

### City Council Minutes

### Regular Meeting 05-01-91

City Council Chambers 735 Eighth Street South Naples, Florida 33940

# City of Naples

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



## City of Naples

### City Council Minutes Regular Meeting 05-01-91

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

City Council Chambers 735 Eighth Street South Naples, Florida 33940



Time 9:00 a.m.

5-01-91

Date

ROLL CALL			ITEM 1		12.55		VO	TE
Present:	Kim Anderson John M. Pass William E. I	sidomo, Vice May	yor	COUNCIL MEMBERS	0 T I 0	S E C O N D	Y E S	N.
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	Alan L. Kore	est						
	Paul W. Muer			10000				
	Fred L. Sull Councilmen						-	
11 D								
David Ryn City At Mark W. W Asst. C William H	t Coggan, City Manager ders, torney iltsie, ity Manager arrison, Director eble, Chief	Jon C. Staid Natural Re Christopher	Director ger, es. Manager L. Holley, vices Dir. t, Director Unangst,					
Gerald Gr City En George He	gineer	Marilyn McCo	man, fo. Officer					
See Suppl	emental Atter	ndance List - At	ttachment #1					
***		***	***					
INVOCATIO	N		ITEM 2					
		Susan Diamond Sistian Church						
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ANNOUNCEM	ents		ITEM 3					
		g City Manager ognized Sieben,						
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CITY OF NAPLES, FLORIDA  City Council Minutes Date 5-01-91	COUNCIL MEMBERS	M O T I O N	SECOND	E N O	A B S
Shepard of the Police Department K-9 Unit, for seven years of exempletory and meritorious service. Sieben received a plaque and box of dog biscuits. He will be spending his retirement at the home of his handler, Police Officer Leiter, and family.  Mayor Anderson next thanked Chairman William Roy and the Committee to Review City Efficiency for their time, cooperation and commitment in producing the report being presented to Council. The Mayor referred to President Bush's comments regarding volunteers being "a thousand points of light", and said that no government serves better than that which is closest to the people.  Acting City Manager Coggan said that the work of the Committee would be a definite step in the right direction for the City, and that the report laid a road map for the next City Manager. He extended gratitude from the entire staff to the Committee.  Chairman Roy told Council that it was a pleasure to present the findings of the Committee, and that in his opinion the committee had done an outstanding job. Communication and accountability are paramount problems in City government, he said, and expressed the hope that the report would provide guidance. He said that in reviewing City records of the past ten years, the Committee found that funding was adequate but that there was failure in management. Mr. Roy said that the Committee had attempted to find not only problems, but solutions as well. He commended Mr. Thomas Maher, the IBM consultant to the Committee, who put together a fine computer network for the City.  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					

City Council Minutes Date 05-01-91	COUNCIL MEMBERS	T I O N	ECOND	Y E S	N O	B S E N T
MOTION: To ACCEPT the minutes as written.  ***  ***  ***  ***  ***  ***	BARNETT HERMS KOREST MUENZER PASSIDOMO SULLIVAN ANDERSON (7-0)	X	X	X X X X X X		

CITY OF NAPLES, City Council Min		05-01-91	COUNCIL MEMBERS	M O T I O N	SECOND	Y E S	N O	A B S
RES. NO. 91-6367		ITEM 5-c						
A RESOLUTION OF TWO (2) RE THE PUBLIC WO THE REQUIREMEN THEREON; AUTHO TO ISSUE A PUR	AUTHORIZING THE MOTE TELEMETRY UNDERSON DEPARTMENT; T FOR COMPETITIVE DRIZING THE CITY CHASE ORDER THERE OFFECTIVE DATE.	PURCHASE NITS FOR WAIVING BIDDING MANAGER						
Councilman Herms indicated that The pay for all improve Coggan said that the and the City included for all costs. Wi \$30,000 upgrade to Purchasing Agent Ustill within budget	Bears Paw Develonments, and Acting the agreement betwoeldes reimbursement the regard to the constant of the agreement said that	lopment would City Manager een Bears Paw to the City he estimated ift station,						
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MANAGER TO IS B.R.I.A.N. IN THE REPAIR OF WAIVING THI	SUE A PURCHASE (C., IN CONJUNCT) A STORM SEWER DE REQUIREMENTS DS THEREON; AND P	ON WITH MANHOLE; S FOR						
the Engineering Der significant savings traditional manhol	nangst said that being utilized in councilman Sullivartment involved would be realized repair methodat she had re	this was an the City for van commended, saying that dompared to bds. Mayor eceived very						
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CITY OF NAPLES, FLORIDA  City Council Minutes Date 05-01-91	COUNCIL MEMBERS	M O T I O N	SECOND	Y E S	N O	A B S E N T
MOTION: To APPROVE the Consent Agenda, with an amendment to Item 5-d changing epoxy fiberglass to epoxy material with fiberglass reinforcements.  *****END OF CONSENT AGENDA*****	BARNETT HERMS KOREST MUENZER PASSIDOMO SULLIVAN ANDERSON (7-0)	х	х	X X X X X X		
A RESOLUTION GRANTING A VARIANCE FROM THE CITY'S COASTAL CONSTRUCTION SETBACK LINE TO EXTEND AN EXISTING REBUILT ROCK GROIN AN ADDITIONAL 65 FEET GULFWARD, TO A FINAL LENGTH OF 300 FEET, AT 100 BAY ROAD, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.						
Natural Resources Manager Staiger reviewed the background of the item and told Council that the length of the groin at the time of the request was 235 feet, but when the area was surveyed prior to actual construction, rock extending an additional 65 feet was discovered. In 1988 the petitioner, Mr. Hickey, requested permission to rebuild the groin to 300 feet. Dr. Staiger said that the City approved 235 feet, and since that time the required two years of monitoring had been done by the Department of Natural Resources (DNR). He recommended approval of this petition since there seemed to be no reason to be concerned about the additional 65 feet.						
Public Hearing: Opened: 9:37 a.m. Closed: 9:55 a.m.  Ms. Nancy Stroud, Attorney for the petitioner, assured Council that the groin will have no ill effect on Keywadin Island, and explained that the petition is not for an addition to the groin, but for reconstruction of the original groin. In addition, monitoring had shown to DNR's and Dr. Staiger's satisfaction that there had been no ill						

CITY OF NAPLES, FLORIDA  City Council Minutes Date 05-01-91	COUNCIL MEMBERS	M O T I O N	SECOND	N O	A B S
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.					1
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 OF NAPLES, FLORIDA  City Council Minutes Date 05-01-91	COUNCIL MEMBERS	M O T I O N	SECOZ	Y E S	E N O	A B S E N T
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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CITY OF NAPLES, FLORIDA  City Council Minutes  Date 05-01-91    COUNCIL MEMBERS   M   S   C   I   O   Y   N   E   N   D   S   O	to all the control of						
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 APPROVE 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			O T I O	ECON	Y E	N	В
	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 APPROVE 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	HERMS KORPST MUENZER PASSIDOMO SULLIVAN ANDERSON	X	X	X X X X	X	

	CITY OF NAPLES, FLORIDA  City Council Minutes Date 05-01-91	COUNCIL MEMBERS	M O T I O N	SECOND	E N O	A B S E N
	Wise Manage than appropriate that Council popular					
	Vice Mayor then suggested that Council revisit its policy of accepting opinions from people retained by petitioners.					
	Councilman Sullivan observed what he called a certain arrogance which had permeated most of the dealings conducted in this matter.					
	Mayor Anderson requested that staff schedule for a workshop meeting within the next sixty days a discussion of how to handle this type of				-	
	situation in the future; that while it would be the petitioner's cost, the City could consider control of the consultant review.				16	
	BREAK: 9:35 a.m 9:45 a.m.					
	***	3-12-1-970				
$\int$	ORD. NO. 91 ITEM 7					
	AN ORDINANCE AMENDING THE CODE OF THE CITY OF NAPLES, FLORIDA, PROVIDING FOR A STORMWATER MANAGEMENT UTILITY SYSTEM, SPECIFYING TERMS AND PROCEDURES FOR SAID SYSTEM, REPEALING ALL ORDINANCES					
	IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.					
	PURPOSE: TO PROVIDE A STORMWATER MANAGEMENT UTILITY TO MEET FEDERAL REQUIREMENTS AND TO PROVIDE FOR CLEANER WATER IN BAYS, CANALS AND LAKES; TO PROVIDE FOR IMPROVED STREET DRAINAGE, BETTER MAINTENANCE OF STORMWATER FACILITIES AND ENHANCED QUALITY OF LIFE.					
	Title read by City Attorney Rynders.					
	Acting City Manager Coggan said that the numerous regulations at the Federal and State level with regard to stormwater management would be effective soon. He explained that costs would not be finalized until completion of the Master Plan, but that \$900,000 in this year's budget is					
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CITY OF NAPLES, FLORIDA  City Council Minutes Date 05-01-91	COUNCIL MEMBERS	M O T I O N	SECOND	Y E S	E N O	A B S
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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	CITY OF NAPLES, FLORIDA  City Council Minutes Date 5-01-91	COUNCIL MEMBERS	M O T I O N	SECOND	r n o	A B S E N T
	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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City C	ouncil Minu	ces Date	05-01-91		COUNCIL MEMBERS	T I O N	C O N D	Y	Ň O
regard t	to how appe aid that Ca suggestions	ilman Korest's als would be amp, Dresser during future	handled, & McKee w	Mr.					
MOTION:	reading, a	E the ordinandding the st	ipulation	that	BARNETT HERMS KOREST MUFNZER PASSIDOMO	X		X X X X	
*** ORD. NO.		***		*** 'EM 8	SULLIVAN ANDERSON (7-0)		X	X X	
RETI ORDI PROV PURI COMI	INANCES OF T VIDING AN EF POSE: TO CL PENSATION.	TEM, OF THE THE CITY OF NAFECTIVE DATE.	CODE OF APLES; AND		BARNETT HERMS			X X	
MOTION:	To <u>ADOPT</u> to second rea	he ordinance a ding.	s presente	d at	KORFST MUENZER		Х	X X	
*** ORD. NO.	91-6371	***	IT	*** EM 9	PASSIDOMO SULLIVAN ANDERSON	-X		X X X	
THE		AMENDING SEC HE CODE OF ORD: PLES; AND PRO			(7-0)				
UNAU	THORIZED PE	INCREASE THE RSONS USING CAPPED PERSONS	A PARKING						
no bookke	eping proble	Coggan assure ems would aris ng up two diff ing fines.	e for the	City					
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CITY OF NAPLES, FLORIDA		M O	S E	VO	Έ	A B	
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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	BARNETT HERMS KOREST MUENZER PASSIDOMO SULLIVAN ANDERSON	х	X	X X X X X			
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	(7-0)						
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CITY OF NAPLES, FLORIDA  City Council Minutes Date 05-01-91  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	COUNCIL	M O T I O N	S E C O N D	Y E S	N O	A B S E N T
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						
MOTION: To ADOPT the ordinance as presented at second reading.	BARNETT HERMS KOREST MUENZER PASSIDOMO EULLIVAN ANDERSON (7-0)	X	X	X X X X X		

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CITY OF NAPLES, FLORIDA		M	-	VO	TE
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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.  Mayor Anderson requested that staff review such inconsistencies and report to Council at a workshop in July.  MOTION: To APPROVE the resolution as presented.  BREAK: 11:50 a.m 12:05 p.m.  ***  ***  ***  TIEM 12	BARNFTT HERMS KOREST MUENZER PASSIDOMO SULLIVAN ANDERSON (6-1)	X	X	X X X X X	X

	CITY OF NAPLES, FLORIDA  City Council Minutes Date 05-01-91	COUNCIL MEMBERS	M O T I O N	SECOZD	N O	A B S E N T
	INTERPRETATION OF THE COMMUNITY DEVELOPMENT DIRECTOR THAT THE ALLEY TO THE WEST OF NAPLES SHOPPING CENTER IS A MINOR RESIDENTIAL ALLEY; AND PROVIDING AN EFFECTIVE DATE.					
	Title read by City Attorney Rynders.					
	Community Development Director McKim reviewed the staff report and said that the P.A.B. had recommended prohibiting Naples Shopping Center from expanding access to anything more than what was already grandfathered in.					
	Attorney David Dawson, representing the petitioner, Net Realty, Inc., said that in his opinion the P.A.B. and Council had not focused on the Code's definition of a residential street or alley. The issue before Council, he said, was whether within the terms of the Code the subject alley constitutes, or can be classified as, a minor residential street or alley. Attorney Dawson said that he and the petitioner clearly believed that it is not. The road was not built to carry residential traffic, but to accommodate tenants of the shopping center and allow for loading.					
	Mr. Reed Garvey of Agnoli, Barber & Brundage, Inc., told Council that his firm had conducted several twenty-four hour traffic counts and had compared the figures for the road with roads which had similar characteristics. Mr. Garvey said that he had reviewed County and Department of Transportation (D.O.T.) requirements, and neither has a classification for an alley. He told Council that in his opinion this road does not operate as what he would describe as an alley but more as a local road. The traffic report, said Mr. Garvey, concluded that from 5-6% of the traffic on the road in question is truck traffic, which is typical of roadways in Collier County.					
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CITY OF NAPLES, FLORIDA		М	S	VOI	OTE A						
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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 bawson 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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MOTION: To APPROVE denial of the resolution, as recommended by staff.  ***  ***  ***  ***  ***  ***  RES. NO. 91	BARNETT HERMS KOREST MUENZER PASSIDOMO SULLIVAN ANDERSON (7-0)	X	X	X X X X X X X X X X X X X X X X X X X		

#### VOTE CITY OF NAPLES, FLORIDA M S Α 0 E В Date 05-01-91 City Council Minutes $\mathbf{T}$ C S I 0 Y E COUNCIL O N E N N MEMBERS N D S 0 1 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. Forsythe Architects, Mr. Jeffrey Scott of 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. 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 Council as a representative of retail to 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, He reiterated that when Ames when bankrupt. 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 solution center was 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	X	X		X X X X	
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Vice Mayor Passidomo said, however, that nothing could be achieved by tabling the issue, but perhaps a sense of direction could be gained by allowing the petitioner and neighbors to speak further.  Mr. John Mueller of 2695 Treasure Lane however cautioned Council about ill will which he said exists among the property owners. Because people need to have peace, quiet, and enjoyment of their property, and because access by emergency vehicles should be ensured, he recommended that a study be conducted.  Acting City Manager Coggan then read several letters from nearby residents, objecting to the petition.  MOTION: To DENY the resolution granting variance petition 91-V3.  RECESS: 1:50 p.m 2:05 p.m.	BARNETT HERMS KOREST MUENZER PASSIDOMO SULLIVAN ANDERSON (7 0)	X	X	X X X X X X		
A RESOLUTION GRANTING CONDITIONAL USE PETITION 91-CU2 TO AMEND THE PREVIOUSLY APPROVED SITE PLAN FOR THE EXPANSION OF THE MAIN BRANCH OF THE COLLIER COUNTY PUBLIC LIBRARY, 650 CENTRAL AVENUE, BY CHANGING THE APPROVED LANDSCAPE PLAN AND ADDING ADDITIONAL PATIO AREA; AND PROVIDING AN EFFECTIVE DATE.  Title read by City Attorney Rynders.  Community Development Director McKim told Council that in the former plan, landscaping in lieu of parking was approved with the condition that parking could be added later if needed. She said that staff is comfortable with the plan but would highly recommend that Council retain the condition that parking could be added. Architect						

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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.	BARNETT HERMS KOREST MUENZER	x	x	X X X	,	
MOTION: To APPROVE the resolution as presented.  ***  ***	PASSIDOMO SULLIVAN ANDERSON			Х Х Х		
ORD. NO. 91 ITEM 15  AN ORDINANCE APPROVING REZONE PETITION 91-R1 TO AMEND A PREVIOUSLY APPROVED PLANNED DEVELOPMENT BY LENGTHENING THE	(7-0)			X		
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.		1				
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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phases to Mr. Dorm because impossible recently	tioner had suggested wo and three be joined an said that the requested at this time fin- le to obtain, and to financed an extensive ensive marketing study	d into one project.  uest had been made  ancing is almost  he petitioner had  ve appraisal and a						
	on ensued with regard and ending dates.	to the recommended					-	
MOTION:	To <u>APPROVE</u> the or following change: If the words "All dates Phasing schedule to construction to began to be complete later. Phases 2 and during 1993, to be constructed.	are approximate."  co read: Phase 1  gin anytime during  ed up to ten months  3 to begin anytime	Barnett Herms Korest Muenzer Passidomo Sullivan Anderson (7-0)	х	x	X X X X X X		
***	***	***						
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request	was removed from tof Acting City Managa future date.							
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	****FIRST READING	S****	•					
ORD. NO.	91	ITEM 17						
PENA FAII CHAI SER' THE MEAI CON: PRO'	ORDINANCE PROVIDING ALTIES AND TRIPLE LURE TO PAY SYSTEM RGES, CONNECTION FEE VICE CHARGES BEFORE CITY'S WATER SYSTEM; NS OF ESTIMATING SUMPTION USED AND NOVIDING FOR LIABILITY; LECTION OF THE COSTS CONTROL OF THE COSTS	DAMAGES FOR DEVELOPMENT S AND WATER CONNECTING TO PROVIDING A THE WATER OT PAID FOR; PROVIDING FOR OF TIME, LABOR						
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COLLECTION, ATTORNEYS' FEES AND ANY OTHER COSTS ASSOCIATED WITH THE COLLECTION; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO PROVIDE CIVIL AND CRIMINAL PENALTIES FOR ILLEGAL WATER CONNECTIONS.						
Title read by City Attorney Rynders.					-	
Council agreed that the ordinance should be amended to reflect the misuse of any City utility.	BARNETT HERMS		х	X X		
MOTION: To <u>APPROVE</u> the ordinance at first reading, amending it to read any City utility, and add contractor into the first sentence of Section 1.	KOREST MUENZER PASSIDOMO SULLIVAN ANDERSON	х		X X X X		
***	(7-0)					
ORD. NO. 91 ITEM 18						
AN ORDINANCE AMENDING SECTION 7-65 OF ARTICLE III, VESSEL CONTROL, OF CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.						
PURPOSE: TO REGULATE THE OPERATION OF VESSELS WITHIN THE AREAS SPECIFIED HEREIN.		1				
Title read by City Attorney Rynders.						
Assistant City Manager Wiltsie explained to Council that permit applications had been submitted to the Department of Natural Resources (D.N.R.) for the installation of regulatory markers to provide restricted zones in Naples Bay.						
Captain Allen Richard, Deputy Boating Safety Coordinator, Florida Marine Patrol, reviewed the D.N.R. proposal, which differed from the City's request. The D.N.R. proposal would allow a Slow Speed/Minimum Wake zone from Markers 10 to 21 and						
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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.						
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.						
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.						
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						
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would expend their own time and funds to survey Port Royal and Aqualane homeowners to determine their feelings on the issue.						
Mayor Anderson said that for at least three years the City had been heavily petitioned to slow speeds in this area, and property owners may be under some misconceptions with regard to the actual length of time it takes to get out to the Gulf.						
Mr. Allen Walburn, who runs a charter fishing business at the City Dock, noted that the City had been discussing this issue for five years. He questioned why the manatee issue had emerged at the same time the speed issue arose. Mr. Walburn suggested coordinating a County-wide plan, which would possibly appease everyone. Minimum wake does not control the wake, he said, but rather controls the speed and suggested therefore, maintaining a channel speed. He added that he hoped Council would develop a comprehensive plan in this regard.						
Mr. Walburn reiterated that at slow speed, wakes are bigger than at idle speed. The intent of the law, he said, is to make boats operate safely and prudently; implementing a minimum wake would only have a detrimental effect on small boats. In conclusion, Mr. Walburn expressed willingness to work with anyone to develop a plan which would allow him to make a living.						
Mr. Brent Scheneman, Executive Director and Chairman of Manatee Alert, Inc., said that in his opinion the idea that regulations would solve the manatee problem is very misguided. He said that so far this year one out of five manatee deaths statewide were boat related, but that public education could solve that problem. If Council takes the course proposed by D.N.R., he said he would have difficulties maintaining his manatee protection program.						
Mr. Noel Osborne, President of the Collier County Marine Trades Association, said that his group						
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stands behind all common-sense efforts to preserve the environment. Mr. Osborne explained however that being relatively new to Naples he is more than a little confused by the City officials and staff and those involved in issues such as this. He stated that it is imperative to work							
together to achieve the common goals necessary to protect the environment, and strongly urged Council to table the proposed legislation and arrange a dialogue to arrive at a conclusion that would be acceptable to everyone.							
Mr. Philip C. Morse, Jr., 1320 Bald Eagle Drive, said that he, too, was confused by the discussion. He stressed the importance of moving boats through tight places in an orderly manner. The onslaught on boaters and marinas began six years ago, he said, and if it continues to be so unpleasant to be in the boat business, soon there will be no one to service boats.							1
Mr. George R. Law of Port-O-Call Marina also told Council that any further restrictions because of manatees would create a hardship. He said that boaters should at least have the same consideration as the manatees.						1	
Mr. John Mueller, 2695 Treasure Lane, explained that he had been a boater for twenty years and is in favor of an Idle Speed/No Wake zone between Markers 10 and 21. His position is not to crush the boating business, he said, but to safeguard the manatees, property owners' rights should also be respected.							
Mr. Wheeler Conkling of 950 Admiralty Parade pointed out that the ideal situation would be to have Idle Speed/No Wake, but that a Slow Speed/Minimum Wake zone would at least be a step in the right direction. Every time this item had been discussed at a meeting, he said, he had heard postponements recommended.							
Mr. Duke Turner, 899 Tenth Street South, said that he believed in property owners' rights and that the manatee issue is in reality being used							1
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as a safety issue. He asked Council to consider the fact that as owner of a marina, he must conduct sea trials on repaired boats, which cost \$45 per hour, and lower speed limits would raise the cost prohibitively. Mr. Turner urged Council to use common sense in this issue.  Vice Mayor Passidomo pointed out that considerable time had been used to discuss marginal travel time. He disagreed with Captain Richard that the area between Markers 1 and 10 is a danger zone. The Vice Mayor said that the situation should be investigated and the City should ascertain if there is in fact a manatee problem.					1	
Councilman Barnett asked if only the area between Markers 10 and 21 could be addressed. Assistant City Manager Wiltsie noted that that area is identified separately in the ordinance. Vice Mayor Passidomo cautioned that any changes be accomplished on the basis of safety, not manatees.						
Acting City Manager Coggan said that the manatee issue had caused confusion. When Council had first addressed this petition, it agreed unanimously that based upon life safety, these were the appropriate measures to take. He agreed with Vice Mayor Passidomo that all remedies should be investigated. The Vice Mayor said that he believed Council was correct the first time and should fight for what it believes in. The only issue before Council now, he said, was whether the ordinance should be adopted, and that the ordinance should be rejected.						
City Attorney Rynders said that he could not predict how an appeal process would end, but suggested that Council pursue it if that was its preference. The hearing process would take approximately six months from beginning to end and the City Attorney said that he did not anticipate it being very expensive.						
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BARNETT HERMS KOREST MUENZER PASSIDOMO SULLIVAN ANDERSON (7-0)	X	х	X X X X X X	
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1989 former City Manager Jones had cautioned Council that a study was needed before another rate increase, she said, and asked if Mr. Jones did indeed know that such a study would reveal the flagrant mismanagement. Mrs. Smith told Council that she did appreciate its efforts but was shocked that when rates were increased in the past "no one ever told us the truth." Studies are very expensive, she added, and Council does not always recognize the City's economic frailties.  Discussion ensued with regard to the rate study. Councilman Herms asked if an outside consultant was needed to review monthly balance sheets and take some of the burden off of staff. Finance Director Harrison confirmed that it is prudent to have someone independent of staff review balance sheets and utility rates. Councilman Korest stated that since the last formal study had been made in 1980, Council would be doing a great disservice to the community if a study were not done at this time.  Acting City Manager Coggan said that staff would explore the feasibility of conservation rates.  ******CORRESPONDENCE AND COMMUNICATIONS******  Councilman Muenzer announced that City Attorney Rynders had information with regard to the County ordinance regulating certain sexually orientated businesses. It was the consensus of Council to send the County a letter of support with regard to this ordinance, and ask that Council be kept informed.  Mayor Anderson thanked Acting City Manager Coggan and wished him well in his new position as Fire Chief of Redmond, Washington.						
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KIM ANDERSON, MAYOR						
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JANET CASON City Clerk					-	
Marilyn McCord						
Marilym McCord Recording Secretary						
These minutes of the Naples City Council were approved on						
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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