



City of Naples

City Council Minutes

Regular Meeting 05-01-91

City Council Chambers
735 Eighth Street South
Naples, Florida 33940

-SUBJECT-	ORD. NO.	RES. NO.	PAGE
<u>ANNOUNCEMENTS:</u>			
MAYOR ANDERSON: Retirement - Seiben P.D. K-9			1
ACTING CITY MANAGER COGGAN: Unit			
Certificates of Appreciation - Efficiency Committee			2
<u>APPROVAL OF MINUTES:</u> April 15, 1991			
April 22, 1991			3
<u>PURCHASING:</u>			
- BID AWARD for 4 submersible sewage pumps.		91-6365	3
- BID AWARD - liquid caustic soda.		91-6366	3
- Authorization to waive competitive bids - 2 remote telemetry units		91-6367	4
- Authorization to waive competitive bid, storm sewer manhole repair		91-6368	4
<u>RESOLUTIONS:</u>			
- APPROVE coastal construction setback line variance at 100 Bay Road		91-6369	5
- APPROVE 500 foot separation between establishments selling alcoholic beverages		91-6373	14
- DENY the alley west of Naples Shopping Center a residential alley			15
- DENY additional loading dock at 2075 9th Street North			18
- APPROVE expansion of Collier County Public Library, 650 Central Avenue		91-6375	21
- ADOPT a selection committee to review proposals to perform a water, sewer and solid waste rate study		91-6376	29
<u>ORDINANCES - First Reading:</u>			
- APPROVE a stormwater management utility system	91-		9
- APPROVE to lengthen phasing schedule for remodeling at 209 9th Street South	91-		22
- APPROVE civil and criminal penalties for illegal water connections	91-		23
- DENY amendment of section 7-65 of article III, vessel control	91-		24
- APPROVE Code of Ordinances, subsection (a) of chapter 21A-17			29
<u>ORDINANCES - Second Reading:</u>			
- ADOPT amendment of subsection (1) of section 18.22 of article III		91-6370	12
- ADOPT amendment of section 23-12.2(a)(4)		91-6371	12



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<p><u>ORDINANCES - Second Reading (cont):</u></p> <p>- ADOPT issuance of not exceeding \$7,500,000 utility revenue bonds to finance improvement of water and sewer system</p>	91-6372		13
<p><u>CORRESPONDENCE AND COMMUNICATIONS:</u></p> <p>Councilman Muenzer announced that City Attorney Rynders had information with regard to the County ordinance regulating certain sexually orientated businesses.</p> <p>Mayor Anderson thanked Acting City Manger Coggan and wished him well in his new position.</p>			30
<p>ADJOURN</p>			30

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Time 9:00 a.m.

Date 5-01-91

Mayor Anderson called the meeting to order and presided.

ROLL CALL**ITEM 1**

Present: Kim Anderson, Mayor

John M. Passidomo, Vice Mayor

William E. Barnett

R. Joseph Herms

Alan L. Korest

Paul W. Muenzer

Fred L. Sullivan

Councilmen

Also Present:

Rand-Scott Coggan,
Acting City Manager

David Rynders,
City Attorney

Mark W. Wiltsie,
Asst. City Manager

William Harrison,
Finance Director

Paul C. Reble,
Police Chief

Kevin Rambosk,
Police Captain

Gerald Gronvold,
City Engineer

George Henderson,
Sergeant-At-Arms

Ann (Missy) McKim,
Comm. Dev. Director
Jon C. Staiger,
Natural Res. Manager
Christopher L. Holley,
Comm. Services Dir.
Larry Barnet,
Utilities Director
Stewart K. Unangst,
Purchasing Agent
Ann Walker,
Planner II
Tara A. Norman,
Public Info. Officer
Marilyn McCord,
Recording Secretary

See Supplemental Attendance List - Attachment #1

INVOCATION**ITEM 2**

Reverend Susan Diamond
First Christian Church

ANNOUNCEMENTS**ITEM 3**

Mayor Anderson, Acting City Manager Coggan, and
Police Chief Reble recognized Sieben, the German

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[illegible]

Mr. Roy and members of the Committee then presented copies of the Efficiency Report to the Mayor and Council. Mayor Anderson presented Certificates of Appreciation to the Committee members: William G. Roy, Mary M. Connor, Sewell

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H. Corkran, Jr., John M. Hustler, Arthur H. Krieger and Robert C. Rier. Committee member James Weigel was not present.					
*****CONSENT AGENDA*****					
APPROVAL OF MINUTES					
ITEM 4					
April 15, 1991 - Workshop Meeting					
April 22, 1991 - Workshop Meeting					
MOTION: To <u>ACCEPT</u> the minutes as written.					

RES. NO. 91-6365					
ITEM 5-a					
A RESOLUTION AWARDDING CITY BID #91-57 FOR THE PURCHASE OF FOUR (4) SUBMERSIBLE SEWAGE PUMPS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.					
In answer to Councilman Sullivan's inquiry, Purchasing Agent Unangst explained that the City presently has approximately 105 pumping stations plus spare pumps, that all were standardized diesel pumps, and that for the past ten years the same two or three manufacturers had been used.					

RES. NO. 91-6366					
ITEM 5-b					
A RESOLUTION AWARDDING CITY BID #91-64 FOR THE ESTABLISHMENT OF AN ANNUAL CONTRACT FOR THE PURCHASE OF LIQUID CAUSTIC SODA; AUTHORIZING THE CITY MANAGER TO ISSUE A BLANKET PURCHASE ORDER THEREFORE; AND PROVIDING AN EFFECTIVE DATE.					

BARNETT
HERMS
KOREST
MUENZER
PASSIDOMO
SULLIVAN
ANDERSON
(7-0)

X
X
X
X
X
X
X

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RES. NO. 91-6367

ITEM 5-c

A RESOLUTION AUTHORIZING THE PURCHASE OF TWO (2) REMOTE TELEMETRY UNITS FOR THE PUBLIC WORKS DEPARTMENT; WAIVING THE REQUIREMENT FOR COMPETITIVE BIDDING THEREON; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Councilman Herms said that his information indicated that The Bears Paw Development would pay for all improvements, and Acting City Manager Coggan said that the agreement between Bears Paw and the City includes reimbursement to the City for all costs. With regard to the estimated \$30,000 upgrade to Bears Paw lift station, Purchasing Agent Unganst said that the City is still within budget.

RES. NO. 91-6368

ITEM 5-d

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER TO B.R.I.A.N. INC., IN CONJUNCTION WITH THE REPAIR OF A STORM SEWER MANHOLE; WAIVING THE REQUIREMENTS FOR COMPETITIVE BIDS THEREON; AND PROVIDING AN EFFECTIVE DATE.

In answer to Councilman Sullivan's question, Purchasing Agent Unangst said that this was an experimental item, being utilized in the City for the first time. Councilman Sullivan commended the Engineering Department involved, saying that significant savings would be realized compared to traditional manhole repair methods. Mayor Anderson added that she had received very favorable comments from suppliers who deal with the City.

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BARNETT		X	X		
HERMS			X		
KOREST			X		
MUENZER	X		X		
PASSIDOMO			X		
SULLIVAN			X		
ANDERSON			X		
(7-0)					

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effects. Attorney Stroud said that this groin had always been described in the Corps of Engineer's studies as an ideal renourishment area, therefore, this would in fact be private funding of an item of significant public benefit. She also assured Council that the petitioner was prepared to accept the conditions set forth in the permit.

Mr. George Gaynor, 800 Admiralty Parade, called Council's attention to the fact that the "so-called" trustees in this matter had been used by Mr. Hickey as plaintiffs against the City for a home site on Keywadin Island. Mr. Gaynor also told Council that the work on the groin would provide a further funneling action that would probably make the swift current even more severe, therefore actually, causing more, not less, erosion and damage. He suggested having another study made of the Gordon Pass dynamics.

Attorney Stan Starrett, representing the Drackett and the Remington interests, asked that Council consider the long-term significance before approving the variance. He said that because of the effect on the environment, complete data could only be obtained by a thorough study. Attorney Starrett also pointed out that the same people who had filed suit against the City were now asking for a variance on land they did not own. He said that the suit states that the plaintiff's rights were violated, but now that plaintiff wants the City to give him a bigger beach. Attorney Starrett stated that if Mr. Donahue wants the variance, he should give the funds to perform necessary studies, and should instruct his attorneys to withdraw the lawsuit against the City as a demonstration of good faith.

Natural Resources Manager Staiger however told Council that the variance and the lawsuit had no relationship. He said that a pathway across the groin, one of the conditions of the variance, would allow people to walk in that area as they had done for many years. Dry beach sand in the

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City, said Dr. Staiger, is considered to be publicly accessible and no one had ever been allowed to restrict it. The City is simply requesting the petitioner to allow the continued use of the sandy beach.

Dr. Staiger explained that because every time Gordon Pass is dredged, the dynamics of that system change, and any study would be quickly obsolete. The City does not have the resources to conduct a continuing study, although a stipulation of the variance is that should problems arise, any construction would have to be removed.

Vice Mayor Passidomo said that he continued to be troubled by the inherent conflict of opinions as to whether or not work in the area would have adverse affects. The engineers retained by the petitioner claim there would be no impact, he said and stated that he believed the petitioner should pay for engineering studies with the City choosing the person who performs those services. Vice Mayor Passidomo stated that in addition to supplying the pathway, the petitioner should be required to maintain it.

Councilman Herms asked if an extended groin would accelerate the erosion of Keywadin Island, and Natural Resources Manager Staiger said that the jetty would simply hold sand on the beach. Dr. Staiger further said that before the groin was built, that section of shoreline was eroding, and that the 235 foot extension had had a positive affect on the area.

Councilman Korest noted in summary that the extension would benefit the beach on the north, would have slight to no benefit to Gordon Pass, and that the erosion to Keywadin Island would continue whether or not anything is done.

In response to Councilman Muenzer, Dr. Staiger said that the Collier County Beach Restoration Study for the entire County included data which Coastal Engineering had accumulated on the north

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island, but that to his knowledge the City itself had never sponsored a study. He explained that the vast proportion of water goes in and out of the Pass through the channel in question and that extending the groin another 65 feet should not affect how water moves in and out of the Pass. In fact, he said, the Corps of Engineers had indicated that if and when it approves a beach restoration project, it would want a structure on the south end of the City to hold sand, therefore, the City may add rock to the groin just to hold sand as part of such a project. Dr. Staiger said that a State law requires that all material from pass maintenance dredging shall go to the downdrift beach, but the City is working on permits to move the sand north.					
Acting City Manager Coggan told Council that it was his understanding that the City would continue to monitor the area.					
MOTION: To <u>APPROVE</u> the resolution with the stipulation that the pathway over the groin must be maintained by the petitioner.					
Councilman Herms expressed the hope that the parties involved would consider meeting with the City in the very near future to pursue the possibility of a compromise, in order to save the taxpayers some money.					
Councilman Korest concurred with Councilman Herms' statement. Councilman Muenzer also concurred, stating however that a "no" vote would tend to bring the parties much more aggressively and quickly to settlement than an affirmative vote.					
Vice Mayor Passidomo, however, said that he saw no connection between this petition and the litigation. The litigation, on the other hand, requires cooperation from both parties, he said, and predicted that this would not occur. The					
BARNETT	X		X		
HERMS			X		
KORFST			X		
MUENZER				X	
PASSIDOMO			X		
SULLIVAN		X	X		
ANDERSON			X		
(E-1)					

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allotted to the stormwater utility. Camp, Dresser & McKee, the engineers who did the feasibility study, had determined a program cost of \$4.00 a month for the average single family residence. The money will not be used for any other purpose, said Mr. Coggan, and any rate increases after the first two years would be subject to public hearing. Stormwater utility charges will be reflected on or about June 1 in city utility bills. Mr. Coggan said that the County had also adopted and implemented its stormwater utility ordinance.

Public Hearing: Opened: 10:50 a.m.
 Closed: 11:00 a.m.

Mrs. Sue B. Smith, 11 15th Avenue South, said that Camp, Dresser & McKee had been employed by the City since 1989, and during that time the sewer system had to be completed at taxpayers' expense. She said that she did not understand why the City did not require a refund from Camp, Dresser & McKee. The Police Investigation Report stated that City employees reported that sewers were not being maintained well. Mrs. Smith noted that the City brochure with regard to the stormwater utility states that all fees would be dedicated solely to that program, and she contended that the City had had a problem with that in the past in its utilities.

Mrs. Smith said further that it is not fair to commit the citizenry to a set amount. Water rates had been increased, she noted, and will be increased again, which will also increase the sewer rates. Mrs. Smith stated that the City departments should have been addressing the stormwater management system and asked if the Sewer, Natural Resources, and Engineering Departments could handle this program. She said that the City should be embarrassed to ask for more funds. Mrs. Smith stated that the community must be vitally concerned about its ecology but asked that the citizens be shown a basic program using existing facilities.

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Mayor Anderson explained that the stormwater utility is an adjunct to other utility service and must be properly funded; water and sewer studies are needed to determine the adequacy or inadequacy of the programs.

City Attorney Rynders said that the ordinance had been derived from a number of similar ordinances in the State, some of which had survived challenges.

Mr. Nelo Priede, of Camp, Dresser & McKee, told Council that the principal idea behind the capital contribution section of the ordinance was to identify the improvements for redevelopment and then identify the contribution of capital.

Councilman Herms asked if, in the area Naples Community Hospital is redeveloping, instead of providing on-site requirements of water retention, the hospital would instead give the City a certain amount of funds to build City facilities. Mr. Priede said that the best solution would be determined, but that if a facility were built on the premises, there would be no assessment to the hospital. Councilman Herms also asked if other cities had waived fees when property owners had already provided stormwater retention. Mr. Priede said that some cities add a credit factor, but from an operational standpoint, if retention is in excess of what is required by law, some financial consideration should still be given.

Discussion continued with regard to the stormwater utility project, and Acting City Manager Coggan explained that during the first year the funds would basically be used for the study and for some necessary equipment. Mayor Anderson asked that at the second reading of the ordinance, staff provide a list of equipment needs, and that staff report to Council regarding a 20% credit for those facilities that exceed the requirements for retention.

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In answer to Councilman Korest's concern with regard to how appeals would be handled, Mr. Priede said that Camp, Dresser & McKee would provide suggestions during future review of the Master Plan.					
MOTION: To <u>APPROVE</u> the ordinance at first reading, adding the stipulation that the ordinance must be reviewed in one year.					

ORD. NO. 91-6370					
ITEM 8					
AN ORDINANCE AMENDING SUBSECTION (1) OF SECTION 18.22 OF ARTICLE III, RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.					
PURPOSE: TO CLARIFY THE DEFINITION OF COMPENSATION.					
MOTION: To <u>ADOPT</u> the ordinance as presented at second reading.					

ORD. NO. 91-6371					
ITEM 9					
AN ORDINANCE AMENDING SECTION 23-12.2(a)(4) OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.					
PURPOSE: TO INCREASE THE FINE FOR UNAUTHORIZED PERSONS USING A PARKING SPACE FOR HANDICAPPED PERSONS.					
Acting City Manager Coggan assured Council that no bookkeeping problems would arise for the City as a result of setting up two different accounts for handicapped parking fines.					

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BARNETT	X		X		
HERMS			X		
KOREST		X	X		
MUENZER			X		
PASSIDOMO			X		
SULLIVAN			X		
ANDERSON (7-0)			X		

Councilman Herms asked staff to recheck the handicapped parking lines behind the Neapolitan building.

MOTION: To ADOPT the ordinance as presented at second reading.

ORDINANCE NO. 91-6372

ITEM 10

AN ORDINANCE OF THE CITY OF NAPLES, FLORIDA, PROVIDING FOR THE IMPROVEMENT, CONSTRUCTION, EXPANSION, RENOVATION, INSTALLATION, EQUIPPING, AND REIMBURSEMENT RELATING TO THE CITY OF NAPLES' WATER AND SEWER SYSTEM; AUTHORIZING THE ISSUANCE BY THE CITY OF NOT EXCEEDING \$7,500,000 WATER, SEWER, AND STORMWATER UTILITY REVENUE BONDS TO FINANCE THE COST OF SUCH PROJECT, TO REIMBURSE THE CITY FOR CERTAIN PREVIOUS EXPENDITURES RELATING THERETO, TO PAY THE COST OF ISSUANCE OF SUCH BONDS, AND TO FUND A DEBT SERVICE RESERVE FUND FOR THE BONDS; PLEDGING TO PAY THE PRINCIPAL OF, INTEREST ON, AND PREMIUM (IF ANY) ON SUCH BONDS FROM THE NET REVENUES OF THE WATER AND SEWER SYSTEM ON A JUNIOR AND SUBORDINATE BASIS TO CERTAIN OTHER OUTSTANDING BONDS AND PLEDGING ALL MONEYS ON DEPOSIT TO THE CREDIT OF CERTAIN FUNDS CREATED HEREUNDER AND THE EARNINGS ON THE INVESTMENT THEREOF TO SECURE PAYMENT OF THE BONDS; AUTHORIZING THE ISSUANCE BY THE CITY OF ITS WATER AND SEWER AND STORMWATER UTILITY BOND ANTICIPATION NOTES, SERIES 1991 IN ANTICIPATION OF THE ISSUANCE OF SAID BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS FOR THE BENEFIT OF THE OWNERS OF THE BONDS AND NOTES; AUTHORIZING A NEGOTIATED SALE OF THE NOTES; PROVIDING FOR A STATEMENT OF PURPOSE BY THE CITY THAT THE PROJECT IS UNDERTAKEN TO ENSURE

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THAT THE HEALTH, SAFETY, AND WELFARE OF THE CITIZENS OF THE CITY IS PROTECTED BY THE CONTINUED PROVISION OF ADEQUATE WATER, SEWER, AND STORMWATER UTILITY SERVICES; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Finance Director Harrison described the sources and uses of these funds and gave a schedule update. He told Council that the basic purpose of this issue is to reimburse specific funds, which would be used for the repayment of the March, 1991 bank loan and reimbursement of water and sewer borrowings.

Mayor Anderson said that she was comfortable with the bond covenants, and Mr. Harrison explained that the bond would restore cash balances and would have no effect on the 1990-91 budget.

MOTION: To ADOPT the ordinance as presented at second reading.

RES. NO. 91-6373

ITEM 11

A RESOLUTION GRANTING VARIANCE PETITION 91-V2 FROM THE PROVISIONS OF SECTION 9-3-1 OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH REQUIRES A 500 FOOT SEPARATION BETWEEN ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES, IN ORDER TO PERMIT CAFE NEON, INC., LOCATED IN GRAND CENTRAL STATION, TO SELL ALCOHOLIC BEVERAGES; AND PROVIDING AN EFFECTIVE DATE.

Attorney Burt Saunders, representing the petitioner, thanked Community Development Director McKim and Planner Ann Walker for their assistance. He said that Grand Central Station had not been a successful retail center but could be a viable restaurant center. Attorney Saunders

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SULLIVAN
ANDERSON
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also told Council that 75% of Cafe Neon's revenues will be from food sales, and the sale of alcoholic beverages is essential to its success.					
Councilman Barnett said that there had been no complaints concerning the restaurants in Grand Central Station, and Mrs. McKim added that because several restaurants are in close proximity, it is easier to patrol.					
Councilman Korest told Council that the Planning Advisory Board (P.A.B.) had turned down the variance request, not because of the type of business in question, but in order to maintain the integrity of the zoning laws. P.A.B.'s concern, he said, had been centered around disregard for the ordinances as they are written. Councilman Korest said that either the ordinance should be changed to reflect the current economics and social dynamics, or the issue should be handled with a P.D. (Planned Development), as was the case with Harbourtown. Vice Mayor Passidomo commented that the integrity of the zoning laws was compromised long ago, but Councilman Korest noted that this situation does not necessarily mean it should be allowed to continue. Vice Mayor Passidomo nevertheless submitted that a precedent had already been established and that the variance process was a very awkward way to approach this type of issue.					
<u>Mayor Anderson requested that staff review such inconsistencies and report to Council at a workshop in July.</u>					
MOTION: To <u>APPROVE</u> the resolution as presented.					
BREAK: 11:50 a.m. - 12:05 p.m.					

ITEM 12					
A RESOLUTION DENYING ADMINISTRATIVE APPEAL 91-AA1, UPHOLDING THE					
15					
BARNETT	X		X		
HERMS		X	X		
KOREST				X	
MUENZER			X		
PASSIDOMO			X		
SULLIVAN			X		
ANDERSON			X		
(6-1)					

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Vice Mayor Passidomo stated that the Code does define a residential street, and that minor residential streets possess two components: they are designed to carry local residential traffic, and they are not frequently traveled. Attorney Dawson agreed that the road at issue was not designed to carry local traffic nor is it frequently traveled. Vice Mayor Passidomo asked Attorney Dawson if it was his professional testimony that the road is a main arterial street. Attorney Dawson stated that the Code states that if a minor residential street or an alley is parallel to a main street, access is prohibited, but a roadway can be a frequently traveled road without being a main arterial street.

Vice Mayor Passidomo told Attorney Dawson that he has an obligation to show evidence to prove the case, and he does not see compelling evidence to overcome the City's interpretation of the Code language. Attorney Dawson said that under the terms of the City's definition, as it stands, the roadway qualifies as a main arterial street although the City Engineer did not consider this a residential street. Attorney Dawson concluded that his clients should be allowed to follow their plan as proposed.

City Attorney Rynders told Council that although there is no dispute that the alleyway is used frequently, staff believes it is designed for nothing but residential traffic. Attorney Dawson responded that this alleyway had been designed to allow trucks to access and service the back of the shopping center, and when the shopping center was built thirty years ago, there were no residences on the street behind it.

Mayor Anderson pointed out that the alleys serving residential traffic in Old Naples are of the shell type or unpaved. The zoning provision under debate, she summarized, is to prevent more traffic on an alley that is not built for that purpose.

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BARNETT			X	X	
HERMS				X	
KOREST				X	
MUENZER				X	
PASSIDOMO	X			X	
SULLIVAN				X	
ANDERSON				X	
(7-0)					

MOTION: To APPROVE denial of the resolution, as recommended by staff.

RES. NO. 91-_____

ITEM 13

A RESOLUTION GRANTING VARIANCE PETITION 91-V3 FROM THE PROVISIONS OF SECTION 9-3-4(H)(2) OF THE COMPREHENSIVE DEVELOPMENT CODE WHICH REQUIRES THAT PARKING AND LOADING AREAS IN SHOPPING CENTERS NOT BE ACCESSED FROM MINOR RESIDENTIAL STREETS OR ALLEYS, IN ORDER TO ALLOW THE CONSTRUCTION OF ADDITIONAL LOADING DOCKS AT THE REAR OF NAPLES SHOPPING CENTER, 2075 9TH STREET NORTH; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Community Development Director McKim reviewed the petition and told Council that staff had determined that the necessary criteria had not been met, adding that this request was not land related. P.A.B. had voted unanimously to deny this petition, staff also recommended denial, and several nearby residents had expressed opposition, she said.

Shopping Center Attorney David Dawson reiterated that the center had been built long before any of the nearby residences, although the alley is now used by residents and vehicles servicing the tenants of the shopping center alike. Attorney Dawson described the owner's plans for the shopping center, which include subdividing the large store which is presently vacant, and stating that the only way it can be subdivided for use, however, is to provide alley loading facilities like every other Naples highway commercial shopping center.

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His client has worked hard to comply, said Attorney Dawson, and conceded that this was a less-than-ideal situation. He said that landscaping could be added and attempts made to improve the rear of the shopping center to minimize, if not eliminate, any adverse visual or noise impact. Attorney Dawson also assured Council of his client's willingness to do everything possible to please residents and come into harmony with the zoning ordinance.

Mr. Jeffrey Scott of Forsythe Architects, described a model which showed the proposed truck docks and said that to date six proposals had been presented and overruled by various City departments. Mrs. McKim agreed that a very sincere effort had been made to find a plan that works well, but the bottom line continues to be that a nonconforming structure exists. The variance as it is submitted does not meet the necessary criteria, she said, has a negative impact on the residences, and would add to the commercial traffic, although a variance is required in order to access a minor residential alley.

Mr. John Pina, Project Manager from Marshalls Corporate Offices, Andover, Massachusetts, spoke to Council as a representative of retail development. He said that Marshalls had chosen to expand its Naples facility and would stay in that location as long as it is profitable. Mr. Pina explained that huge retail units are no longer the trend, and there is interest in leasing smaller units in Naples Shopping Center should it be subdivided. However, loading docks are vital. Mr. Pina pointed out that the former Ames store would remain vacant unless subdivided and loading docks are provided.

Mr. Louis Zieht, Vice-President of Net Property Management, Inc., explained that his firm had bought the Ames lease at the cost of \$1,500,000, when Ames went bankrupt. He reiterated that permission is not being sought to enlarge the shopping center, but simply to add a loading dock

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to the existing structure. Even though the petitioners had tried repeatedly to devise a plan amenable to everyone, they would be happy to continue to work with staff, he added.

Vice Mayor Passidomo asked the petitioner if a landscape buffer could be added if access were retained on the property. Mr. Zieht replied that the petitioners would be happy to add a six-foot buffer. He said that a plan was currently being designed which places the alleyway on the shopping center property. In answer to Vice Mayor Passidomo's question, Mr. Zieht said that the petitioner would be happy to explore such a plan with the neighboring property owners.

Mr. Jim McGrath, 650 Banyan Circle, and a former manager of the Grants store which was located in Naples Shopping Center, said that the alley had been paved to accommodate trucks serving Grants, but that Grants had always maintained a good rapport with the neighbors.

Mr. R. James Richard of 782 Mooringline Drive told Council that he uses the subject alley as a residential drive, and although the shopping center is a benefit to the neighbors, he objects to increased traffic. He cited a noise problem which could ensue, and said that he hoped Council would remain sensitive to the needs of the citizenry by denying this petition. Councilman Herms suggested enclosing the loading facilities, adding trees and landscaping, and restricting the times trucks could unload. Mr. Richard further contended that if doors could be installed on the west side of the center, to enclose the loading facilities, certainly doors could be installed on the east side, away from the neighbors. Nearby property owners wanted to live in harmony with the shopping center, he said, but creating a bigger problem than what already exists is also unacceptable.

MOTION: To TABLE the resolution until compromises could be reached between the parties.

BARNETT
HERMS
KOREST
MUENZER
PASSIDOMO
SULLIVAN
ANDERSON
(6-1)

X

X

X
X
X
X
X
X

X

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COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
BARNETT	X		X		
HERMS			X		
KOREST			X		
MUENZER			X		
PASSIDOMO		X	X		
SULLIVAN			X		
ANDERSON			X		
(7-0)					

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COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
BARNETT				X	
HERMS				X	
KOFEST	X			X	
MUENZER		X		X	
PASSIDOMO				X	
SULLIVAN				X	
ANDERSON				X	
(7-0)					

Dan McGahey, representing the petitioner, said that some minor revisions had been made to the schematic landscape plan.

Councilman Muenzer said that he supported the library's plans and said that the library is to be commended. He noted that at some point installation of a stop sign at 6th Street North and Central Avenue should be considered.

MOTION: To APPROVE the resolution as presented.

ORD. NO. 91-_____

ITEM 15

AN ORDINANCE APPROVING REZONE PETITION 91-R1 TO AMEND A PREVIOUSLY APPROVED PLANNED DEVELOPMENT BY LENGTHENING THE PHASING SCHEDULE FOR CONSTRUCTION/REMODELLING AT THE EXISTING TRAILS END MOTEL LOCATED AT 209 9TH STREET SOUTH; AND PROVIDING AN EFFECTIVE DATE.

PURPOSE: TO AMEND THE PREVIOUSLY APPROVED PLANNED DEVELOPMENT FOR THE PROPERTY DESCRIBED HEREIN AT THE REQUEST OF THE PROPERTY OWNERS, BOMARK, INC., IN ORDER TO LENGTHEN THE PHASING SCHEDULE FOR CONSTRUCTION/REMODELLING.

Title read by City Attorney Rynders.

Community Development Director McKim told Council that the petitioner had requested a change in the phasing schedule, and the modified schedule would require the petitioner to begin construction and remodelling earlier, with specific completion times.

Mr. Mark Dorman of Forsythe Architects explained that a condition of the original ordinance was a yearly review. He told Council that the petitioner was asking to begin phase one during 1992, with an approximate variance of ten months.

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COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Barnett			X		
Herms			X		
Korest			X		
Muenzer			X		
Passidomo	X		X		
Sullivan		X	X		
Anderson			X		
(7-0)					

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COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S
			Y E S	N O	
<p>a Slow Speed/Minimum Wake zone on Saturdays, Sundays and holidays from Marker 21 to 32. In summary, Captain Richard said that in Naples Bay proper the threat from vessels to manatees is small on weekdays, but manatees have less chance to isolate themselves on weekends and holidays when vessel traffic increases.</p> <p>Mr. Kim Forlich from the Division of Marine Resources Office to Protect the Species said that there had been eleven known manatee deaths in the Naples Bay/Gordon River area since 1978. Very few manatees had been sighted in Naples Bay, he said, because conditions of the water and the boat traffic cause manatees to traverse the area quickly.</p> <p>Mr. Bruce D. Conley, 1100 Fifth Avenue South, who manages Naples Marina, said that the proposed slower speeds would result in boaters spending too much time getting to and from the Bay. He said that he did not think the voters of Naples would invest that much time in the intolerable heat, for manatees which had never been struck or killed in those waters. Manatees and conservation should not be used as a cover for other situations, Mr. Conley said and pointed out that any boater he knew of would slow down if a manatee were sighted. Perhaps the solution to this problem lies rather with some kind of signal or sighting program, Mr. Conley concluded.</p> <p>Ms. Priscilla K. Greve, 4570 11th Avenue S.W., spoke on behalf of several homeowners in Port Royal and Aqualane Shores. People purchased property in those areas because they are boaters and want to get into the Gulf quickly, she said; they however now feel that they are being penalized. She said the proposed regulations would also jeopardize the commercial fishermen. Ms. Greve asked Council to consider the effects of additional pollution caused by boats at idle speed, proposing that if Council would simply slow down speeds, the homeowners she represented</p>					

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COUNCIL MEMBERS	M O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
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Mr. Noel Osborne, President of the Collier County Marine Trades Association, said that his group

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COUNCIL MEMBERS	MOTION	SECTION	VOTE		A B S
			Y E S	N O	
Councilman Barnett stressed the importance of the boating community being involved in any hearing process.					
MOTION: To <u>DENY</u> ordinance at first reading					
Mayor Anderson said she disputed this line of thinking that. She said she would do whatever was necessary to get the speed limit lowered, and as Mayor would not support any ordinance for idle speed.					

ORD. 91-_____					
ITEM 19					
AN ORDINANCE AMENDING SUBSECTION (a) OF CHAPTER 21A-17 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.					
PURPOSE: TO PROVIDE A PROCEDURE BY WHICH UTILITY SERVICES TAX REVENUE MAY BE TRANSFERRED TO THE ANNUAL OPERATING FUND.					
Motion: To <u>APPROVE</u> the ordinance as presented at first reading					
*****END FIRST READINGS*****					
RES. 91-6375					
ITEM 20					
A RESOLUTION APPOINTING A SELECTION COMMITTEE TO REVIEW PROPOSALS SUBMITTED RELATING TO THE SELECTION OF A CONSULTANT TO PERFORM A WATER, SEWER AND SOLID WASTE RATE STUDY; AND PROVIDING AN EFFECTIVE DATE.					
MOTION: To <u>ADOPT</u> the resolution, adding Councilman Korest to the committee.					
Mrs. Sue B. Smith, 11 15th Avenue South, asked if there would be another water rate increase. In					

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SUPPLEMENTAL ATTENDANCE LIST

Sue B. Smith
Werner W. Haardt
William Roy
Wheeler Conkling
Noel Osborne
Allen Walburn
Bruce D. Conley
George R. Law
Leroy Huenefeld
Jim McGrath
David L. Dawson
Jeffrey Scott
George H. Garnor
Stan Starrett
Burt L. Saunders

Nicole Polayse
Oliver Durfey
Mark Dohrman
Duke Turner
Brent Scheneman
Priscilla K. Greve
Philip C. Morse, Jr.
John Mueller
R. James Richard
Louis Zieht
Reed Jarvi
John Pina
Nancy Stroud
Dan R. McGahey

Other interested visitors and citizens.

NEWS MEDIA

Wendy Fullerton, Fort Myers News Press
John Lunsford, Naples Daily News
Gina Binole, Naples Daily News