

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,
NAPLES, FLORIDA, ON WEDNESDAY, MAY 5, 1982, AT 9:06 A.M.

Present: Stanley R. Billick
Mayor

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

Also present: Franklin C. Jones, City Manager
David W. Rynders, City Attorney
John McCord, City Engineer
Reid Silverboard, Chief Planner
Norris Ijams, Fire Chief
Nat Hooper, Senior Engineering
Technician

Roger Barry, Community Development
Director
Mark Wiltsie, Assistant to the
City Manager
Tom Smith, Assistant Fire Chief

Reverend Howard Hugus
Mark Weakley
Walter Olson
Lyle Richardson
Joel Metz
Jerry Wilson
Mary Springrose
James Willis
Fred Bosselman
Sam Aronoff
Richard Russell
Richard Hechler

Gilbert Blanquart
William Shearston
Lodge McKee
Lloyd Sarty
Gilbert Weil
Dennis Lynch
Glenn Mackay
Mr. & Mrs. Richard Grant
Mark Lamoureux
John Bell
Kris Jain

News Media: Scott Stewart, TV-9
Jerry Pugh, TV-9
Lynn Levine, TV-9
James Moses, Naples Daily News
Tish Gray, Naples Star

Brad Rittner, WBBH-TV
Ben Garrett, WBBH-TV
Dory Owen, Miami Herald
Steve Kaskovich, News Press
Kathy McClintock, WINK-TV

Other interested citizens and visitors.

Mayor Billick called the meeting to order at 9:06 a.m.; whereupon Pastor Howard Hugus of the Emmanuel Lutheran Church delivered the Invocation, followed by the Pledge of Allegiance to the Flag.

AGENDA ITEM 3. APPROVAL OF MINUTES

Mayor Billick called Council's attention to the minutes of the Regular Meeting of April 7, 1982, the Workshop Meeting of April 20, 1982 and the Regular Meeting of April 2, 1982; whereupon Mr. Anderson moved approval of all the minutes as presented, seconded by Mr. Wood and carried by consensus of Council.

AGENDA ITEM 4. ANNOUNCEMENTS - MAYOR BILLICK

Mayor Billick noted that representatives of the City will be meeting on May 11, 1982 with DER to try to make additional progress in arriving at a satisfactory consent order.

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

AGENDA ITEM 5-a. Petitioner: Emcor, Inc., Weakley & Shurtz, d/b/a/ Trails End Motel
Location: 309 Ninth Street South

(1) PUBLIC HEARING and Second Reading of Ordinance: Rezone Petition No. 82-R3
Request for a Change of Zone from "C3", Heavy Business, to "C2", General Commercial, for the easterly 263.5 feet of the Trails End Motel facility and adjacent vacant lands to the east; in order to accommodate a proposed expansion of the Trails End Motel.

An ordinance rezoning the hereinafter described property located in Block 17, Tier 10, Naples Seaboard Replat, from "C3", Heavy Business to "C2", General Commercial, the same being a portion of the existing Trails End Motel facility at 309 Ninth Street South and adjacent vacant property; directing that the Zoning Atlas be amended to reflect said rezoning; and providing an effective date. Purpose: To rezone the property described herein at the owner's request.

City Attorney Rynders read the above titled ordinance by title for Council's consideration on Second Reading; whereupon Mayor Billick opened the Public Hearing at 9:11 a.m. Petitioner Mark Weakley presented himself to answer questions from Council. There being no one else to speak for or against, the Mayor closed the Public Hearing at 9:14 a.m.; whereupon Mr. Rothchild moved adoption of Ordinance 3995 on Second Reading, seconded by Mr. Wood 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.

(2) Naples Planning Advisory Board recommendation to approve: Special Exception Petition No. 82-S12 Request to permit a transient lodging use to include the existing motel and the proposed addition in the "C2", General Commercial district.

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

A RESOLUTION GRANTING A SPECIAL EXCEPTION TO PERMIT THE TRAIL'S END MOTEL TO EXPAND ITS TRANSIENT LODGING FACILITY ONTO PROPERTY WHICH HAS BEEN REZONED FROM "C3", HEAVY BUSINESS TO "C2", GENERAL COMMERCIAL, SUBJECT TO THE CONDITIONS ENUMERATED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder noted the conditions in the resolution and stated his feeling that the petitioner should be required to pave the entire alley system. Roger Barry, Community Development Director, noted that the staff had recommended that the petitioner pave all the alleys, but the Planning Advisory Board had recommended that he pave only those listed in the resolution. John McCord, City Engineer, stated his opinion that the portion of the alley under discussion would cost approximately \$600.00 to surface. Mr. Weakley indicated his willingness to pay this cost; however, Mr. Rothchild moved to adopt Resolution 3996 as recommended by the Planning Advisory Board, seconded by Mr. Holland and carried on roll call vote, 5-2; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, no; Mr. Thornton, no; Mr. Wood, yes; Mayor Billick, yes.

(3) Naples Planning Advisory Board recommendation to approve: Non-conformity Petition No. 82-N2 Request to permit an addition to the existing non-conforming transient lodging facility.

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

A RESOLUTION AUTHORIZING EXPANSION OF A NONCONFORMITY TO PERMIT AN ADDITION TO THE EXISTING TRAIL'S END MOTEL LOCATED AT 309 NINTH STREET SOUTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3997, seconded by Mr. Anderson and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 5-b. Petitioner: City of Naples Location: 997 26th Avenue North (1) PUBLIC HEARING and Second Reading of an Ordinance: Rezone Petition No. 82-R2 Request for a Change of Zone from "HC", Highway Commercial and "R1-7.5", Single-family Residential, to "PS", Public Service; in order to re-establish Fire Station No. 2 as a conforming use in an appropriate zone district, and to permit construction of a 17' x 30' additional storage space, and a training tower at the facility.

An ordinance rezoning property at 997 26th Avenue North, being the location of the City of Naples Fire Station No. 2, from "R1-7.5", Single-family Residential and "HC", Highway Commercial, to "PS", Public Service; directing that the Zoning Atlas be amended to reflect said rezoning; and providing an effective date. Purpose: To re-establish Fire Station No. 2 as a conforming use in an appropriate zoning district.

City Attorney Rynders read the above titled ordinance by title for consideration by Council on Second Reading; whereupon Mayor Billick opened the Public Hearing at 9:25 a.m. There being no one to speak for or against, the Mayor closed the Public Hearing at 9:26 a.m.; whereupon Mr. Thornton moved for adoption of Ordinance 3998 on Second Reading, seconded by Mr. Wood 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.

(2) Naples Planning Advisory Board recommendation to approve: Special Exception Petition No. 82-S11 Request to permit Fire Station No. 2 in the "PS", Public Service district; and to permit a proposed 17' x 30' storage area addition, and a training tower at the fire station facility.

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

A RESOLUTION GRANTING A SPECIAL EXCEPTION TO PERMIT CONSTRUCTION OF A STORAGE AREA ADDITION AND TRAINING TOWER AT FIRE STATION NO. 2, LOCATED AT 997 26TH AVENUE NORTH, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

In response to a question from Mr. Thornton regarding the hours of operation for the training tower, Fire Chief Norris Ijams responded that it was desirable to hold some training after dark. After a brief discussion, Mr. Holland moved adoption of Resolution 3999, seconded by Mr. Rothchild and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 6. PUBLIC HEARING to hear objections of all interested persons to the confirmation of Resolution 3845, passed by Naples City Council on September 16, 1981, as amended by Resolution 3914 passed by Naples City Council on January 6, 1982, which established "Water System Improvement Assessment District #3" and order the installation of a water main extension to serve Coconut Creek. The boundaries of said District are as follows: Lots 8 thru 13, Block A; Lots 8 thru 14, Block B; Lots 2 thru 13, Block C; Lots 1 thru 14, Block D; Lots 2 thru 7, Block E; Lots 1 thru 7, Block F; Lots 2 thru 12, Block G, all within Coconut Creek Unit #3, as recorded in Plat Book 3, page 48, Public Records of Collier County, Florida.

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

A RESOLUTION CONFIRMING RESOLUTION NO. 3845, AS AMENDED BY RESOLUTION 3914, RELATING TO THE CONSTRUCTION OF A WATER MAIN AND EXTENSION OF THE CITY WATER SYSTEM TO PROVIDE WATER SERVICE IN COCONUT CREEK UNIT #3, BEING "WATER SYSTEM IMPROVEMENT ASSESSMENT DISTRICT NO. 3"; AND PROVIDING AN EFFECTIVE DATE.

Mayor Billick opened the Public Hearing at 9:30 a.m. City Manager Jones noted that this area was within the City's water district even though it was outside of the City limits. He further noted the blanks in the resolution in Section 5 which should be filled in with "in 5 equal annual installments" and "at 9% per annum". At Mr. Wood's request, the City Attorney read the resolution by title again. The City Manager further explained the choice of years of payment of the assessments and the manner in which the interest rate was decided. There being no one to speak for or against, the Mayor closed the Public Hearing at 9:35 a.m.; whereupon Mr. Anderson moved adoption of Resolution 4000, seconded by Mr. Schroeder and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 7. PUBLIC HEARING and Second Reading of Ordinances - (Continued from regular meeting of January 20, 1982.)

AGENDA ITEM 7-a. An Ordinance relating to the operation of motorboats along the shoreline; amending Chapter 16 of the Code of Ordinances by adding a new Section 16-32 thereto; and providing an effective date. Purpose: To prohibit the operation of noncommercial motorboats within 100 yards of the shoreline areas described herein and within 100 yards of the City pier.

City Attorney Rynders read the above titled ordinance by title for consideration by Council on Second Reading; whereupon at 9:36 a.m. Mayor Billick noted that the continued Public Hearing was open. Richard Hechler, citizen, addressed Council, urging passage of the proposed ordinance. Lodge McKee, speaking as a citizen and a representative of the Olde Naples Association, questioned the ability of the City to enforce the proposed ordinance and inquired about the ordinance already on the books regarding the wreckless operation of boats. He further suggested that a regulation of "idle speed only" might solve the problem to which the City Attorney responded that that regulation had to come from the State and took some time to obtain. Mr. McKee also suggested increasing police personnel to improve the enforcement from the Marine Patrol boat. Glenn Mackay, citizen and chairman of the Parks & Recreation Advisory Board and member of the Beach Study Committee, read excerpts from the Beach Study done by the Board last year supporting the proposed ordinance. There being no one else to speak for or against, the Mayor closed the Public Hearing at 10:19 a.m.; whereupon Mr. Wood moved adoption of the ordinance on Second Reading, seconded by Mr. Thornton. Mr. Holland noted that in 1976 the Council had approved adding a second boat to the Marine Patrol. Mr. Schroeder and Mr. Holland suggested the City obtain another boat through one of the charitable

organizations in town to which several boats had been donated. Gilbert Blanquart, citizen, asked for recommendations from City Manager Jones, who responded that the staff had not seen a requirement for another ordinance but had presented it due to public input requesting this one. Mr. Thornton suggested passage of this ordinance and also beginning the procedure to obtain the designation for "idle speed only" from the State. Lyle Richardson, of the Naples Civic Association and the Presidents' Council, stated his opinion that they would favor more enforcement of the present ordinances. After further discussion of the existing ordinance concerning wreckless operation of a power boat and the need for more enforcement, motion failed on roll call vote, 3-4; Mr. Anderson, no; Mr. Holland, no; Mr. Rothchild, no; Mr. Schroeder, no; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes. Council directed City Attorney Rynders to prepare a resolution requesting "idle speed only" for the next Agenda and City Manager Jones to pursue the addition of a second man on the Marine Patrol boat for tighter enforcement of the existing ordinance. The City Manager was also directed to investigate obtaining a second boat for the Marine Patrol.

AGENDA ITEM 7-b. An Ordinance relating to public beaches in the City of Naples; amending Chapter 16 of the Code of Ordinances of the City of Naples by adding a new Section 16-33 thereto; and providing an effective date. Purpose: To prohibit the operation of concessions, peddling, soliciting and advertising on any beach in the City without the written approval of the City Manager

City Attorney Rynders read the above captioned ordinance by title for Council's consideration on Second Reading; whereupon at 10:38 a.m. Mayor Billick noted that the continued Public Hearing was open. Glenn MacKay, citizen and chairman of the Parks & Recreation Advisory Board, suggested declaring the public beaches as parks because these prohibitions were already in force in parks. The City Attorney noted that these beaches had been dedicated as streets and if they were declared parks, there could be some serious problems with the abutting property owners. There being no one else to speak for or against, the Mayor closed the Public Hearing at 10:40 a.m.; whereupon Mr. Holland moved adoption of Ordinance 4001 on Second Reading, seconded by Mr. Schroeder and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes.

AGENDA ITEM 8. Appointment of member to fill vacancy on Naples Planning Advisory Board. Requested by Mayor Billick.

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

A RESOLUTION APPOINTING A MEMBER TO THE PLANNING ADVISORY BOARD; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 4002, including the name of Dennis Lynch, seconded by Mr. Holland 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.

Let the record show that Mayor Billick recessed the meeting at 10:44 a.m. and reconvened it at 10:55 a.m. with all members of Council present.

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AGENDA ITEM 9. Acceptance of water main extension 81-8 relating to Naples Airport Terminal expansion. Requested by Engineering Department.

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

A RESOLUTION ACCEPTING A BILL OF SALE FROM THE CITY OF NAPLES AIRPORT AUTHORITY FOR A WATER MAIN CONSTRUCTED ON THE NAPLES AIRPORT; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder moved adoption of Resolution 4003, 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. Request for Council authorization to award purchase orders for professional services relating to FDER Coastal Zone Management Grant. Requested by Engineering Department.

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

A RESOLUTION ACCEPTING THE PROPOSALS OF KRIS JAIN & ASSOC., INC., MARK LAMOUREUX ENGINEERING CONSULTANTS AND BELLAMY ENGINEERING, INC., TO PROVIDE PROFESSIONAL ENGINEERING SERVICES RELATING TO PUBLIC BEACH ACCESS PARKING IMPROVEMENTS; AUTHORIZING THE CITY MANAGER TO ISSUE PURCHASE ORDERS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Schroeder moved adoption of Resolution 4004. Mr. Anderson ascertained from City Manager Jones that even though there was mention of supervisory charges in one of the proposals, there wouldn't be any because the City would do the supervision in-house; whereupon Mr. Anderson seconded the motion. 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 11. Discussion/action pertaining to retaining a law firm in connection with interval ownership litigation. Requested by City Manager.

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

A RESOLUTION RETAINING THE LAW FIRM OF ROSS, HARDIES, O'KEEFE, BABCOCK & PARSONS TO REPRESENT THE CITY OF NAPLES IN THE LAW SUITS FILED BY THE BUCCANEER MOTEL AND SHERATON-EDGEWATER BEACH INN AGAINST THE CITY OF NAPLES; AUTHORIZING THE TRANSFER OF FUNDS FROM THE CONTINGENCY FUND TO COVER LEGAL FEES FOR THE REMAINDER OF THE FISCAL YEAR; AND PROVIDING AN EFFECTIVE DATE.

The City Attorney further noted that he had received notice that there would be a third suit filed similar to the ones mentioned in the resolution and he recommended amending the language to read, "and such other suits as may be filed challenging the City's timeshare regulations". Mr. Schroeder moved adoption of Resolution 4005 as so amended, seconded by Mr. Anderson. Mr. Holland noted his contention that the previous action of the Council had called for the City Attorney to contact several sources for recommendations regarding firms to interview before deciding on one to assist the City and the City Attorney with these problems. He presented the City Attorney with a list of the names of firms recommended to him for Council's consideration. Fred Bosselman, representing the firm of Ross, Hardies, O'Keefe, Babcock & Parsons, presented himself to answer questions

272 from Council regarding his firm's and his own special capabilities. He noted there had been no appellate court decisions in this area in Florida. He further responded to questions from Council that he would working directly on the City's problems and could assist in redrafting the City's ordinance if it seemed necessary. After a lengthy discussion, the City Attorney stated that he had understood his charge to be to investigate and come back with a recommended legal firm for Council's consideration. He further stated his opinion that legal firms would not come forward to be interviewed, per se, prior to Council selecting one to retain. He also added that the firms that Mr. Holland had received recommendations on were all good firms, but that Mr. Bosselman had written a book that was referred to as "the bible" in Florida land use law. Mr. Holland again registered his objections to the proceedings inasmuch as he felt this was not the action Council had directed previously. Mr. Rothchild stated his feeling that he had received only good reports on inquiries he had made regarding Mr. Bosselman's firm, but that he would like to hear from a Florida-based firm. Mr. Anderson called for the question. Mr. Holland said he would not challenge the question, but he still felt that further interviews would be in line with the motion previously made by Council. 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.

AGENDA ITEM 12. Discussion with reference to Attorney General's opinion: vacation of alleys. Requested by City Attorney.

City Attorney Rynders referred to his suggested letter in the packet (Attachment #1) and the balance of the material which is on file in the City Clerk's office in the meeting folder. He noted that he had received a suggested letter (Attachment #2) to use in lieu of the letter in the packet, but added that this would require revision of the material to be attached; such revision, he said, might take from three to four weeks time. He also suggested asking for an opinion either formal or informal rather than pressing for a formal one. He further noted that Council could choose to discontinue this program as opposed to pressing the Attorney General for any opinion and added that he intended to present the best arguments he could to support the City's practice at this time and that if anyone submitted additional material to the Attorney General, he would like to see anything that was sent. Mr. Rothchild asked that the request be for a formal opinion. Mr. Thornton indicated his feeling that another Attorney General's opinion would be of no value because there was no force of law. Mr. Anderson stated his feeling that there was no requirement to even seek the Attorney General's opinion. He stated his opinion that if someone were interested enough, they would file a suit against the City in this regard and then there would be a court decision on which to base any further procedures. Gilbert Blanquart, citizen, spoke in support of accepting reimbursement for the City giving up the right to use the easements or alleys vacated. Gilbert Weil, citizen, spoke in support of obtaining an Attorney General's opinion. Mr. Rothchild moved that the City Attorney be authorized to send a letter to the Attorney General asking for an opinion. Mr. Schroeder noted his feeling that the item was on the Agenda for discussion, not action, to which Mayor Billick responded that Council had already acted to agree to send the request, but had asked to review it before it was sent. Richard Hechler, citizen, spoke in support of getting some final clarification inasmuch as there were diverse opinions on the legality of the procedure presently in use. Mr. Holland seconded the motion. Mr. Schroeder pointed out that the City Attorney had stated he was going to revise the letter and the attachments, and he suggested that the revised letter be brought back to Council for action. Mayor Billick suggested that the motion be modified to state that the City Attorney "re-prepare a request for an Attorney General's opinion and bring it back to Council for action and the purpose for preparing it is so that we will submit it and to do this as expeditiously as possible"; to which the motioner and the seconder had no objections. 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 13. Ratification of Contract between the City of Naples and AFSCME District Council #79. Requested by City Manager.

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

A RESOLUTION RATIFYING AND CONFIRMING THE CONTRACT BETWEEN THE CITY OF NAPLES AND DISTRICT COUNCIL NO. 79 OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, DATED JANUARY 1, 198; AND PROVIDING AN EFFECTIVE DATE.

Mr. Wood moved adoption of Resolution 4006, seconded by Mr. Anderson and carried on roll call vote, 7-0; Mr. Anderson, yes; Mr. Holland, yes; Mr. Rothchild, yes; Mr. Schroeder, yes; Mr. Thornton, yes; Mr. Wood, yes; Mayor Billick, yes. Mr. Anderson added his commendation to the staff for their fine work in this respect.

AGENDA ITEM 14. Purchasing - bid award - Metal structures - Wastewater Treatment Plant

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

A RESOLUTION AWARDING THE BID FOR FURNISHING AND ERECTING TWO (2) METAL STRUCTURES AT THE WASTEWATER TREATMENT PLANT; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Holland moved adoption of Resolution 4007, seconded by Mr. Anderson. City Manager Jones responded to Mr. Wood's question about the use for the structures. 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

Mr. Holland questioned whether City Attorney Rynders was authorized to go on the upcoming retreat to be held in Fort Myers without express approval from Council concerning his travel expenses. He further noted the City Attorney's statement concerning his workload and questioned the fact that the City Attorney would be away from his office for two days. Mr. Schroeder noted the travel allowance approved in the City Attorney's budget as being tacit permission for the trip. City Attorney Rynders suggested he go each day and not stay overnight. Mayor Billick noted his desire to have the request for the Attorney General's opinion on alley vacations as soon as possible. No action was taken by Council on the matter.

Mr. Schroeder noted the requirement for having a three man representative team work with the Southwest Regional Planning Council on the disposal of solid waste. City Manager Jones noted the receipt of a letter to Mayor Billick asking him to appoint this three man team. The City Manager suggested the Mayor appoint Mr. Schroeder as the elected official as he is now a representative to the Planning Council. Mr. Schroeder suggested that the technical member of the team be Archie Archibald, who has volunteered to serve. A citizen of the City will be solicited to serve as the lay member of the team.

Mr. Rothchild asked if anyone had any knowledge of any disposal of any waste that might be destructive.

There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Billick adjourned the meeting at 12:44 p.m.

Janet Cason
Janet Cason
City Clerk

Stanley R. Billick
Stanley R. Billick, Mayor

Ellen P. Marshall
Ellen P. Marshall
Deputy City Clerk

These minutes of the Naples City Council were approved on 05-19-82



City of Naples

735 EIGHTH STREET, SOUTH - NAPLES, FLORIDA 33940

OFFICE OF THE CITY ATTORNEY

April 30, 1982

Department of Legal Affairs
Office of the Attorney General
The Capitol
Tallahassee, Florida 32301

Att.: Opinions Division
Gentlemen:

Attached you will find a copy of portions of several legal memoranda which I provided to our city council, together with several additional arguments in connection with the question of requiring compensation upon the vacation of street and alley rights-of-way.

We would appreciate your opinion, formal or informal, on these questions.

Very truly yours,
David W. Rynders
David W. Rynders
City Attorney

DWR:bh

Enc.

Honorable Jim Smith, Attorney General
Department of Legal Affairs
The Capitol
Tallahassee, Florida 32301

Dear General Smith:

I have been ~~instructed~~ by the City Council of the City of Naples, Florida to seek your formal opinion as to the following:

1. May a municipality in the State of Florida, pursuant to its home rule powers, require an abutting property owner to pay compensation, in addition to a \$100 processing fee, ^{As} a prerequisite to the city vacating a street or alley to which the city does not own fee simple title and in which the city has determined that it has no present, nor any reasonably foreseeable need, under the theory that the city is relinquishing something of value?

2. If question #1, above, is answered in the affirmative, may such compensation be exacted pursuant to Section 20-54 of the Code of Ordinances of the City of Naples (copy of which is attached)?

We are aware of AGO 078-125, but feel that the issue should be readdressed in light of the cases and argument contained in the attached memoranda. Your formal opinion on this matter will be greatly appreciated. If I may be of any assistance or if you require any additional information, please contact me at once.

Very truly,

David W. Rynders
City Attorney