control of aquatic weeds and algae growth.

Pending permitting of one additional lake, we have received permits from the Game and Fresh Water Fish Commission to proceed with the stocking of four lakes under their recommended procedures. The City Engineer has recommended that the test be conducted in the Park Shore Unit 4 Lake, the Ridge Lake, Spring Lake and in Lake Manor. He has also recommended that this program be funded from money budgeted this year in the capital improvement program for a lake water quality monitoring study. The \$5,000 budgeted for the study will cover the cost of purchasing and stocking the fish.

I am recommending that the Council, by consensus, approve this program on a test basis. Should it prove worthwhile, we would be prepared to recommend further action in next year's budget.

Respectfully submitted,

Franklin C. Jones  
City Manager

FCJ/tan  
encs.

Frank Jones  
March 9, 1982  
Page Two

Although the above lakes are not all held in public trust, all serve as an integral part of the City's storm drainage systems. We have, as noted by the attached petitions, gained abutting property owner approvals for the program as required by the Commission. As noted we intend to include Lake Manor in the initial program.

Finally, we are requesting the transfer of the previously budgeted CIP funds (\$5,000) for more study of lakes to this program which we feel addresses our need to take action in gaining a solution to an already defined problem. We feel this appropriate since at least in one instance (i.e. Park Shore Unit 4 Lake) the petitioners have been waiting for over two years for some solution to this problem.

Further, as the lake water temperatures rise over the next 90 days, we can expect a return to such conditions as exhibited by the attached photographs.

Recommendations

1. That City Council accept permits issued by the Florida Game and Fresh Water Fish Commission relating to the above lakes.
2. That City Council approve the transfer of previously budgeted CIP funds as noted in the above and authorize the City Manager to issue a Purchase Order up to \$5,000 for the procurement of the recommended number of Triploid Grass Carp Hybrids as deemed appropriate by the Commission based upon the best available, competitive price at time of purchase.

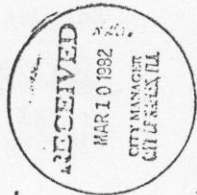
JRM:sdm

Attachments: Permits (3)  
Excerpts Rule 39  
Petitions (3)  
Quotation of 12/21/81  
Photos (2)



*City of Naples*

MEMO



Engineering Memo #82-27

TO: Frank Jones, City Manager  
 FROM: John McCord, City Engineer  
 DATE: March 9, 1982

SUBJ: Request for City Council Authorization to Accept Florida Game and Fresh Water Fish Commission Permits Relating to the Use of Triploid Grass Carp Hybrids for Aquatic Weed Control in Selected Lakes within the City

--Request for Authorization to Purchase Triploid Grass Carp Hybrid Fish with Funds Budgeted in FY 1982 CIP For Lake Water Quality Monitoring

Please find attached permit documents from the Game and Fresh Water Fish Commission along with Rule 39 specifics which are self explanatory for your consideration. The purpose for us researching this rather innovative method of controlling aquatic weed growth is simply that it provides a natural controlled means rather than relying on physical labor and/or machine techniques which must still be coupled with continual herbicide treatments of weed/algae infested lake waters.

Basically, the particular species of grass carp we are proposing for use is a hybrid known as a Triploid Grass Carp. Aside from being an avid vegetarian (i.e. they eat all forms of aquatic weeds and algae found in great abundance in several of our lakes), this hybrid is also sterile. The inability to reproduce represents an important development since in the past the use of grass carp for weed control was an uncontrollable technique. With this breakthrough once a particular lake has been populated based on the amount of vegetation to be controlled, the population remains constant for the up to 15 year life cycle of the hybrid. Thus once the existing vegetation is treated with commercial herbicides and the hybrid carp are introduced, future weed/algae growth is consumed as food stuff. End product -- clear aesthetically pleasing lakes.

We have taken the liberty of acquiring permits for the following lakes which have generated the majority of requests for service relating to an overabundance of aquatic weed growth.

- Park Shore Unit 4 Lake (situated between Neapolitan Way and Whispering Pine Way)
- Ridge Lake (situated within Palm Circle)
- Spring Lake (situated between West Lake and East Lake Drives)
- Lake Manor, in process (situated south of 6th Lane)





*City of Naples*

--- MEMO ---

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: FRANKLIN C. JONES, CITY MANAGER

SUBJECT: LIFT STATION TELEMETRY MODIFICATIONS AND ADDITIONS-PHASE I  
(PROJECT #FC30500.L1)

DATE: MARCH 9, 1982

On January 12, 1982, bids were received and opened for Lift Station Telemetry Modifications and Additions (Phase I).

The need for this project is a result of the increased flow at the wastewater plant which has necessitated surcharging and storage of sewage in the collection system. This levels out peak flows at the wastewater plant and is an essential part of the operation. It does, however, increase the risk of sewage spills and overflows in the collection system. The Department of Environmental Regulation has also recommended that this equipment be installed.

The project consists of additions and computer programming modifications to the existing radio telemetry system. It is designed to allow monitoring and control of the pumping functions of four of the larger, more important wastewater pump stations, making use of the existing radio telemetry equipment at the water plant. In order to interface with the existing equipment, the same manufacturer, SEISCOR/Vericom was specified.

The project was first advertised for bids on October 28, 1981, with a bid opening date set for November 30, 1981. Plans were also placed on file with the Dodge Reports and five County Builders Association plan rooms. Three potential bidders were also directly notified. As the bid date approached, no potential bidders had purchased bidding documents, therefore the opening date was extended first to December 22, 1981 and then to January 12, 1982. At the time of the bid opening there were only two plan holders, Westra Construction Company and Engineer Service Corporation (ESC). Only ESC submitted a bid.

After reviewing this sole bid proposal with William F. Savidge, Public Works Director and Gregory L. Tate, P.E. of CH2M Hill, we are recommending that this bid be awarded as follows:

<u>VENDOR</u>	<u>BID AMOUNT</u>
Engineering Services Corporation Jacksonville, Florida	\$70,000.00

We are basing this recommendation on the fact that projects of this nature are part of a very specialized area of contracting, which makes it difficult to estimate bid prices. The project was well advertised with more than adequate time for bidders to respond. We feel the bid price, when compared with the requirements of the specifications, are fair and reasonable.

Based on this information, I respectfully request authorization to issue a purchase order to Engineering Services Corporation to perform this work. Time of completion will be 240 days.

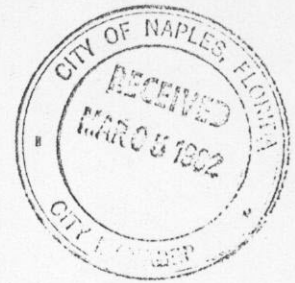
We have budgeted \$60,000.00 in the 1980-81 Water/Sewer Capital Improvement Program for this project. The balance will be derived from the Water/Sewer Contingency Fund.

Respectfully submitted,

*Franklin C. Jones*  
 \_\_\_\_\_  
 Franklin C. Jones,  
 City Manager



*City of Naples*



--- MEMO ---

TO: FRANK JONES, CITY MANAGER

FROM: W. F. SAVIDGE, PUBLIC WORKS DIRECTOR

DATE: MARCH 4, 1982

RE: RECOMMENDATION REGARDING THE AWARD OF BIDS FOR LIFT STATION TELEMETRY MODIFICATION AND ADDITIONS (PHASE I)

Attached is a recommendation from CH2M Hill regarding the award of Bids for Lift Station Telemetry Modifications and Additions, Phase I. I concur with this recommendation.

\$60,000 was budgeted in 1980-81 Sewer C. I. P. for Phase I and \$60,000 was budgeted in 1981-82 Sewer C. I. P. for Phase II.

Phase I will provide monitoring and control of four of our major sewage lift stations. The monitoring equipment will be connected to our existing computer at the Water Plant.

The need for the project is a result of the increased flows at the Sewer Plant which has necessitated surcharging and storage of sewage in the collection system. This levels out peak flows at the Sewer Plant and is an essential part of the operation. It does increase the risk of sewage spills and overflows in the collection system. The D.E.R. has also recommended this equipment be installed at the lift stations.

Because of the nature of the project, it is unlikely that any further attempt to get competitive bids would produce any benefit. The project, both in material and in installations, is highly technical. The equipment must be compatible with the existing computer at the Water Plant.

Phase II was to have been an extension of Phase I by adding additional monitoring equipment in additional lift stations as well as a remote terminal unit at the Sewer Plant.

I am recommending we proceed with Phase I and that we rebudget Phase II in the 1982-83 Budget. This will give us time to evaluate this equipment and proceed as originally planned or to proceed in a better manner.

*W. F. Savidge*  
 \_\_\_\_\_  
 W. F. Savidge

WFS/nlr



March 3, 1982

FC30500.L2

HAND DELIVERED

Mr. William F. Savidge  
Public Works Director  
City of Naples  
735 8th Street, S.  
Naples, FL 33940

Dear Mr. Savidge:

Subject: Telemetry System Additions and Modifications

This letter will provide you with additional information regarding the bidding phase of the above referenced project.

As you know, this project consists of additions and computer programming modifications to the existing radio telemetry system. It is designed to allow monitoring and control of the pumping functions of four of your larger, more important wastewater pump stations, making use of the existing radio telemetry equipment at the water plant. In order to interface with the existing equipment, the same manufacturer, SEISCOR/Vericom, was specified.

The project was first advertised for bids on October 28, 1981, with the bid opening set for November 30, 1981. Plans were also placed on file with the Dodge Reports and Five County Builders Association plans rooms. As we approached the bid date there were no potential bidders having purchased bidding documents. After discussions with you and Mr. Unangst, it was agreed to extend the bid date to December 22, 1981, in order to contact some contractors who might be interested in bidding the project.

As the new bid date approached, there were still no bidding documents sold. At that point we called three potential bidders, Goff Communications Service, Precision Electronics, and Engineer Service Corporation. After some consideration on their part, the first two indicated that they did not wish to compete with Engineer Service Corporation (ESC), as ESC held the regional sales distributorship and was most knowledgeable of the existing system and the required programming modifications. (Engineer

Mr. William F. Savidge  
Page 2  
March 3, 1982  
FC30500.L2

Service Corporation installed the existing equipment under an earlier contract, awarded through the competitive bidding process.)

On December 16, 1981, we called the VERICOM/Siescor factory and were advised by them that although ESC did have the regional sales distributorship they would be required to give a standard price to any potential bidder. The factory offered to verify equipment prices if we so desired. They further indicated that they saw no reason why competitors would be excluded under this arrangement.

When we spoke to ESC they said they were very interested in bidding, but since they were previously unaware of the project, there was not enough time to prepare a bid or arrange for the bid bond. After further discussion with you and Mr. Unangst, it was agreed to extend the bid date to January 12, 1982.

At the time of the bid opening there were two plan holders, Westra Construction Company and ESC. Only ESC submitted a bid.

Projects of this nature are part of a very specialized area of contracting, which makes it difficult to estimate bidding response and bid prices. The project was well advertised with more than adequate time for bidders to respond. In our opinion, the bid price received from ESC, when compared with the requirements of the specifications, is acceptable. We, therefore, feel there is little to be gained from rebidding the project.

If, however, the City feels the prices are not acceptable, there are two alternatives available.

1. Re-bid the project using the same specifications in hopes of obtaining additional bidders.

2. Develop specifications for other types of equipment which would not utilize the existing equipment at the water treatment plant. This would probably be more expensive than the present bid.

If you need any additional information or have any questions, please contact me.

Very truly yours,

CH2M HILL

*Gregory J. Tate*  
Gregory J. Tate, P.E.

XC: Mr. Franklin C. Jones

Naples Office  
1033 Fifth Avenue, North, P.O. Box 1317, Naples, Florida 33959 813/262-6693