

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,
NAPLES, FLORIDA, ON WEDNESDAY, APRIL 7, 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
John McCord, City Engineer
Reid Silverboard, Chief Planner
Stewart Unangst, Purchasing Agent

Roger Barry, Community Development
Director
Nat Hooper, Senior Engineering
Technician
Norris Ijams, Fire Chief

Reverend Hal DeBoer
Charles Andrews
Edward Hannam
Egon Hill
Ralph Carrothers
Ken Humiston
Marvin Vollmer
Dr. Charles Eytel
Tom Morgan
William Register
Jack Miller
Robert Tiffany
Daniel Spina

Gilbert Weil
Lyle Richardson
Sam Aronoff
Mr. & Mrs. Craig Kiser
Richard Hechler
Larry Ingram
Sue Smith
Nancy Green
Ken Muszynski
Mr. & Mrs. Nelson Rose
Mr. Grant
Jim McRae

News Media: James Moses, Naples Daily News
Dory Owen, Miami Herald
Denys Husty, Naples Star
Kathy McClintock, WINK-TV
Tish Gray, Naples Star

Scott Stewart, TV-9
Susan Gardner, TV-9
Jerry Pugh, TV-9
Brad Rittner, WBBH-TV

Other interested citizens and visitors.

Mayor Billick called the meeting to order at 9:02 a.m.; whereupon Reverend Hal DeBoer of the Liberty Church of Naples delivered the Invocation followed by the Pledge of Allegiance to the Flag.

Mr. Rothchild observed that a revised ordinance had been distributed to Council just before the meeting this morning. He asked that City Attorney Rynders take time to go over the changes in the revised ordinance before it was presented for Council's consideration, to which the Mayor responded in the affirmative.

AGENDA ITEM 3. APPROVAL OF MINUTES

Mayor Billick called Council's attention to the minutes of the Workshop Meeting of March 16, 1982 and noted that they had just been distributed. It was the consensus of Council to delay approval until after they had time to review them. He also called their attention to the minutes of the Regular Meeting of March 17, 1982. Mr. Holland noted his opinion that one item in the minutes of the Regular Meeting was not complete enough. Mr. Rothchild asked that a verbatim transcript of Agenda Item 5-e be included as an attachment to the minutes of the Regular Meeting of March 17, 1982. City Clerk Cason suggested that approval of all these minutes be held in abeyance until a transcript of that item be inserted in them for approval at the next meeting. It was the consensus of Council to do so.

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

PUBLIC HEARING and second reading of Ordinance.

Change of Text Petition No. 82-1 Petitioner: City of Naples

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 four (4) 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 four (4) members of the City Council to approve amendments to the City's Comprehensive Plan.

*Although the petition as originally submitted contained a provision for five (5) affirmative votes, the ordinances were amended by City Council at first reading to require four (4) affirmative votes.

City Attorney Rynders read the above titled ordinances by title for Council's consideration on Second Reading; whereupon Mayor Billick opened the Public Hearing at 9:10 a.m. Edward Hannam, citizen, addressed Council, stressing his desire for a tighter control on zoning changes. Mr. Anderson and Mr. Rothchild pointed out that these proposed ordinances represented tighter control than the existing ones. There being no one else to speak for or against, the Mayor closed the Public Hearing at 9:20 a.m.; whereupon Mr. Anderson moved adoption of Ordinances 3979 and 3980 on Second Reading, seconded by Mr. Rothchild. Mr. Schroeder repeated his feelings that the ordinances should require five affirmative votes and his intention to vote against the proposed ordinances as they read. 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.

Gilbert Weil, citizen, asked Council's indulgence in bringing Agenda Item 16 forward on the Agenda, at least in the vicinity of Item 8. Mr. Wood moved to advance Agenda Item 16 to be heard following Item 7. It was the consensus of Council to bring the item forward to that time.

AGENDA ITEM 5. PUBLIC HEARING to consider proposed dredging activities within an Un-Named Manmade Canal. Our file DR 82-2. Owner: Marvin Vollmer. Agent: Kenneth K. Humiston, P.E. Project Legal: Lot 67, Block 12, Royal Harbor, Unit 3, Plat Book 3, Page 70. Project Location: 2500 Tarpon Road.

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

A RESOLUTION AUTHORIZING DREDGING ACTIVITIES WITHIN AN UNNAMED MANMADE CANAL AT 2500 TARPON ROAD, SUBJECT TO THE CONDITION SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mayor Billick opened the Public Hearing at 9:26 a.m. Kenneth Humiston, agent for the petitioner, addressed Council in support of the petition and noted that there had been an error in the original drawing that Bernie Yokel, Collier County Conservancy, had used when he made his unfavorable comments and alternate suggestions. Mr. Holland noted the favorable report on the petition from the staff and the Waterways Council. Mr. Rothchild expressed his opinion that Mr. Yokel's report should not be overlooked. There being no one else to speak for or against, the Mayor closed the Public Hearing at 9:40 a.m.; whereupon Mr. Thornton moved adoption of Resolution 3981, seconded by Mr. Holland and 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 6. PUBLIC HEARING and second reading of Ordinance.

An Ordinance relating to Parking for the Handicapped; mending 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 noted that the attorney for the Handicapped In Action, Mr. William Register, had telephoned him and requested that this item be held until he arrived, since his plane would not arrive until 9:30 p.m. Attorney Larry Ingram objected to this because it cost him money to be here and he had hired a court reporter to be here on time and he felt that the attorney for the Handicapped should be here at the appointed time. He also noted that there other business men from the community who were here also. Mr. Holland moved that the item be postponed, seconded by Mr. Rothchild and 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 7. First Reading of an Ordinance,

An ordinance relating to the City's Purchasing Policy; amending Section 15.12 of the Charter of the City of Naples, entitled "Competitive Bidding", by adding a new Subsection (j); and providing an effective date. Purpose: To establish a policy regarding bid awards to sole bidders.

City Attorney Rynders read the below referenced ordinance by title for consideration by Council on First Reading.

AN ORDINANCE RELATING TO THE CITY'S PURCHASING POLICY; AMENDING SECTION 15.12 OF THE CHARTER OF THE CITY OF NAPLES, ENTITLED "COMPETITIVE BIDDING", BY ADDING A NEW PARAGRAPH TO SUBSECTION (b); AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO ESTABLISH A POLICY REGARDING BID AWARDS TO SOLE BIDDERS.

City Manager Jones noted that this was a result of the Workshop Meeting of March 2, 1982. Mr. Anderson moved to approve this ordinance on First Reading, seconded by Mr. Schroeder. Mr. Rothchild expressed his dissatisfaction with the proposed ordinance and noted his impression that there was to have been a conference with the staff, Council, and any vendors who wished to contribute prior to drafting this type of policy. City Manager Jones suggested that Council approve this to clearly define what the policy would be. Mr. Rothchild again suggested a workshop to consider the whole matter rather than remedying parts of it. Mayor Billick confirmed with the City Manager that this did not expand the City Manager's authority with connection to awarding bids. There followed a lengthy discussion of some of the problems in the past that this proposed ordinance was designed to remedy. Richard Hechler, citizen, spoke in support of taking measures that would remedy the appearance of bid shopping. Mr. Holland questioned the application of this proposed policy based on a recent bid award and asked who would make the final determination; to which the City Manager noted that Section 15.12 (d) of the Charter specified that Council would make the final decision on any bid awards in excess of \$5,000.00. Mr. Rothchild again voiced his opinion that the purchasing policy as a whole needed revision and that this was a piecemeal approach. Motion carried on roll call vote, 5-2; Mr. Anderson, yes; Mr. Holland, no; Mr. Rothchild, no; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

RETURN TO AGENDA ITEM 6.

City Attorney Rynders read the below titled ordinance by title for consideration by Council on Second Reading.

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; TO PROVIDE THAT CERTAIN SMALL PARKING LOTS NEED NOT RESERVE SPECIFICALLY MARKED PARKING SPACES; TO PROVIDE EXEMPTIONS FROM RATIOS REQUIRED BY OTHER SECTIONS OF THE CODE OF ORDINANCES; TO PROVIDE CERTAIN CONSTRUCTION GUIDELINES; PROVIDING A PERIOD OF IMPLEMENTATION; PROVIDING AN EFFECTIVE DATE. PURPOSE: TO MAKE THE REQUIREMENTS OF SECTION 508.3(a) RELATING TO PARKING FOR THE HANDICAPPED RETROACTIVELY APPLY TO EXISTING PRIVATELY OWNED PUBLIC PARKING LOTS.

Mayor Billick opened the Public Hearing at 10:05 a.m. and at his request and to comply with an earlier request, City Attorney Rynders explained the revisions in the copy of the proposed ordinance that was distributed this morning in contrast to the one received by Council members in their packet. In response to a question from the Mayor, Attorney Larry Ingram noted he had received a copy of City Attorney Rynders'

letter of March 24, 1982 (Attachment #1) and the attachments, which was the material distributed in the meeting packet. The City Attorney noted the changes in the revision distributed this date. Attorney William Register, representing Handicapped In Action, addressed Council and explained wherein the revisions were to accommodate the objections made by Attorney Ingram at the First Reading; to correct the impediments created by landscaping in certain parking lot areas, to develop some language concerning proximity and physical terrain, and to examine methods of enforcement for violations of the use of these spaces. He reported on what had been done on all four items. He further addressed the new concern regarding access to buildings which would require ramps into the buildings and noted that was in another section of the Building Code and was not covered by the Section under discussion. In response to an inquiry from Mr. Anderson, Attorney Register agreed that to clarify sub-paragraph 5 in Section 2.(c) the words, "any other ordinance" be inserted following the words "such violations". At a comment from City Attorney Rynders, Attorney Register suggested removing the word "ramp" from Section 2.(b) and replacing it with "curb approaches and curb cuts"; and in Section 2.(c) sub-paragraph 3, add "except that the construction of ramps (which shall not be construed to include curb approaches and curb cuts) shall not have retroactive application". Attorney Ingram acknowledged that the further amendments just reviewed did cover the concerns that had been voiced. He further asked for relief in the required size of the parking spaces inasmuch as he felt each case might be judged on its own merits; i.e. at his building he could provide a smaller space, but it would be adjacent to more than the required amount of space because it would abut a sidewalk. City Attorney Rynders pointed out that a variance could be requested in these cases. Dr. Eytel, local physician, noted his feeling that the allocation of spaces was erroneous and he expressed his opinion that there should be flexibility to allow medical facilities to mark some spaces for temporarily handicapped or disabled individuals. Discussion covered various points regarding obtaining the parking stickers and other regulations not addressed by the proposed ordinance. Mr. Rothchild moved adoption of Ordinance 3982 as amended on Second Reading, seconded by Mr. Anderson. Mr. Hechler, citizen, asked for a further explanation of the forgiveness clause in sub-paragraph 5 of Section 2.(c); and commented on the permitting process. Mr. Rothchild called for the question. There being no one else to speak for or against, the Mayor closed the Public Hearing at 11:02 a.m.; whereupon the 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.

Let the record show that Mayor Billick recessed the meeting at 11:03 a.m. and reconvened it at 11:15 a.m. with the same members of Council present.

RETURN TO REGULAR AGENDA

AGENDA ITEM 8. Discussion with reference to installation of modular newspaper vending equipment. Requested by Jim Morris, Miami Herald, and Kenneth Tanner, Naples Daily News.

Jim Morris of the Miami Herald addressed Council and reviewed the information in his letter of March 22, 1982 (Attachment #2). Lyle Richardson, Chairman of the Naples Beautification Council, spoke in support of the concept, and also in support of relocation of some of the machines as noted in memorandum of Roger Barry, Community Development Director, dated March 30, 1982 (Attachment #3). Kenneth Tanner of the Naples Daily News spoke in support of the project. City Manager Jones noted Mr. Barry's memo and the suggested conditions regarding locations. Mac Mascioli of The Miami Herald spoke on the manner in which this type of project had been handled in Vero Beach regarding safe locations. It was the consensus of Council to return this matter to the City Manager for him to work out with the newspapers involved.

AS EARLIER APPROVED BY COUNCIL, AGENDA ITEM 16 WAS MOVED FORWARD TO THIS TIME

TRANSCRIPT OF AGENDA ITEM 16 - REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD ON APRIL 7, 1982

AGENDA ITEM 16. Discussion/action with respect to City's response to current law suits involving interval ownership. Requested by Councilman Rothchild.

MAYOR BILLICK: (Read Agenda Item title) I don't care who leads the discussion. Do you want to start off?

MR. ROTHCHILD: Thank you. That sounds rather (inaudible) I placed this item on the Agenda in order that the Council may reach a decision with respect to several questions raised by the filing of two suits which are designed to contest the provisions of our zoning code as it applies to interval ownership. And the first question is, should the City defend its ordinance? The reason I raise this question is because only the City Council can give the answer. The City Council confirmed that fact at its meeting March the 3rd of this year when it denied City Attorney Rynder's request to make decisions of this nature on his own. The second question is whether our existing ordinance on the general subject of zoning, with particular emphasis to time share --time share lodging, interval ownership and transient lodging are couched in such terms which will assure the City of the best possible defense against any attempt to thwart the will and desire of the people of Naples. If there are any deficiencies in our ordinances, they should be identified and corrected as quickly as possible so that we can face the future with less fear than we have at present. The corollary to the second question is whether under existing law, it is possible to accomplish our stated--stated objective; and that is to control the area in which time sharing or interval ownership use are to be located. The third question, as I see it, is to determine where how and by whom are we going to get the answers to the questions I just raised. Our city attorney is responsible for the language contained in our ordinances on this subject and it would be logical to assume that he would defend his own work. If he had any doubts with regards to the limitations placed upon the City by existing law, he should have so informed the City. It seems clear to me that the questions I have posed and the uncertainty which presently prevails in our City with respect to the lawsuits pending against us dictate that we take immediate steps to get the best legal information and talent available to us. I shall have some comments to make later, but I now request that this matter be discussed fully and frankly by the Council and members of the audience. If anybody wants me to repeat the questions, I shall.

MR. WOOD: Mr. Mayor, In fairness to the City Attorney, who with me has discussed interval lodging over the past two weeks, a statement was made that--by the City Attorney--that he could not get an impartial attitude on the part of the circuit judges in hearing some of the cases that he brought before them. I asked at a later date, after thinking that statement over, how he accounted for the fact that Judge Nelson, out of the area in which this circuit court is located, found against him in the apparent terminology of the White Sands case and was informed at that time that Judge Nelson admittedly, or visually, in the City Attorney's opinion, was not well acquainted enough with zoning to make a decision of this type. Yet, a decision was apparently made and, I think, again, in all fairness, I would like

to have the City Attorney explain his thoughts in regard to the aforesaid remarks, which make me quite unhappy.

MAYOR BILLICK:

Go ahead, Dave.

CITY ATTORNEY RYNDERS:

I've never said such a thing, Ken. What I said was, and I didn't refer to Judge Nelson at all, and I didn't refer to any prejudices of our local circuit judges at all. What I said was that zoning for circuit judges is a little bit of an unusual case for them to handle. The most of their cases are criminal matters, divorces, suits of negligence and stuff. And when you bring in a case of complex and sophisticated rules, like zoning, before them, you really have to start at the ground floor and educate them all the way up. And it's extremely difficult to do that. But I've certainly never said that I don't think our circuit judges could give us a partial -- I don't know what basis I would have for thinking they're not -- ah, impartial.

MR. WOOD:
impartial?

What basis they -- you think they're not

C.A. RYNDERS:

No, I never said that and I have no feeling that they're not impartial...

MR. WOOD:

I don't know how that interpretation came to me. (inaudible). because I discussed it with you twice.

C.A. RYNDERS:

When we discussed it, and I didn't see that you took any notes at that time...

MR. WOOD:

I didn't take any notes. I just refreshed my memory now...

C.A. RYNDERS:

Yeah.

MR. WOOD:

...in view of the fact that what you are about to say, and I think we discussed this, is you were more or less on your own in this thing and you had to fight it yourself to win the confidence of the City Council.

C.A. RYNDERS:

No, I didn't say that either. I thought -- I said that -- or at least I thought I said that the Council ought to make an informed decision about hiring outside counsel in this connection. It is something that ought to be studied. And in connection with that, I have discussed this particular litigation with other city attorneys around the state.

MR. WOOD:

That's what I was under the ...

C.A. RYNDERS:

Yeah...

MR. WOOD:

...impression..

C.A. RYNDERS:

...yeah...

MR. WOOD:

...that you had made the remark about, that you didn't need help in...

C.A. RYNDERS:

No, in fact...

MR. WOOD: ...and hopefully, you were going to do it yourself with other city attorneys.

C.A. RYNDERS: Well, I said that's one possibility. And another possibility would simply be that several cities who in fact have adopted our ordinance because they like it...

MR. WOOD: Yes, you told me.

C.A. RYNDERS: ...might even be willing to participate in the cost of hiring outside counsel. Or they may want to appear in this suit as amicus curiae, friends of the court, and carry -- hire their own attorney to do that. But there's -- in other words, there's many different alternatives. Many different ways it could be handled. And I said, it's not going to be a problem for me if the City Council, after reasonable discussion, decides that they do, in some way, want to engage additional counsel, that's perfectly all right for me. But...

MR. WOOD: But you don't recall making the statement that there was a possibility that the zoning ignorance on the part of the circuit judges was detrimental to (inaudible)...

C.A. RYNDERS: No, what you're saying here would bring me within contempt of court. I can't even imagine that I would...

MR. THORNTON: (inaudible) very unfortunate to have somebody put words in the mouth of the City Attorney, which he did not utter (inaudible)...

C.A. RYNDERS: (inaudible)

MR. WOOD: Well, just a minute. I'm not putting (inaudible)...

MR. ROTHCHILD: How, do you know that he didn't utter them?

MR. THORNTON: I think it's very unfortunate.

MR. WEIL: Mr. Mayor.

MAYOR BILLICK: Yes, Mr. Weil.

MR. WEIL: I don't want to get involved in this kind of thing, but I'd like to be heard.

MAYOR BILLICK: Well, please come up to the...

MR. WEIL: I'm not interested in (inaudible) and I don't think anything should be put on a personal basis.

MR. WOOD: Well, there was no...(inaudible)...

MR. WEIL: (inaudible) Wood did not put it on a personal basis. Now, I have something that I'm going to talk about

because I think it's important to the community. My name is Gilbert Weil and I'm a resident of this community and I'm a citizen here. And,

MR. ROTHCHILD: Would you hold, Mr. Weil, until you have the attention of all members of the Council?

C.A. RYNDERS: This is a crime.

MAYOR BILLICK: O.K. Dave, (inaudible)...

MR. ROTHCHILD: The City Attorney is right. It is a crime.

C.A. RYNDERS: Gee!

MR. WEIL: I hope I -- I'm not trying to get involved in all this so please -- I'm just here as a citizen who is very concerned about a situation developing in this community which I think ranks with -- in importance with what you're dumping into the Bay. Because you'll be dumping the City of Naples into the Bay if you have interval ownership throughout this community. Right now, you have 21 apartment motels who can't wait to see the White Sands case favorably decisioned by the Court of Appeals as was done by Judge Nelson. You have old apartment buildings here that were built 25 - 30 years ago that are starting to go down hill. The people that paid eighteen or twenty thousand dollars for an apartment at that time can't wait to grab between ninety and a hundred thousand dollars for that same apartment being bought out by these marketing specialists in interval ownership and time sharing. And when that happens, other than Port Royal, where you don't have any apartment houses and you don't have any commercial areas, you're going to have a terrific problem beginning with my area in Port -- in Park Shore, which also includes that Park Shore Resort Club, all the way down to the Mariners Cove on 13th, which is getting very close to Port Royal. Interval ownership is being promoted by the finest marketing specialists in this country. Interval ownership is the thing that is being promoted daily throughout the TV audiences. They have these great movie specialists, these actors, on TV promoting this, telling how they're buying these one week programs. This will happen in this community. I -- this has nothing to do with Dave Rynders as an individual, or as a lawyer; but in the field of law, it's gotten to be a specialty as complex as even this problem in this case is. In other words, in medicine you have doctors who take care of -- they're called obstetricians, you have an ecologist, you have neurologists you have urologists, and this is what's happening in law. And has been happening. Law, today, has become quite a special field in various parts of the law. I happen to have been a trial lawyer, which was a specialty. Other lawyers are, like Dave, specialize in municipal law or county law or state law. I think it's very incumbent upon the members of Council to address this problem as a serious one and to hire the specialists, and there are specialists, in zoning and in zoning ordinances and in appeal work before courts. And these specialists are necessary and are as important to this community in this problem as anything I can think of. A few moments ago, Dave said that, uhm, this was a complex problem that judges are not familiar with, if I understood your words.

C.A. RYNDERS: It's not the type of case they normally handle.

MR. WEIL: And that -- this is my belief that you need a specialist for this. I -- uh, I find that -- I'm not being critical of Mr. Rynders. I don't want to be misunderstood. But I learned as a trial lawyer, not too many years ago, well, we've got important parts of our law, called the Law of Discovery, where we could discover for the first time what our opponent or our adversary was going to prove in the case. And he could do the same to us. Many years ago, when I first started to practice law in 1931, I guess that was many years ago, the -- you never knew what the other side was going to spring on you and the other side never knew what you were going to spring on them. And so, in the trial of these cases, you have to be aware of the fact that you do have the right of Discovery. You have the right of specialists to testify. My own personal opinion in this particular one case is that I had been hopeful that the City would have their own specialist and not rely on City employees to defend that particular case. I think in these other cases that are being, as I understand it, there are two cases sent into court now; I don't know whether you have received the petitions. I'm hopeful that David will bring in a specialist to defend the City on the question of whether or not your ordinance is a proper ordinance. And I'm not here to try to say your ordinance is proper or improper. But there are men in this particular field who can say and can advise this community. I think the situation is serious enough that you'll allow your City Attorney to hire a specialist in this field, not only to advise you on the present ordinance, but to work with him on the appeal. On the appeal in the one case and the appeal -- any work that has to be done on these other two cases. That's what I have to say. I think it's a very important problem facing this... (inaudible)

MR. ANDERSON: Gil, I don't think that -- I don't believe that any member of this Council disagrees with you on the seriousness and undesirability of time interval in the City of Naples. We're quite accord with that, I'm quite sure. You realize that the White Sands case is one case. The two cases that are now being -- probably have been filed, I'm not sure of that either, there's one distinction. The White Sands case, they had sought this interval ownership before the ordinance was passed. And that has some merit, you know, (inaudible). The others came about after the ordinance was passed. So, that is the major difference in the two -- in the two types of cases. Now, whether that poses less of a problem for us, and I would suppose that it does, it's still a serious problem.

MR. WEIL: I don't know whether it does or not. To be very honest with you, I would feel that as -- I would feel that it all depends upon the interpretation of the courts on your present ordinances.

MR. ANDERSON: Now, that's what it boils down to.

MR. WEIL: Right.

MR. ANDERSON: You mentioned that earlier and I think you're right. It boils down -- is the ordinance itself constitutional, legal or capricious or whatever. Aside from when it was filed. I think that's going to be the issue.

MR. WEIL: Whatever (inaudible)...

MR. ANDERSON: That's what you're saying.

MR. WEIL: I think it's an important issue.

MR. ANDERSON: Yeah.

MR. WOOD: (inaudible) Mr. Mayor.

MR. ANDERSON: Excuse me just one second, Ken. Excuse me. Ah, and this is one we don't want to lose.

MR. WEIL: That's right.

MR. ANDERSON: O.K.? Ah, so I would have to get the advice from the City Attorney, what does he think his capabilities are, his chances are. Now, we're talking about -- I'm completely guessing, Gil. But we may be talking about a lot of money.

MR. WEIL: That's right.

MR. ANDERSON: And I -- fifty to a hundred thousand. I really don't know. But we're talking about a considerable amount of money, ah, to protect ourselves. Now, if that is desirable, it doesn't bother me. But if it's not necessary, then it does bother me and I can't make that judgment right now.

MAYOR BILLICK: For the record, this matter has been discussed with the City Attorney. And the City Attorney and I had a long discussion some time ago. We haven't gone to sleep on the project. Dave, one question. Was the White Sands case tried on a stipulation of facts?

C.A. RYNDERS: A stipulation of facts. Ahm...

MAYOR BILLICK: Do you have any argument with the facts? Or did you agree with (inaudible) the facts? (inaudible) you stipulate facts?

C.A. RYNDERS: I don't think we did. We put on testimony as to what the use of the property was before the zoning (inaudible)...

MAYOR BILLICK: Oh, you did?

C.A. RYNDERS: Yeah, right.

MAYOR BILLICK: I see.

C.A. RYNDERS: We had a stipulation that one of the affidavits which are normally not admissible in trial, that I had submitted with my memorandum in support of my motion for summary judgment, that one of those affidavits could be made -- or would become a part of the evidence in the record at the trial. And they stipulated to that, for reasons that I don't really know, but I felt that it helped us. But that's the only stipulation that I recall.

MAYOR BILLICK: Do you consider the issues in these two cases, apparently they're identical, to be really complex?

C.A. RYNDERS: Ah, in the two new cases, that we've got? Oh, yeah. We've got no body of zoning law dealing with treatment of time share, ah, facilities. You've got two recent acts of the legislature that have both discussed and defined regulated time share

facilities, neither one of which has yet been construed by a court. It's complex in the most serious way in terms of a suit involving land use litigation.

MAYOR BILLICK: Well, it's complex in attempting to, ah, guess how the court will go, but the issue as such is not a complex issue (inaudible)...

C.A. RYNDERS: The issue of distinguishing between certain types of transient lodging facilities and time share facilities can be stated in a straightforward way, but the evidence that would have to be presented to support that sort of a view is going to be very complicated.

MAYOR BILLICK: What is your recommendation?

C.A. RYNDERS: O.K. Just like I indicated before. I think the Council ought to make a, ah, advised decision about it. And we're not under any time constraints here. Ah, the matter ought to be discussed with some other cities. We ought to see what sort of help we can get from them. And, ah, maybe look around at the same time on our own to see if we want to hire someone else and when we've had a chance to look at that, then it ought to be brought back to the Council.

MR. ANDERSON: I think that's a good idea.

MR. SCHROEDER: I think it is, too.

MR. ANDERSON: That's a good idea.

MR. HOLLAND: Mr. Mayor, I would offer a suggestion. I don't know how it will be accepted, but I have heard many, many times that we have contacted the Florida League for recommendations. I know that we contacted them for recommendations when we were fighting one particular case here, four or five years ago. They recommended two or three people that they thought were quite capable then on the case. And I would assume that they are probably well informed on what attorneys in the state might have pursued cases like this and who they feel would be possibly the best help that we could find. And I would strongly suggest that we contact the League and ask if they could make a recommendation in this particular case. Because (inaudible)...

C.A. RYNDERS: I would be happy to do that.

MR. HOLLAND: ...many, many people that are strongly concerned about this thing. I think there are several of them still in our audience this morning. And it's a -- as Dave answered you, I think it is complex. And from what I've been told, there are state statutes that have considerable bearing apparently on this thing.

C.A. RYNDERS: Oh, yeah.

MR. WOOD: I would like to point out that I did not mean to infer as a statement what seemingly appalled Attorney Rynders. The statement was not a statement. It was a question. And if I did not word it as that, then I was in error and had no right to make the statement 'that he had said'. I asked him if he had said.

And he has denied it.

MR. ROTHCHILD: I'd like to go back to that, after I
(inaudible)...

MR. WEIL: (inaudible) can I finish what I wanted to say

MAYOR BILLICK: Oh, I'm sorry, I -- Gil, please do.

MR. WEIL: Mr. Anderson asked me -- stated something
about the amount of money that might be involved in hiring counsel.
I don't think a hundred thousand dollars is important on this question.

MR. THORNTON: He didn't say (inaudible)...

MR. WEIL: I don't think fifty thousand dollars is
important. I think the question should be solely should we depend
on the interpretation of this new statute. New ordinance, I should
say, not statute, merely on David, rely only on him, or should we
be given the help necessary to save this entire situation in this
community.

MR. ANDERSON: Dave -- Dave inferred, I understood him to
infer, Gil, that in talking with other cities we might get a little
financial help from them, if we go (inaudible)...

MR. WEIL: That's fine. That's fine.

MR. ANDERSON: ...and I think that's a good idea.

MR. WEIL: That's fine with me.

MR. ANDERSON: This is frequently done. School boards
(inaudible) together on the same thing and helped.

MR. WEIL: Oh, I'm sure it is. I just feel that the
com -- I think, he's expressed it. He said this problem is complex
and I think he ought to have the help of this entire community.

MR. SCHROEDER: Gil, before you go. You said, when you
started, that you didn't want to become involved in this thing. You have
become involved in it, and I think it's wonderful that people like
you do become concerned and involved in community affairs.

MR. WEIL: Thank you.

MR. SCHROEDER: So, don't disclaim your concern. I think --
I think it's proper.

MR. WEIL: Thank you.

MR. ROTHCHILD: Mr. Mayor.

MAYOR BILLICK: Just one second Craig, I'll catch you
next. Go ahead.

MR. ROTHCHILD: Red Holland suggested that it might be a
good idea if we got in touch with the Florida League of Cities and

ask them for some help. Well, I'd like to report that on Monday of this week, I did get in touch with the Florida League of Cities and I spoke with the son of the executive director. The executive director is Ray Sittig and I spoke with Mike Sittig. And I told Mike Sittig that we were faced with two suits that are going to question an ordinance that we had put on the books in connection with interval ownership. And I asked him if he was familiar with interval ownership and he said that he was. And I asked him to conduct a survey to find out whether or not any other cities in the state of Florida have been involved in suits involving interval ownership and to give me a complete run down on it. And I also asked him to get in touch with Claude Mullis, who is the legal counsel for the Florida League of Cities and who, prior to having that job, was the city attorney of Jacksonville. And, as I understand it, he is held in the highest regard by most attorneys in the state of Florida. I asked him to get in touch with Claude Mullis and to find out from Claude Mullis what other information that he could add to the survey that I had asked Mike Sittig to procure for me. He said that he would and I also asked him to ask Claude Mullis if he would give us a recommendation as to the person or persons that we might consult or contact with a view to assisting the City of Naples, not necessarily the City Attorney, but assisting the City of Naples with respect to the problem which is facing us. And he said that he would. And I told him that that question was most urgent and I would appreciate a phone call from Claude Mullis and at the least, a letter as quickly as possible. I just say (inaudible) that in reference to Councilman Holland's suggestion that the Florida League of Cities be contacted. I did contact the Florida League of Cities. Now, the reason why I'm very much concerned about this is that the language which is being attacked, which has been attacked, was the language that was drafted by Dave Rynders. That's one of the reasons why I said that if we asked him could he defend them? of course, he could. They're his words. If he thought they were not sufficient and not proper, he would have and he should have told us. He told us back in 1981, February, when the Park Shore Resort Club was in the news and was in the news for one devil of a long time, and there's a headline here, February 4, 1981, 'Lawyer says City is safe against excessive interval ownership development'. Well, since that time, he has been proven wrong. Certainly he has been proven wrong on the Napcon case initially. And there is a great deal of fear on the part of the residents of Naples with respect to these two other cases, the Puccaneer and the Sheraton. Now, he also, read Mr. Rynders, also had the Clam Court Marine case. And the circuit court ruled in favor of the petitioner, and I believe that's under appeal, but it's his language. It's true of the White Sands and the Edgewater Beach property. The circuit court ruled in favor of the plaintiff and the District Court affirmed the lower court ruling and those were his -- that was his language that was being attacked. The Lamar Citrus Outdoor sign ordinance, the court found the City ordinance was unconstitutional. The District Court affirmed the lower court's opinion -- decision. And the Supreme Court denied petition for writ of certiorari. So it seems to me that the one who is most under the gun is the City Attorney because it is his language which has been attacked. His language which has not found favor in the courts. And, so I believe, with all my heart that any defense of this most important problem be not entrusted to the hands of David Rynders in any way, shape, or form. I believe I....

C.A. RYNDERS: Mr. Rothchild has created an impression here that is completely wrong. The ordinance I have drafted in connection with time share facilities has not been tested in the court until these suits were filed last week. And they will come up for review by the court in future months. We haven't had any lawsuits that I have been involved in or the City's been involved in that have been lost on the basis of the interpretation of this new ordinance that we adopted.

MR. ROTHCHILD: There is a great fear that exists in the City of Naples.

MR. ANDERSON: Oh, my (inaudible)...

MR. ROTHCHILD: And, notwithstanding the groans on your right, Mr. Mayor, I'm satisfied that I speak the truth. I asked for and got a copy of -- I asked for a list of the cases that were involved, and you all have copies of them. And I would say that except for the little cats and dogs in here that have no importance, the major ones have been lost.

C.A. RYNDERS: There has been only one suit since I've been here that could be regarded as a loss. Mr. Rothchild very, ah, improperly related that in the case that he said we applied for a petition for certiorari to the Supreme Court, we won that law suit and then they appealed and they lost the appeal. I handled that appeal and the lower court sent -- or the upper courts sent back an order to the lower courts that the lower court's decision in favor of the City was affirmed. The property owner then petitioned to the Supreme Court for certiorari and the Supreme Court, on the basis of my arguments, denied their petition for certiorari.

MR. ROTHCHILD: In the memorandum we all have before us says the City filed a petition for writ of certiorari to the Supreme Court of the State of Florida and the petition was denied July 18, 1978.

C.A. RYNDERS: That was a law suit handled by your last city attorney and I had no part in that attorney's dealings. That was a case there was -- the petition was filed in February or January of 1978 when I was the County Attorney for Pasco County. I started working here in June of 1978...

MR. ROTHCHILD: I know. We (inaudible)...

C.A. RYNDERS: ...and the following month, Mr. Rothchild, the following month the Supreme Court denied the City's petition, which I had nothing to do with. To try to create an impression in people here today that I lost that case, and it was your prior attorney's handling, is a disgusting, ah...

MR. ROTHCHILD: Well, then you'd better (inaudible)...

C.A. RYNDERS: ...terrible lie.

MR. ROTHCHILD: ...for writing the resume the way it was written.

C.A. RYNDERS: (inaudible) The City did apply. The last

city attorney working for this Council did apply. And he did not persuade the city attorney -- the Supreme Court, that that petition ought to be granted. The bold-faced lie that Mr. Rothchild is trying to promote here is revolting. And a misfeasance in office.

MR. ROTHCHILD: Well, I was just (inaudible)...

MR. ANDERSON: (inaudible)
ALL TOGETHER: (inaudible)

MR. ANDERSON: I want to make one comment. Just one comment.

MAYOR BILLICK: Well, let me suggest it, will you? O.K.? (inaudible) you and me, too. We're getting into personalities here. We're getting -- losing our judgment... (inaudible)...

MR. ROTHCHILD: No, we're not getting into personalities, Mr. Mayor. We're talking about the City Attorney (inaudible)...

C.A. RYNDERS: Mr. Rothchild has been lying about me and has been lying about what that paper says and lying about the (inaudible)...

MR. ROTHCHILD: (inaudible) affidavit (inaudible) by Clayton Bigg that you drafted and you notarized and then that would prove your case. Go ahead.

MAYOR BILLICK: Well, I don't think we should leave that inference in here. What in the world is Clayton Biggs (inaudible)...

MR. ROTHCHILD: Well, don't you know that with Clayton Bigg signed an affidavit drafted by Dave Rynders and notarized by Dave Rynders, that's conclusive proof.

MAYOR BILLICK: Well, that has nothing to do (inaudible)...

MR. ROTHCHILD: I know that. I agree with you (inaudible)...

MR. THORNTON: (inaudible)...it's up to you to put a stop to this.

MAYOR BILLICK: Well, I don't -- is it your pleasure to break for lunch and come back at (inaudible)...

UNKNOWN: No

MAYOR BILLICK: ...we've already spent (inaudible)...

MR. ROTHCHILD: I'd like to continue. I'd like to continue, Mr. Mayor. And I'd like to continue the...

MR. THORNTON: Mr. Mayor, it's up to you to put a stop to this.

MR. ROTHCHILD: I'd like to continue the discussion that was raised by Ken Wood. I'm very much interested in that discussion and I'd like to have it clarified. Either Ken Wood heard or didn't hear what he said he heard.

MR. THORNTON: He's already apologized.

MR. ROTHCHILD: Well...

MR. WOOD: I corrected my statement in the form of a question. And interpreted apparently Mr. Rynders' thinks, in his appalled attitude, that he did not say that.

MR. ROTHCHILD: Well, did you have a conversation with the City Attorney?

MR. WOOD: I've had many conversations

MR. ANDERSON: Oh, (inaudible) this is another subject.

MR. ROTHCHILD: I should understand why you want to avoid it.

MR. ANDERSON: Mr. Rothchild, innuendo is the last resort of a desperate man.

MR. ROTHCHILD: Is that so?

MR. ANDERSON: And that is you.

MR. ROTHCHILD: I'm not desperate. Believe me, I'm very, very comfortable.

MR. THORNTON: Mr. Mayor, I think you should put a stop to this.

MAYOR BILLICK: Well, I have a pretty hard time muzzling Councilmen, and I -- I have a great hesitation.

MR. THORNTON: Not at all. Not at all.

MR. SCHROEDER: You have the power to do it. You (inaudible) the gavel of this meeting.

MR. ROTHCHILD: I don't understand your reference, Mr. Mayor. Why would you want to muzzle anybody.

MAYOR BILLICK: That's what I just got through saying. I have...

MR. THORNTON: That's what you do with dogs.

MAYOR BILLICK: ...a hesitation to (inaudible).

MR. ROTHCHILD: Well, I -- I -- I -- I compliment you for that, for the hesitation.

MR. SCHROEDER: Translated (inaudible)...

MAYOR BILLICK: By the same token, I do think it's extremely important and I've said it over and over again and I can't get the point across to anybody except the audience that dignity and decorum on this Council are an absolute must. That these kind of charges and counter-charges and finding something to throw this meeting into

chaos every single meeting is a disgrace to the City of Naples.

MR. ROTHCHILD: And I agree with you. I agree with you
(inaudible)

MR. SCHROEDER: You're absolutely right.

MR. ROTHCHILD: I agree with you.

C.A. RYNDERS: Mr. Mayor, can I ask (inaudible)...

MR. ROTHCHILD: (inaudible) truth.

C.A. RYNDERS: ...I want to ask the Council to give me an opportunity to go through this list of cases that Mr. Rothchild has slandered me on and illustrate what precisely the history of the litigation of this City since I've been here. And I think I have a right to do that with the lies that Mr. Rothchild has already broadcast. The despicable (inaudible)...

MAYOR BILLICK: What do you think you would like to do.

C.A. RYNDERS: I'm going to go through the list that was prepared and that Mr. Rothchild was waving around as showing that all these suits have been lost or the City has suffered in connection with litigation I've handled. And I think when I get through this list and I think I ought to be permitted to clear up the record on it, that the City will be extraordinarily pleased at the way I have handled litigation for this City.

MAYOR BILLICK: When do you want to do that?

C.A. RYNDERS: Just right now. Right now.

MR. HOLLAND: That being the case, I would move for adjournment until two o'clock for lunch (inaudible)...

C.A. RYNDERS: That is -- Red, please give me the chance to refute this guy (inaudible)...

MR. HOLLAND: (inaudible) all you want to, but I'm not going to sit here 'til four o'clock (inaudible)...

C.A. RYNDERS: You don't have to. I just want to explain for the public what -- the lie that Mr. Rothchild just (inaudible)...

MAYOR BILLICK: You're asking (inaudible)...

MR. ROTHCHILD: (inaudible) do you hear -- did you hear his allegation just now?

MAYOR BILLICK: He's asking for a recess 'til two.

C.A. RYNDERS: No, I -- I'd like to -- these people (inaudible)...I can't -- I (inaudible)...

MR. HOLLAND: (inaudible) has nothing to do with the question (inaudible)...

C.A. RYNDERS: Mr. Rothchild just broadcast a bold-faced lie, the truth of which can be exposed for everyone here. And we'll know then the nature of Mr. Rothchild's approach to his work.

MAYOR BILLICK: I would personally recommend to this Council that the -- it's going to take us time, I'm sorry about this. I think we need some cool off period -- a cooling off period here. And I'd like to see us recess until (inaudible)...

C.A. RYNDERS: Could we get a motion on that? I would like the chance to straighten the record out right now.

MAYOR BILLICK: (inaudible) to give you the opportunity at two o'clock to do just that.

C.A. RYNDERS: Two o'clock. These people aren't going to come back. This is just crazy.

MR. KISER: Mr. Mayor.

MAYOR BILLICK: Yes, go ahead, Craig.

MR. KISER: My name's Craig Kiser. And I live at 2050 Snook Drive. I'd just like to make two observations with respect to the Buccaneer and Sheraton Inn as well as the White Sands cases. First is that although interval ownership time sharing is relatively new in the state of Florida, there are other states and other places that it is not that new. And I would urge that if we are going to seek additional help and information, suggestions, that we go outside of Florida as well as to the Florida League of Cities. The American Municipal Association could help. The American League of Cities. There are various sources. Secondly, I would also urge that the City consider, in addition to the actual appeals--litigation that it is facing, that it consider seeking some assistance in looking at its whole approach to the regulation of interval ownership to try to get some kind of a consensus on whether or not the City has taken the right approach and I don't mean by that that they have taken the wrong approach. But that, as Mr. Rynders has said, it is a new area, a new statute. It has not been construed by the courts. And, if we pursue the litigation and ultimately lose, then, as Mr. Weil has pointed out, there are many others sitting out there who would file applications to do the very same thing immediately upon the City losing. We'll be far better served to take a look at our ordinances and our whole approach of regulation and tighten up wherever it could be tightened up in the interim. That's all I have to say.

MAYOR BILLICK: Thank you, Craig.

MR. ROTHCHILD: Thank you, Craig. That's exactly what I had raised with my second and third question. And I agree with you.

MR. THORNTON: Well, I think it should be also said that the City Attorney was, ah, perfectly amenable to the idea. He thought it was a good one, getting expert help from outside.

MR. ANDERSON: That's what I think we left -- left it, was to check around with all these people...

MR. THORNTON: We've been over all this.

MR. ANDERSON: ...and come up with some kind of a recommendation.

MAYOR BILLICK: How long will it take you to discuss that list?

C.A. RYNDERS: You mean to make these contacts with other city attorneys and ...

MAYOR BILLICK: No, to discuss this list (inaudible)...

C.A. RYNDERS: Oh, this. I think less than five -- eight minutes. It's not extraordinarily long.

MR. ROTHCHILD: I'm willing to wait.

MAYOR BILLICK: I -- I think -- well, I think he's entitled to do it now before (inaudible)...

MR. ROTHCHILD: I'm willing to wait.

C.A. RYNDERS: O.K.

MR. ROTHCHILD: I'm willing to wait to listen to it. I'll listen to it until ten o'clock.

MAYOR BILLICK: Go ahead.

C.A. RYNDERS: The first case, Bernard (inaudible) Certified Diamonds versus the City. They filed a complaint for replevin of property that we were supposedly holding in our police department. I moved to dismiss the case and the court dismissed the case. They had to re-file in another county. And they re-filed, joined the City again, after we have already disposed of the property, they are not entitled to their replevin suit now. The Buccaneer Motel Corporation versus the City. This is the suit that was filed last week which we haven't even responded to. City versus Bigley's, Inc. It's a suit we filed some months ago to recover damages of \$5,000 or more. The defendant has already offered to settle for almost that amount of money. The City versus the -- that's simply the consent order we're exchanging right now and the City Council is going to review in two weeks to see if we want to accept their proposal or not. Clam Court Marina Trust v. City. This is a petition for certiorari filed by a land owner arguing that the City had improperly denied him a variance. This decision was against the City in the lower court. We have filed an appeal. Continental Insurance Company versus the City of Naples Airport Authority and the City of Naples. This is suit for damages from an airplane that crashed. Just two weeks ago the Federal court in Miami, ah, dismissed the claims that were for monies in excess of our limitation under the sovereign immunity statute and we're covered by insurance for whatever's below that, so we have no danger of monetary loss then. We have three suits involving the Department of Transportation condemning certain easements that the City has had. These are pending trial. In the suit Fiske versus the City of Naples -- this is a suit that I took over upon getting here and the defen-- or the plaintiff involving the (inaudible) lost in the trial court. He appealed to the Second District Court of Appeals. The Second District affirmed the City's trial court victory. Then made appeal to the Supreme

Court and that appeal was denied. And I handled that litigation. Handicapped In Action versus City, obviously we have settled the case today and Mr. Register has indicated that he'll send a stipulation. Two of the suits still in operation, Martha Nelson versus the City of Naples is a suit that hadn't gone to trial yet involving zoning action that we undertake. The Napcon suit is next. That's under appeal. And the Sheraton-Edgewater suit versus the City is obviously, that's the one which was filed last week. Venetian Bayview of Naples versus the City is a complaint to get a declaratory decree about a judgment that this outfit lost the last time around. And now they're claiming that they ought to get different relief. The judgment became final in the previous litigation and we have yet to take this to trial to find out what the court's going to do here. In litigation that's already been closed on behalf of the City -- now, we're getting to what I've handled since I've been here and is no longer active. The Airport Authority versus the City. This suit was resolved by amendment to the Airport Authority Act and both parties, the City and the Airport Authority, stipulated to dismissal. The City of Naples versus John Bailie and William Engel. This is a suit against -- ah, I should say this is a counter-claim against the City for damages and to enjoin the City and County from entering upon their property for purposes of constructing a water line. They just voluntarily dismissed their suit after we had discussed settlement. The City versus Collier County, the double taxation suit. This suit was dismissed by agreement of the City and the County whereby the County relieved the City taxpayers of over eight hundred thousand dollars in taxes that year and will continue to relieve the City taxpayers of more than eight hundred to a million dollars in taxes in future years. That's money that's being saved right now and money that the taxpayers here have already enjoyed and will continue to enjoy...

MR. ROTHCHILD: (inaudible) for that to Gil Weil.

MR. WEIL: You'll give a little credit to me, won't you, Dave?

C.A. RYNDERS: Gil was very helpful. He had his own attorney in connection with this. The matter was resolved between the City and the County on the basis of some reports that were developed by experts in the field, another situation where we retained them, and both parties have been very happy with it. The City versus Gooding et al was an imminent domain proceeding to acquire easements for our Golden Gate water line. We attained them all and avoided paying any more than minimal court costs. In other words, we avoided their attorneys' fees and avoided their experts' fees in connection with that. Department of Environmental Regulation versus Nicholson et al. This was also dismissed by the DER on their own voluntary basis and we did not get taken to task in connection with that. Edgewater Beach Properties, Inc. versus the City. This was the one appeal that went up from a case that we tried a year ago and the Appellate Court reversed and ruled against the City in connection with this. This is the only zoning suit I have lost to date that has gone to a court of last resolution. Charles Holly versus the City of Naples. That's where the plaintiff sued on behalf of its class for an excess of sixty thousand dollars paid by members of the class paying parking tickets in the City. The lower court determined that the City did not have an obligation to simply mail out that sixty thousand dollars to people who are listed as the owners of automobiles registered under

the license plates on those cars. Circuit -- the matter was appealed. The City won that which is to say they won that -- the matter was appealed to the Second District Court of Appeal and they said that while you don't just have to just automatically mail out checks, you do have to publish for two weeks and see how many people come forward, and want to get their refunds. We paid a total of five hundred and nine dollars out of the sixty thousand dollar claim. Lamar Citrus was the one that Mr. Rothchild fabricated in connection with making it appear that I had lost this. This suit was a sign ordinance suit which was tried before I was here, which went on appeal before I was here, which went to the Supreme Court before I was here, but the Supreme Court issued their denial of the City a matter of six or eight weeks after I was here.

MR. ROTHCHILD: Will you please read that so that we can understand what you said.

C.A. RYNDERS: 'Suit contesting City's sign ordinance which prohibited non point-of-sale advertising signs. The Circuit Court found the City's ordinance unconstitutional insofar as it prohibited non point-of-sale advertising. The City appealed to the District Court of Appeal' I believe that was Mr. Fletcher who handled that, 'which affirmed the lower court's decision December 21, 1977' a point time when I was employed by another governmental agency,

MR. ROTHCHILD: (inaudible)

C.A. RYNDERS: 'The City filed a Petition for Writ of Certiorari to the Supreme Court of the State of Florida.' Those petitions must be filed within thirty days of the December 21, 1977 date, so that petition was old and stale five months before I came on board with the City of Naples. (inaudible)...

MR. ROTHCHILD: (inaudible) your secretary include this when I asked...

C.A. RYNDERS: You asked...

MR. ROTHCHILD: ... (inaudible) list of cases that you were involved in?

C.A. RYNDERS: She said your question was 'City of Naples litigation from April 1978 to March 30, 1982'.

MR. ROTHCHILD: That is not true.

C.A. RYNDERS: Well, you'll have to take that up with her, Mr. Rothchild.

MR. ROTHCHILD: If. (inaudible)...

C.A. RYNDERS: Mr. Rothchild, the answer's been made in connection with that. If you have run aground in that instance, you just (inaudible)...

MR. ROTHCHILD: You're losing your (inaudible)...

C.A. RYNDERS: I sure am.

MR. ROTHCHILD:

Uhm, uhm.

C.A. RYNDERS: The next one is Mid-America Homes versus the Planning Advisory Board and the City: Complaint for Declaratory Relief to determine the validity of a Planning Advisory Board amendment to some approved development site plan. I filed a motion to dismiss it for failure to prosecute and the court dismissed it. Park Shore et al v. the City. This was a major piece of litigation challenging the validity of the City's water and sewer impact fees and requesting refund of those water and sewer impact fees in the amount of two million three hundred and eighteen thousand dollars eight hundred and sixty-one. Dismissed upon stipulation of the parties October 9, 1979. Through my discussion with that plaintiff, they came to understand that their best interests were served if the City did collect and retain those impact fees so that we could then provide in our community for the continuance of -- of water sewer -- water service and sewer service and that they would be able to get a reasonable use out of their property. They just dismissed the suit themselves with prejudice when they came to understand that and I guarantee you, it wasn't easy to make them understand that. The Pevely Dairy case versus the City. This was a case involving a request for a seawall construction permit. We went to trial on this case ten days after I worked for the City. The Federal Court told them that it seemed to him that the City was going to work this out reasonably with them without giving them a seawall permit. They objected to that. When we made our offer, they decided to accept and the stipulation for dismissal was filed on both sides very happily. Taylor & Smith versus the City is a suit objecting to sewer assessments in a sanitary sewer district. Stipulation and order dismissing the Taylor suit filed April 13, 1978. That's before I came on board. There are four suits against the City's insurance company which are litigations that I do not handle. And that's it.

MR. ROTHCHILD:

Ah, Mayor Billick. I referred to the list and I said there are a lot of cats and dogs in there that I didn't think were worth mentioning. I did mention four cases. The Clam Court Marine case, Circuit court ruled in favor of the petitioner and it's on appeal. The Napcon White Sands case, we've lost that (inaudible) and that's probably on appeal. The Edgewater Beach Property, the Circuit court ruled in favor of the plaintiff and the District court affirmed the lower court ruling. And the Lamar Citrus outdoor sign ordinance, the Circuit court found the City ordinance was unconstitutional, District court affirmed the lower court's decision and the Supreme Court denied the petition for writ of certiorari. According to the information furnished to me. And those are the only four observations I made. And I don't believe that this long and lengthy dissertation by -- or recitation by the City Attorney in any way changes what I said. Now (inaudible)...

C.A. RYNDERS:

(inaudible) cases out of two dozen isn't a bad record and of those four, three are now on appeal.

MR. ROTHCHILD:

And according to what I understood you had said to -- to Mr. Wood, you haven't got a chance on appeal, as long as (inaudible)...

C.A. RYNDERS:

If you repeat that lie, Mr. Rothchild...

MR. ROTHCHILD: Yes.

C.A. RYNDERS: ...that Mr. Wood has already said was a misunderstanding, one more time, you will find yourself in litigation.

MR. ROTHCHILD: Is that a fact?

C.A. RYNDERS: Yes..

MR. ROTHCHILD: Well, perhaps you can get an affidavit signed by Clayton Bigg.

C.A. RYNDERS: Clayton Bigg told the truth when he said that you tried in an underhanded way to get him to change his vote.

MR. ROTHCHILD: (inaudible)

MR. WEIL: May I say that this is not -- I'm saying this as a citizen of this community ...

MR. THORNTON: You're absolutely right, Gil.

UNKNOWN: I agree with you.

MR. WEIL: ...I hope that you won't forget the plea we're making regarding interval ownership. Thank you.

MAYOR BILLICK: Right. I think we'd better break for lunch. We have a long way to go.

MR. THORNTON: Well, you're never going to get there, Mr.. Mayor, unless you -- unless you establish some kind of ground rules for this Council.

MAYOR BILLICK: I'm inclined to agree with you.

MR. THORNTON: If you do not do so, we're going along with the same unproductive....

MAYOR BILLICK: Well, I'm going to come back to you on that. I hesitated to do that. It hasn't been done before as I understand.

MR. THORNTON: Oh, yes, it has been done.

MAYOR BILLICK: No, it hasn't. We've never had a limit or any procedure (inaudible).

MR. THORNTON: Well...

MR. ROTHCHILD: We had no rules (inaudible)...

MAYOR BILLICK: (inaudible) never heard about (inaudible)...

MR. THORNTON: If you don't (inaudible) this man, he's going to destroy -- he has destroyed (inaudible)...

MAYOR BILLICK: Well, let's forget 'this man'. I...

MR. THORNTON: No, I can't forget it. I'm telling you...

MAYOR BILLICK: Well, I'll come back...(inaudible)...

MR. THORNTON: ...(inaudible). This is your problem and you have to solve it.

MAYOR BILLICK: I'll come back with some procedural rules that will apply to the whole Council, if you adopt them.

MR. ROTHCHILD: Would you adopt the Roberts' Rules of Order? We have no rules of order, you know. The rules of order are made up in the mind of the City Attorney, I was told.

C.A. RYNDERS: Another lie. Gee.

MR. ANDERSON: O.K.

MAYOR BILLICK: O.K. We'll reconvene at two o'clock, if that's o.k. (inaudible)

C.A. RYNDERS: He is a stranger to the truth.

(Let the record show that Mayor Billick recessed the meeting for lunch at 12:30 p.m. and reconvened it at 2:15 p.m. with all members of Council present.)

MAYOR BILLICK: Let's let the meeting reconvene.

MR. WOOD: Did you take a vote on that yet (inaudible). Do I have the permission of the City Council to go to Orlando.

UNKNOWN: (inaudible)

MR. ROTHCHILD: You've got my vote, Ken.

MAYOR BILLICK: O.K. We're still on an unfinished discussion, I assume, with respect to Item number 16.

MR. WOOD: I'm there.

MAYOR BILLICK: And I think we ought to try to conclude this with some sort of consensus, whatever it may be.

MR. HOLLAND: I made a recommendation that we contact the League of Cities and/or anyone else that might be able to furnish the names of qualified people that might be considered to assist in these cases. Whether that's suitable or not, I don't know.

MAYOR BILLICK: Is that a motion, Red?

MR. HOLLAND: I'd make a motion to that effect.

MAYOR BILLICK: Is there a second to that motion?

MR. SCHROEDER: Red, I'd like to add one thing to it. Not only the Florida League of Cities, but any other organization that

may have information that would help us.

MR. HOLLAND: That's what I said, Hamp, (inaudible)

MR. SCHROEDER: For example, the Florida Bar Association should probably be contacted ...

MR. WOOD: Oh, (inaudible)...

MR. SCHROEDER: ...for specialists in the particular area that we're interested in. I don't think we should limit it to one organization.

MR. HOLLAND: I didn't. I think I added it to it, if Janet'll read it back.

MAYOR BILLICK: O.K. That's fine. (inaudible) in agreement. Is there a second to that?

MR. SCHROEDER: Oh, I'll second it.

MAYOR BILLICK: O.K.

MR. THORNTON: I'd like to hear the thing read. I haven't the faintest idea what was said.

CITY CLERK CASON: 'Contact the Florida League of Cities and all other organizations...'

MR. THORNTON: Who -- Who's going to contact them?

CITY CLERK: That the City Attorney contact...

MR. THORNTON: City Attorney? All right. It should be spelled out in that thing.

MR. ROTHCHILD: I didn't hear it.

CITY CLERK: 'City Attorney contact the Florida League of Cities and all other organizations.'

MR. THORNTON: And what? What's he going to do when he gets them?

CITY CLERK: To get -- receive help.

MR. HOLLAND: Regarding the recommendation of anybody that's a professional in this field that might be of assistance to the City.

MR. THORNTON: Is he going to report back to us?

MR. HOLLAND: Yes, sir.

MR. THORNTON: Oh, you didn't say that, did you?

MAYOR BILLICK: As I understand it, Dave, you say we're not under any time constraints.

C.A. RYNDERS:

No.

MAYOR BILLICK:

...in particular. So, we're going to have time to take another look at it.

C.A. RYNDERS:

Yeah. I'm going to file some motions that can be amended. They probably won't be set for hearing for months and our response doesn't have to be until after that, so...

MR. ROTHCHILD:

If that is so, then I would suggest that no action be taken at all.

MR. WOOD:

I would like to know (inaudible) situation.

MR. ROTHCHILD:

(inaudible) and then -- let us see, let us see how things unfold between now and the time when it does become important for us to make a decision.

MR. HOLLAND:

The suits have not been filed?

C.A. RYNDERS:

The suits have been filed. The City's been served. The -- what comes next in this proceeding is you have a choice of either answering the allegations of the suit; or, if you feel that the suit lacks legal substance, you file motions to dismiss of one kind or another.

MR. ANDERSON:

I believe we ought to use all the time we've got.

C.A. RYNDERS:

What I intend to do -- there are some deficiencies, I think, that exist in both pleadings. And I think I'm going to file motions to dismiss on a number of different grounds. Those motions, because of the trial court calendar being so busy, those motions won't be set probably for hearing for several months. And it wouldn't be 'til after that, if at all, I had to file an answer to the suit.

MR. ROTHCHILD:

On the basis of what I just understood, if there is no urgency, I don't see any point in our going out to try to find someone. We've got lots of time. We can all, individually, if we wish, check with the University of Florida Law School. We can check with Florida League of Cities. We can check with the Florida Bar Association. We can check with other attorneys. And I think it (inaudible)...

MAYOR BILLICK:

Well, there is the question of how are we going to do that.

MR. ROTHCHILD:

Well, we have lots of time, you say.

MAYOR BILLICK:

Well, I know that, but I didn't mean that in the sense that we should waste the time after talking about all this. I'm just saying the Council will have another look at this and we ought to take a look at what the help is.

MR. THORNTON:

Mr. Mayor.

MAYOR BILLICK:

Yes.

MR. THORNTON: There's probably only one or two law firms that are preeminent in this particular field and I think we ought to find out who they are. There's no expense attached to that. And I think the City Attorney has the motion -- I think-- that spells out...

MR. ANDERSON: Well, the motion was to contact anybody and everybody. That's what we (inaudible)...

MAYOR BILLICK: And come back to us with a suggestion.

MR. ANDERSON: Come back to us with what he's found, yeah.

MR. THORNTON: Yeah, yeah.

MR. ANDERSON: That sounds clear enough to me.

MR. SCHROEDER: For -- for example...

MR. ANDERSON: Let's vote on it.

MR. SCHROEDER: ...there are collateral experts in this sort of thing. There are experts who are not attorneys. Experts in zoning law and in fact, in environmental problems, in comprehensive plan problems. As a matter of fact, Napcon has probably got the preeminent one in the state, Ernest Bartley. I think that is a field that we should investigate also. So, I don't think it should be tied down to any areas. (inaudible)...

MAYOR BILLICK: I don't think we did.

MR. SCHROEDER: ...get the information we need.

MAYOR BILLICK: I don't think we did.

MR. SCHROEDER: And I don't think it takes a motion to do it. I think a direction by the Mayor to -- or Council -- to do it...

MAYOR BILLICK: Well, I'd prefer the motion. Will you poll the Council?

MR. THORNTON: Actually, it wasn't a motion, anyway.

ALL TOGETHER: (inaudible)

CITY CLERK: There was a motion and a second.

MR. ROTHCHILD: Yeah, well, I'd -- I'd like to ask a question. Ah, do you -- do you believe that it is necessary for us to get another attorney on this?

MAYOR BILLICK: Are you asking me?

MR. ROTHCHILD: Yes, I'm asking you.

MAYOR BILLICK: Well, I haven't made up my mind yet. Ah, I have -- and I did not come on this Council to practice law. I have some very strong feelings about this law suit, the importance of it. I do not consider it a complex law suit. I think it has a

very simple legal issue. It's not going to be a trial of the facts. I think you'll almost stipulate the facts. Ah, I want us to get all the help we can. It's a very vital issue. It's complex in that sense.

MR. ROTHCHILD: Help in what area?

MAYOR BILLICK: Well, I don't want to be the one to deny help. I do not consider the legal issues of this suit to be that complex. The question is whether this court will do one simple thing -- ignore the state statute that says this Council doesn't have the power to zone on the basis of ownership. That's the single issue that's going to be before this court, no matter who tries this case.

MR. ROTHCHILD: Then, are you saying -- are you saying (inaudible)...

MAYOR BILLICK: Do you agree with that, Dave?

C.A. RYNDERS: I see a couple other issues. That is the core issue to the suit that we've just been through with Napcon.

MAYOR BILLICK: The one we have to overcome or we don't have a prayer.

C.A. RYNDERS: Yeah, and in a way we probably did overcome that through some acts in the Legislature last spring.

MR. ANDERSON: Well, Dave -- David is going to talk to all these people and he'll get a pretty broader overview of it. Ah, and we can benefit from that when he comes back and tells us all these things he's found.

MAYOR BILLICK: I don't want to call the shots on that legally.

MR. ROTHCHILD: Well, but the -- but the reason I brought it up is that if -- if you are correct in your assessment, that this is not a complicated issue and that's going to turn on the judge's interpretation of the law, then it wouldn't make any difference who our attorney was. And I put that in the perspective of a hundred thousand, fifty thousand and so forth that was -- that was bandied about here today.

UNKNOWN: What do you mean?

MAYOR BILLICK: Do I think this is a hundred thousand dollar outside-counsel's job. No, I do not think (inaudible).

MR. ROTHCHILD: All right. Then now we're getting somewhere. If you are correct, and I have no reason to suggest that you're not, that this is not one of great knowledge on the part of the attorney but just has to present the facts and that the judge is going to make the determination. That -- that is what you're contending. If that is so -- if that is so, then I think that that puts a different view on this thing as to whether or not we are going to be prepared to hire the best or the most expensive merely because he is the best

or most expensive.

MAYOR BILLICK: The point of this -- this is not a Clarence Darrow-type of law suit. This will not be an impassioned plea to the jury. It won't be a difficult problem of presenting the facts. I think you'll probably only stipulate to the facts. You have some core legal issues, period, that are going to be (inaudible)...

MR. ROTHCHILD: Well, now the City Attorney said (inaudible)...

MAYOR BILLICK: (inaudible) I'm not trying (inaudible)...

MR. ROTHCHILD: ...issues, said there were other issues. I'm wondering what they are.

MAYOR BILLICK: I'm not trying to make this decision and I won't. I didn't come here to practice law. You're just asking me for my judgment (inaudible) with this thing and...

C.A. RYNDERS: Do -- Do I understand, correctly, though, ah, the answer to the question as to whether this City Council has the right to regulate land use on the basis of ownership -- I don't think they do. And I'd be surprised if I -- if you thought they did. No, I (inaudible)...

MAYOR BILLICK: I don't. I don't.

C.A. RYNDERS: Right. So, that is one of the issues because that's what the opposite side is going to make the issue.

MAYOR BILLICK: (inaudible) your whole case.

C.A. RYNDERS: Right. My job, or whoever handles this job, is going to be to try and show that that's not the issue. The issue is where there are real differences between time share facilities in their -- in the manner that they are used and other hotels and motels (inaudible).

MAYOR BILLICK: All I'm saying is this Council can sit here and adopt ordinances from now until next month on this subject and if the court says the same thing it did in the Napcon suit, you can just drop them all in the wastebasket.

C.A. RYNDERS: Well, I think there are some helpful differences. In the Napcon (inaudible)...

MAYOR BILLICK: Well, I do, too. No, I'm not arguing that. I'm just saying, if it says the same thing, the controlling issue in this case...

C.A. RYNDERS: Is ownership.

MAYOR BILLICK: ...is ownership, we can...

C.A. RYNDERS: Oh, yeah.

MAYOR BILLICK: ...we can adopt every...

C.A. RYNDERS: We've lost. (inaudible) we've lost as soon

as they decide that.

MR. ROTHCHILD: Then how do we -- then how do we, ah, translate what we want in there, and (inaudible) to say that the change of ownership is a change of use?

MR. THORNTON: (inaudible)

MAYOR BILLICK: (inaudible)

MR. ANDERSON: We -- we're about trying the case here. Let's -- let's -- let's let Dave, like the motion, look around. He may find out something from talking to these experts that we would like to know.

MR. ROTHCHILD: Well, all I was trying to do was to (inaudible) this from the suggestion of the hundred thousand and fifty thousand for what it really is. Just a presentation of the facts. O.K.? And that anybody could do it.

MAYOR BILLICK: Well, I'm (inaudible) that.

MR. HOLLAND: Mr. Mayor, I didn't intend the motion to do that, as it now seems that it is.

MR. ANDERSON: Well, you're all right, Red. This just (inaudible)...

MR. HOLLAND: I don't whether I am or not. Because I made the motion that we request from the League of Cities and any other organization that might be qualified to give us information as to who they consider to be the best qualified to assist in defending these cases. That was the motion that I made, right?

MR. ANDERSON: That's all right.

MR. HOLLAND: And if we get those answers and then bring it back for the discussion at the next meeting and when the Council and the Attorney, if we see fit to bring somebody in, fine and if you don't, fine.

MAYOR BILLICK: I wouldn't oppose that for a minute. I think it's a good motion.

UNKNOWN: Second.

MAYOR BILLICK: Will you poll the Council.

Mr. Anderson	Yes
Mr. Holland	Yes
Mr. Rothchild	Yes
Mr. Schroeder	Yes
Mr. Thornton	Yes
Mr. Wood	Yes
Mayor Billick	Yes

MR. ROTHCHILD: Very persuasive, Red. Very persuasive.

MAYOR BILLICK: O.K. We'll move to Agenda number 9.

AGENDA ITEM 9. Discussion/action with reference to donation to Naples Community Hospital of a 1960 model fire truck no longer in service. Requested by Fire Department.

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

A RESOLUTION AUTHORIZING THE DONATION OF A SURPLUS FIRE TRUCK WITH WATER PUMPING EQUIPMENT TO THE NAPLES COMMUNITY HOSPITAL; AND PROVIDING AN EFFECTIVE DATE.

Mr. Wood moved adoption of Resolution 3983, 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 10. Acceptance of sidewalk easement from Collier County School Board. Requested by Engineering Department.

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

A RESOLUTION ACCEPTING AN EASEMENT FROM THE SCHOOL BOARD OF COLLIER COUNTY FOR CONSTRUCTION OF A SIDEWALK ON THE SOUTH SIDE OF 22ND AVENUE NORTH, BETWEEN NAPLES HIGH SCHOOL AND GOODLETTE ROAD; AND PROVIDING AN EFFECTIVE DATE.

Mr. Holland moved for adoption of the resolution, seconded by Mr. Wood. City Manager Jones noted his memo to Council dated April 1, 1982 (Attachment #4). Mr. Schroeder noted the similarity to the situation relating to the sidewalk between Poinciana Village and the Poinciana School along Airport Road. John McCord, City Engineer, did not feel it was same situation. In response to a question from Mr. Rothchild, however, Mr. McCord noted that the School Board would have to maintain the sidewalk, which was already in place, if the City did not accept the easement. He further agreed with Mr. Schroeder that acceptance was less than desirable. After further discussion, it was the consensus of Council that positive action was not in the best interests of the City at this time and 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.

AGENDA ITEM 11. Acceptance of existing Naples Beach & Tennis Club sewage collection system. Requested by Engineering Department.

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

A RESOLUTION ACCEPTING EASEMENTS AND BILLS OF SALE RELATING TO THE SEWAGE COLLECTION SYSTEM FOR THE NAPLES BATH & TENNIS CLUB; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder moved adoption of Resolution 3984, seconded by Mr. Thornton 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. Authorization to enter into an agreement with Florida Department of Environmental Regulation providing coastal zone management funding for design engineering of beach public parking improvements at six beachends. Requested by Engineering Department.

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

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF NAPLES AND THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION RELATING TO FUNDS FOR PUBLIC BEACH ACCESS IMPROVEMENTS; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder moved adoption of Resolution 3985, 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 13. Discussion of ordinance to provide for the designation of certain employees of the City as code enforcement officers for the purpose of enforcing the provisions of the City's ordinances. Requested by the City Manager.

City Manager Jones reviewed the proposed ordinance and the reasons for proposing it and how the designated employees would be trained. Mr. Holland noted his opposition to giving the right to issue a citation to anyone but a certified officer. Mr. Rothchild suggested the possibility of hazard to the employees so designated with no provision for compensating the individual for the hazard. At Mr. Schroeder's request, City Attorney Rynders read the below captioned draft of the ordinance for Council's consideration prior to circulating the proposed ordinance to civic groups who may have an interest in this program.

AN ORDINANCE RELATING TO ENFORCEMENT OF CERTAIN ORDINANCES OF THE CITY OF NAPLES; AUTHORIZING THE CITY MANAGER TO DESIGNATE CODE ENFORCEMENT OFFICERS; AUTHORIZING SAID OFFICERS TO ISSUE NOTICE TO APPEAR; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO PROVIDE FOR THE ISSUANCE OF NOTICES TO APPEAR FOR VIOLATIONS OF CERTAIN ORDINANCES OF THE CITY.

Mr. Schroeder moved approval of the proposal, seconded by Mr. Thornton. City Attorney Rynders reminded Council that this was not on the Agenda for First Reading. Mayor Billick noted his opposition to the concept. Mr. Rothchild repeated his concern regarding the possible hazard to the designated employees. Mr. Anderson suggested sending the matter back to the City Manager for further consideration. It was the consensus of Council to do so and no further action was taken.

AGENDA ITEM 14. Discussion/action relating to salary increases and amendments to the benefit plan for Non-bargaining unit employees. Requested by City Manager.

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

A RESOLUTION PROVIDING FOR A GENERAL SALARY INCREASE OF 8% FOR NON-BARGAINING UNIT EMPLOYEES OF THE CITY; PROVIDING CERTAIN AMENDMENTS TO THE BENEFIT PLAN FOR SAID EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder moved adoption of Resolution 3986, seconded by Mr. Anderson. City Manager Jones noted that he would like it amended to make the 9 college hours in Section 2.(4) read "twelve (12) college hours" to allow for one course each term of the year. Mr. Schroeder noted his feeling that the 100% reimbursement should include "A-" because "A" was tough to come by, to which the City Manager indicated his impression that local institutions did not award "+" or "-" in conjunction with their grades. It was the consensus of the motioner and the seconder to accept the City Manager's proposed amendment. City Manager Jones answered several questions from Mr. Rothchild about the proposal including the fact that the Police Officers' and Firefighters' union had voted to accept a similar contract. Motion to adopt Resolution 3986 as amended 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 15. Purchasing:

AGENDA ITEM 15-a. Bid award - Lot mowing

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

A RESOLUTION AWARDED THE BID FOR THE CITY'S ANNUAL LOT MOWING REQUIREMENTS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved for adoption of Resolution 3987, seconded by Mr. Wood. In answer to questions from Mr. Holland and Mayor Billick, City Manager Jones noted that this would include up to six mowings per year as previously discussed. 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 15-b. Bid award - Laboratory furniture, Water Treatment Plant

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

A RESOLUTION AWARDED THE BID FOR LABORATORY FURNITURE FOR USE IN THE WATER TREATMENT PLANT LABORATORY; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Wood moved adoption of Resolution 3988, seconded by Mr. Anderson and 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.

CORRESPONDENCE AND COMMUNICATIONS

Mayor Billick noted that Council had to approve travel expense for Councilmen and suggested the approval of Mr. Wood's traveling to Orlando with Fire Chief Ijams for the Hurricane Seminar. Mr. Anderson moved approval of the entire cost of the trip, seconded by Mr. Holland and motion was carried by consensus.

City Manager Jones reviewed the material from the Save the Bays Association, Inc. and noted their request to have monies donated to the City of Naples in order to have the donations designated as tax deductible. City Attorney Rynders responded that the City needed to be careful not to get into a position of guaranteeing anyone that they will get a tax deduction for giving the City money for that purpose. Mayor Billick inquired if the City would be held free from extra expense in connection with this matter. City Manager Jones noted that a resolution would be prepared for Council's consideration regarding this program and the City's protection.

Mr. Rothchild noted a memorandum from City Manager Jones concerning the use of a City car and Mr. Rothchild felt that the matter required more formal discussion and action possibly covering the policy for the use of City cars by anyone. He requested that it be put on the Agenda for the next Regular Council Meeting. Mr. Holland concurred with the request. Action on the City Manager's request was held in abeyance until Council has a discussion on the use of City cars at the next meeting.

Mr. Anderson requested that the minutes for Agenda Item 16 be in verbatim form.

Mr. Rothchild suggested approving the minutes of March 17, 1982 with the exception of Agenda Item 5-3, a transcript of which will be forthcoming at the next meeting for approval, but it was the consensus of the Council to withhold approval until the minutes could be considered in their entirety.

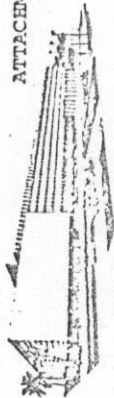
There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Billick adjourned the matter at 3:20 p.m.

Stanley R. Billick
Stanley R. Billick, Mayor

Janet Cason
Janet Cason
City Clerk

These minutes of the Naples City Council were approved on 05-05-82

ATTACHMENT #2



The Miami Herald

A KNIGHT-RIDDER NEWSPAPER

THE MIAMI HERALD PUBLISHING CO. • 1 HERALD PLAZA, MIAMI, FLORIDA 33101 • (AREA CODE 305) 350-2111

Post Office Box 447
Naples, FL 33939
March 22, 1982

Mr. Frank Jones
Naples City Manager
Naples, Florida

Mr. Jones,

I am writing to request that I be scheduled on the agenda for the next city council meeting, which will be held on April 7. I would like to address the council to seek permission to install modular newspaper equipment for The Miami Herald on city property where we now have regular vending machines. I know that the Naples Beautification Committee is working toward this same goal, which is to make the newspaper machines more presentable.

I keep hearing that the reason I cannot go ahead with this project is because the other newspapers do not want to cooperate with the change. I feel that if I get the ball rolling, then the community pressures will convince the other papers to also install the modular equipment.

Also, I am aware that everyone would like to see all of the machines the same color. The machines I plan to install would be brown in color, which is independent from any color now being used. This would make it necessary for everyone, including The Miami Herald, to change to a different color than they now use, making it fair to all parties concerned.

I will be awaiting your reply as to my possibility of addressing the council.

Sincerely,

Jim Morris
Jim Morris
West Coast Manager



JM/j8

ATTACHMENT #1



City of Naples

725 EIGHTH STREET, SOUTH - NAPLES, FLORIDA 33940

OFFICE OF THE CITY ATTORNEY

March 24, 1982

Chamber of Commerce
Property Owners Associations
Naples Area Board of Realtors

Re: Handicapped Parking Ordinance

Gentlemen:

Attached is a copy of the proposed ordinance relating to parking for the handicapped which will be considered by the City Council at second reading on April 7, 1982.

We would appreciate any comments or suggestions you may have regarding this ordinance.

Very truly yours,

David W. Rynders
David W. Rynders
City Attorney

DWR:bh

Enc.



City of Naples

MEMO

TO: Frank Jones
FROM: Roger J. Barry
SUBJECT: Newspaper Vending Machines

DATE: March 30, 1982

I have received letters recently from the Miami Herald and the Naples Daily News, regarding the placement of new "modular" newspaper vending machines in the street right-of-way on 5th Avenue South and in the 3rd Street South commercial area; and their desire to discuss the matter with the City Council on April 7, 1982.

Nature of the Request

It is my understanding that the Miami Herald and the Naples Daily News wish to install new, modular units in these two commercial areas. The Herald has placed new "chocolate colored" units temporarily at various locations in these commercial areas, but I understand that to place them "permanently" at these locations, the units must be placed on a low pedestal, which in turn must be bolted to a concrete pad. Both the Herald and the Daily News are seeking City Council approval to "permanently" locate these units within the street right-of-way. I believe it is their intent to bolt the pedestal to the City sidewalk where such is available.

Naples Beautification Council

The Naples Beautification Council has identified a need to improve the appearance of the existing units and the areas where they are located throughout the City. They were encouraged by the recent installation of uniform bronze-colored units at the Coastland Mall, and they have contacted some of the newspapers about using such racks in other locations. The proposed chocolate-colored units are larger in size and not as attractive a color as the units at Coastland, but they are a significant improvement over the multi-colored units now in use.

Present City Policy

The present policy, voluntarily agreed to by the City and the various newspapers selling in the area, is that there will be no vending machines in the single-family residential areas, limited machines in the multi-family residential areas, and unlimited machines in the commercial area. There is no agreement as to the type or color of the vending machines to be used, and the City has not attempted to limit the placement of the units in the street right-of-way except where a potentially hazardous condition exists.

TO: Frank Jones
FROM: Roger J. Barry
SUBJ: Newspaper Vending Machines

Staff Recommendation

The new machines are obviously more attractive than the existing ones, and their use should be encouraged, and the placement of them in the street right-of-way approved, subject to certain conditions.

Other Newspapers

However, there will not be a significant improvement in the appearance and use of the various vending machine locations unless all of the machines are the same size and color, and are properly located. We contacted the News Press and the Star last December, when the Herald first expressed an interest in using the new modular rack, but they were not interested at that time.

We suggest that they, and the distributor of the Wall Street Journal and the New York Times, be sent this background information and that they be invited to the Council meeting of April 7th. We would also be happy to meet with them at a staff level prior to the Council meeting.

Needed Improvements

Many of the existing machines are poorly located, particularly those that are placed close to the roadway and encourage motorists to stop "too close" to an intersection where there is no parking area or "turn-out".

We recommend that approval of the installation of the new machines in the street right-of-way be subject to the following conditions:

1. Each specific location in the 5th Avenue South and 3rd Street area must be reviewed and approved by this office. No other locations in the street right-of-way are to be used by any newspaper in these commercial areas. If an existing sidewalk area is wide enough to accommodate both the machines and pedestrian movements (such as at the Sunshine Market on 5th Avenue South), the machines can simply be bolted to the existing sidewalk in an approved location.
2. If the existing machines are located in a sandy, unimproved portion of the right-of-way, too close to an intersection as to encourage potentially hazardous stopping by motorists, they should be relocated to a nearby safer and more attractive location and placed on a concrete pad, to be paid for by the newspapers. The southeast corner of W. Lake Drive and 5th Avenue South is such a location. It may be possible, in some locations, for the City to provide a designated "turn-out", or short term parking area that would be safer and still easily recognized by the motorist. The City Council should discuss how involved they wish the City to become in making such an improvement.
3. The 5th Avenue South and 3rd Street Merchants' associations should be encouraged to landscape and maintain the new improved locations.



City of Naples

--- MEMO ---

ATTACHMENT #3 - page 3

TO: Frank Jones
FROM: Roger J. Barry
SUBJ: Newspaper Vending Machines
Page three

We have attached photos of each of the existing vending machine locations (except southeast corner of 5th Avenue South and West Lake Drive), in the subject areas, for your review and for review by the Council at or prior to the April 7th meeting.

Please advise if you wish any additional information or clarification.

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: CITY MANAGER FRANKLIN C. JONES

SUBJECT: SIDEWALK EASEMENT

DATE: APRIL 1, 1982

Collier County has received a sidewalk easement along the south side of 22nd Avenue North between the high school and Goodlette Road. Since this is within the City, it is necessary that the City accept the easement; therefore, I recommend that the Council adopt the resolution which would accept the easement.

Respectfully submitted,

Franklin C. Jones

Franklin C. Jones
City Manager

FCJ/tan
enc.

Roger J. Barry

cc: Anita Utter } Naples Beautification Council
William Schwessinger }