



# City of Naples

City Council Chambers  
735 Eighth Street South  
Naples, Florida 33940

-SUBJECT-	Ord. No.	Res. No.	Page
<u>ANNOUNCEMENTS</u> -MAYOR BILLICK - noted the presence of Collier County Commissioners John Pistor and Fred Voss -CITY MANAGER JONES - None			1
REQUEST BY NAPLES WOMAN'S CLUB FOR APPROVAL TO CONSTRUCT A MONUMENT IN CAMBIER PARK TO HONOR COLLIER COUNTY RESIDENTS WHO LOST THEIR LIVES WHILE SERVING THEIR COUNTRY			1
<u>APPROVAL OF MINUTES</u> - Workshop Meeting May 3, 1983 Regular Meeting May 4, 1983			2
<u>RESOLUTIONS</u> -Accept <u>drainage easement</u> from Grand Cent. Stn. & Naples Shopping Ctr -Approve Variance Pet. 83-V4, <u>encroach front yard, Meister</u> , 22 4th Ave So -Approve Spec. Ex. Pet. 83-S5, <u>St. Ann School</u> , 439 9th Ave So -Approve Spec. Ex. Pet. 83-S6, <u>6' fence, Boyes</u> , 380 5th Ave No -Approve adjustments to certain <u>sewer bills</u> -Approve expression of <u>confidence</u> - <u>City Attorney</u> -Approve expression of <u>confidence</u> - <u>City Manager</u> -Approve <u>Notice of Sale</u> - Revenue <u>Bonds</u> , CIP program		83-4271 83-4274 83-4275 83-4276 83-4277 83-4278 83-4279 83-4280	2 2 & 3 3 3 4 6 6 7
<u>PURCHASING</u> -Award bid - paper & plastic disposables -Award bid - used automobile		83-4272 83-4273	2 2
<u>FIRST READINGS</u> -Approve ordinance amending Ordinance 3669 - Port Royal Club -FAILED to approve ordinance to repeal Ordinance 83-4180-rates for water service -MOTION DIED to approve ordinance to repeal Ordinance 83-4181-rates for sewer service	83- FAILED NO VOTE		3 & 4 4 & 5 5

City Council Chambers  
 735 Eighth Street South  
 Naples, Florida 33940



Time 9:05 a.m.

Date May 18, 1983

Mayor Billick called the meeting to order and presided as Chairman.

ROLL CALL: Present: Stanley R. Billick ITEM 2  
 Mayor

R. B. Anderson  
 Lyle S. Richardson  
 Harry Rothchild  
 Wade H. Schroeder  
 Randolph I. Thornton  
 Kenneth A. Wood  
 Councilmen

Also present:

Franklin C. Jones, City Manager	Steven Cramer, Chief Planner
David W. Rynders, City Attorney	Randy Davis, Park & Recreation Director
Mark Wiltsie, Assistant to the City Manager	Bill Hanley, Finance Director
Stewart Unangst, Purchasing Agent	John R. McCord, City Engineer
Raymond McGhee, Equipment Management Director	Bill Savidge, Public Works Director
Roger Barry, Community Development Director	Max Hasse, Assistant Parks & Recreation Director
Ellen P. Marshall, Deputy Clerk	

See Attachment #1 - Supplemental Attendance List

INVOCATION - Rabbi Abraham Shusterman, Temple Shalom ITEM 1

ANNOUNCEMENTS ITEM 3

MAYOR BILLICK - noted the presence of Collier Commissioners Pistor and Voss in the audience. ITEM 3-a

CITY MANAGER JONES - None ITEM 3-b

REQUEST BY NAPLES WOMAN'S CLUB FOR APPROVAL TO CONSTRUCT A MONUMENT IN CAMBIER PARK TO HONOR COLLIER COUNTY RESIDENTS WHO LOST THEIR LIVES WHILE SERVING THEIR COUNTRY. ITEM 4

Mayor Billick noted the presence of Sergio and Pilar Montes and Mrs. Vann in connection with this project. He also noted that after Council approval was obtained, it would still be necessary to obtain approval from the donors of the Cambier Park property. Mr. Montes reviewed the monument, its dimensions and its location in Cambier Park. Henry Watkins, Jr., representing the donors of the park property, indicated his approval and that it would be forthcoming in writing after receiving a request in writing.

MOTION: To APPROVE the project as presented.

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-----CONSENT AGENDA-----

Mr. Schroeder moved to approve the Consent Agenda, seconded by Mr. Richardson; however, Mr. Rothchild requested that Items 7-a and 7-b, Purchasing Items, be removed from the Consent Agenda to be considered individually.

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	
Anderson		X		X	
Richardson				X	
Rothchild				X	
Schroeder			X	X	
Thornton				X	
Wood				X	
Billick				X	
(7-0)					

CITY OF NAPLES, FLORIDA

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COUNCIL MEMBERS	MOTION	SECTION	VOTE		ABSENT
			YES	NO	
	APPROVAL OF MINUTES - May 3, 1983 - Workshop Meeting & May 4, 1983 - Regular Meeting				
	---RESOLUTION 83-4271				
	<b>A RESOLUTION ACCEPTING DRAINAGE EASEMENTS FROM THE GRAND CENTRAL STATION SHOPPING PLAZA PARTNERSHIP AND NAPLES SHOPPING CENTER, INC.; AND PROVIDING AN EFFECTIVE DATE.</b>		X		
Anderson Richardson Rothchild Schroeder Thornton Wood Billick (7-0)	<b>MOTION: To APPROVE Consent Agenda, as amended, ADOPTING the resolution as presented.</b>		X		
***	***	***			
	-----END CONSENT AGENDA-----				
	---RESOLUTION 83-4272				
	<b>A RESOLUTION AWARDED THE BIDS FOR THE CITY'S ANNUAL REQUIREMENTS FOR PAPER AND PLASTIC DISPOSABLES; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.</b>			X	
Anderson Richardson Rothchild Schroeder Thornton Wood Billick (7-0)	<b>Title not read by City Attorney Rynders.</b>		X		
	<b>MOTION: To ADOPT the resolution as presented.</b>			X	
***	***	***			
	---RESOLUTION 83-4273				
	<b>A RESOLUTION AWARDED THE BID FOR ONE USED, MID-SIZE FOUR-DOOR SEDAN; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER FOR THE BID HEREIN AWARDED; AND PROVIDING AN EFFECTIVE DATE.</b>			X	
Anderson Richardson Rothchild Schroeder Thornton Wood Billick (7-0)	<b>Title not read by City Attorney Rynders.</b>		X		
	<b>Mr. Anderson stated his opinion that the data given to Council did not support the fairness and reasonableness of the price City Manager Jones proposed to pay. Mr. Anderson further stated that he had discussed the matter with the City Manager and was satisfied that it was a fair and reasonable price. City Manager Jones reviewed the manner in which the specifications were put together.</b>			X	
	<b>MOTION: To ADOPT the resolution as presented.</b>		X		
***	***	***			
	<u>COMMUNITY DEVELOPMENT DEPARTMENT/NAPLES PLANNING ADVISORY BOARD</u>				
	---RESOLUTION 83-4274				
	<b>A RESOLUTION GRANTING A VARIANCE FROM THE PROVISIONS OF SECTION 5.2 F(4) OF APPENDIX "A" - ZONING OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO RETAIN A COVERED ENTRY AREA ATTACHED TO AN EXISTING RESIDENCE AT 22 FOURTH AVENUE SOUTH, MORE PARTICULARLY DESCRIBED HEREIN, WHICH ENTRY AREA ENCROACHES A TOTAL OF SEVEN FEET INTO THE SUBJECT REQUIRED FRONT YARD; AND PROVIDING AN EFFECTIVE DATE.</b>			X	
	<b>Title read by City Attorney Rynders.</b>			X	

	COUNCIL MEMBERS	VOTE				A B S E N T
		M O T I O N	S E C O N D	Y E S	N O	
<u>COMMUNITY DEVELOPMENT DEPARTMENT/NAPLES PLANNING ADVISORY BOARD (Cont)</u>						
<p align="center">---RESOLUTION 83-4274 (Cont)</p> <p align="right">ITEM 8 (Cont)</p>						
<p>Mayor Billick noted that this petition was after the fact, but that the Planning Advisory Board was satisfied that it had not been done intentionally. Mr. Richardson and Mr. Schroeder felt that the criteria for a variance had not been met.</p>	Anderson Richardson Rothchild Schroeder Thornton Wood Billick (5-2)			X X X X X X		X X X
<p>MOTION: To <u>ADOPT</u> the resolution as presented.</p> <p align="center">***                                               ***                                               ***</p> <p align="center">---RESOLUTION 83-4275</p> <p align="right">ITEM 8-b</p>						
<p>A RESOLUTION GRANTING AN AMENDMENT TO A PREVIOUSLY APPROVED SPECIAL EXCEPTION TO PERMIT THE CONSTRUCTION OF A MULTI-PURPOSE BUILDING AT ST. ANN SCHOOL, 439 NINTH STREET, SOUTH, MORE PARTICULARLY DESCRIBED HERE 'N; AND PROVIDING AN EFFECTIVE DATE.</p> <p>Title read by City Attorney Rynders.</p> <p>Mario LaMendola, representing the petitioner, addressed Council and stated that St. Ann Church was willing to meet all the conditions as stated.</p>	Anderson Richardson Rothchild Schroeder Thornton Wood Billick (7-0)	X		X X X X X X		
<p>MOTION: To <u>ADOPT</u> the resolution as presented stating conditions.</p> <p align="center">***                                               ***                                               ***</p> <p align="center">---RESOLUTION 83-4276</p> <p align="right">ITEM 8-c</p>						
<p>A RESOLUTION GRANTING A SPECIAL EXCEPTION IN ORDER TO RETAIN A WOOD FENCE, APPROXIMATELY 6 FEET IN HEIGHT, WHICH HAS BEEN CONSTRUCTED IN A PORTION OF THE REQUIRED SIDE AND REAR YARD SETBACK AREA AT 380 FIFTH AVENUE NORTH; AND PROVIDING AN EFFECTIVE DATE.</p> <p>Title read by City Attorney Rynders.</p> <p>Mr. Schroeder again deplored the many requests for special exceptions for fences that come before Council and suggested that the Planning Advisory Board introduce an ordinance lifting all restrictions on the height of a fence.</p>	Anderson Richardson Rothchild Schroeder Thornton Wood Billick (7-0)	X	X	X X X X X		
<p>MOTION: To <u>ADOPT</u> the resolution as presented.</p> <p align="center">***                                               ***                                               ***</p> <p align="center">---ORDINANCE 83-_____</p> <p align="right">ITEM 8-d</p>						
<p>AN ORDINANCE AMENDING ORDINANCE NO. 3669 WHICH APPROVED THE DEVELOPMENT PLAN FOR THE PORT ROYAL CLUB, SUBJECT TO CERTAIN CONDITIONS ENUMERATED THEREIN; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO AMEND THE PREVIOUSLY APPROVED DEVELOPMENT PLAN FOR THE PORT ROYAL CLUB AT THE REQUEST OF THE PROPERTY OWNER TO PERMIT THE RELOCATION OF PROPOSED TENNIS COURT FACILITIES SHOWN IN SAID PLAN.</p> <p>Title read by City Attorney Rynders.</p> <p>City Attorney Rynders noted that since the previous development plan was approved as part of an ordinance, an ordinance was necessary to effect this change. He futher noted that the additional requests would be covered in a resolution</p>						

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COUNCIL MEMBERS	MOTION	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
<u>COMMUNITY DEVELOPMENT DEPARTMENT/NAPLES</u>					
<u>PLANNING ADVISORY BOARD</u>					
--- <u>ORDINANCE 83-</u> (Cont) <u>ITEM 8</u> (Cont)					
to be presented at the next meeting. Mayor Billick asked if Council would be asked to drop the restriction of the use of alcoholic beverages in the proposed structure on the east side of Gordon Drive. Roger Barry, Community Development Director, responded that this was not the intent, but if Council chose, they could make a prohibition of alcoholic beverages a condition of the up-coming resolution. Mayor Billick indicated his intention to do so.					
Anderson		X	X		
Richardson		X	X		
Rothchild	X		X		
Schroeder			X		
Thornton			X		
Wood			X		
Billick (7-0)			X		
MOTION: To <u>APPROVE</u> the ordinance on First Reading.					
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--- <u>RESOLUTION 83-4277</u> <u>ITEM 9</u>					
A RESOLUTION AUTHORIZING ADJUSTMENTS TO CUSTOMERS BILLED FOR SEWER SERVICE UNDER THE NEW RATE STRUCTURE ADOPTED ON JANUARY 5, 1983, IN THE FORM OF A CREDIT ON FUTURE BILLINGS; AND PROVIDING AN EFFECTIVE DATE.					
Anderson		X	X		
Richardson		X	X		
Rothchild		X	X		
Schroeder		X	X		
Thornton	X		X		
Wood			X		
Billick (7-0)			X		
MOTION: To <u>ADOPT</u> the resolution as presented.					
***					
<u>FIRST READINGS</u> <u>ITEM 10</u>					
--- <u>ORDINANCE 83-</u> <u>ITEM 10-a</u>					
AN ORDINANCE REPEALING ORDINANCE NO. 83-4180 RELATING TO RATES FOR WATER SERVICE WHICH AMENDED SECTION 26-8, ENTITLED "RATE SCHEDULE," OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.					
PURPOSE: TO REVOKE THE AMENDMENTS TO THE PREVIOUSLY EXISTING WATER SERVICE RATES AND THEREBY REINSTATE RATES EFFECTIVE PRIOR TO JANUARY 5, 1983.					
Title read by City Attorney Rynders.					
<u>Mr. Rothchild made a motion to approve the proposed ordinance on First Reading.</u> Although there was no second to the motion, Mayor Billick stated he would allow discussion because several people were present to address the issue. Frank Lualdi, citizen, addressed Council at length about the water-sewer rate situation. In Mr. Lualdi's statement he cited his dissatisfaction with the reception he received from City Manager Jones and City Attorney Rynders when he sought adjustment of his water billing and registered his complaints about the lack of public notice. He stated he wanted a refund on the retroactive billing and he wanted the rate ordinances revoked. He also stated he believed the ordinances to be illegal because residents were not properly notified and reviewed what he said were inconsistencies in the first billing under the new rates. Mr. Anderson noted that with a constriction device to adapt his meter to a smaller size, Mr. Lualdi's bill increased by just \$5.00.					
***					
Break: Recessed - 10:25 a.m. Reconvened - 10:37 a.m.					
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At Mayor Billick's request, Mr. Lualdi refrained from completing the reading of his entire prepared statement but requested that it be made a part of the record (Attachment #2). He concluded by again requesting that the rate ordinances be revoked and that					

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	

FIRST READINGS (Cont)

ITEM 10 (Cont)

---ORDINANCE 83---

ITEM 10-a (Cont)

Council begin the rate-making process again. If this was not done, he stated he would go to the Governor or the courts. Henry Watkins, Jr., owner of The Beach Club Hotel, stated that he felt the Council should have been aware that there had not been sufficient public notification and added that if he were on Council, he would see to it that the ordinances were repealed and started from "square one." Mayor Billick pointed out that the new ordinances were radical changes, but that corrections to the system for billing the new rates were being made and would continue to be made to bring everything into line. He felt that repealing them at this time would create more confusion and chaos than working to straighten them out. Werner Hart, citizen, noted the patience exhibited by the staff in the water department with respect to his bill and stated that he hoped the confusion could be eliminated soon. Citizen Jim McGrath suggested repealing the ordinances and beginning again. Gil Blanquart, citizen, spoke in support of billing based on meter size. Another citizen, Fred White, noted the cooperation he had received from the water department in helping him understand his water bill and said that he was happy with the new rates. Local businessman, J. Sandy Scatena, addressed Council and asked that his statement and 25 exhibits be made a part of the record (Attachment #3). He also spoke in support of repealing the existing ordinances on the water and sewer rates. After determining that there were no more people to speak on the issue, Mayor Billick seconded the motion to approve the ordinance on First Reading so that a roll call vote could be taken. Mr. Rothchild asked Public Works Director Bill Savidge to respond to questions regarding Mr. Savidge's memorandum to the City Manager dated March 4, 1983, addressing his questions on the new rates. Mr. Savidge noted that he would meet with the rate consultant at a later date to discuss them. In answer to questions from Messrs. Lualdi and Rothchild, Mr. Savidge confirmed that he had not spoken at the First or Second Readings of the water and sewer rate increase ordinances.

MOTION: To APPROVE the proposed ordinance on First Reading.

Anderson				X
Richardson				X
Rothchild	X		X	
Schroeder				X
Thornton				X
Wood				X
Billick (1-6)		X		X
FAILED				

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---ORDINANCE 83---

ITEM 10-b

AN ORDINANCE REPEALING ORDINANCE NO. 83-4181 RELATING TO RATES AND CHARGES FOR SEWER SERVICE WHICH AMENDED SECTION 11-3.3, ENTITLED "SEWER SERVICE - RATES AND CHARGES," OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.  
 PURPOSE: TO REVOKE THE AMENDMENTS TO THE PREVIOUSLY EXISTING SEWER SERVICE RATES AND THEREBY REINSTATE RATES EFFECTIVE PRIOR TO JANUARY 5, 1983.

Title read by City Attorney Rynders.

Mr. Rothchild moved for approval of the proposed ordinance on First Reading. There being no second to the motion, Mayor Billick ruled the motion dead.

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M O T I O N	S E C O N D	Y E S	N O	A B S E N T

COUNCIL  
MEMBERS

---RESOLUTION 83-4278

ITEM 11

A RESOLUTION EXPRESSING CONFIDENCE IN THE CITY ATTORNEY; AND PROVIDING AN EFFECTIVE DATE.

Title read by Mayor Billick.

Mr. Wood moved adoption of the above titled resolution, seconded by Mr. Thornton. Citizens Gilbert Weil, Clayton Bigg, Charles Reinbolt, Arndt Mueller, Gilbert Blanquart, Daniel Spina, and Mae Davis spoke in support of both City Attorney Rynders and City Manager Jones, whose vote of confidence was shown under a separate resolution. Mayor Billick read a letter from Edwin Putzell, former chairman of the Airport Authority, in support of the City Attorney (Attachment #4). Mr. Anderson made a statement in support of the City Attorney. Citizens John Smith and J. Sandy Scatena spoke against approval of the resolution of confidence; and Frank Lualdi, citizen, presented a copy of a statement which he did not read in its entirety (Attachment #5). Mr. Lualdi questioned the City Manager about instances when two councilmen were in his office at the same time and were discussing City business. City Manager Jones confirmed that this had occurred on more than one occasion. Mr. Richardson then read a brief statement in support of the present staff leadership (Attachment #6), and Mr. Rothchild reviewed his reasons for not supporting the resolution. Mr. Anderson read a statement supporting both the City Attorney and the City Manager and berating Mr. Rothchild for his actions (Attachment #7). Mr. Thornton read an editorial from the "Naples Daily News" dated April 11, 1982, that was critical of Mr. Rothchild's previous behavior during Council meetings (Attachment #8). Mr. Wood suggested that Council vote on both resolutions at the same time and withdrew his motion to approve the single above titled resolution.

---RESOLUTION 83-4279

ITEM 11

A RESOLUTION EXPRESSING CONFIDENCE IN THE CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

MOTION: "To extend the vote of confidence and APPROVE the resolutions both with regard to David Rynders and Frank Jones."

Mr. Scatena objected to action being taken on both resolutions inasmuch as he had not had an opportunity to speak on the one regarding City Manager Jones.

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Anderson	X	X		
Richardson		X		
Rothchild			X	
Schroeder		X		
Thornton		X		
Wood	X	X		
Billick		X		
(-6-1)				

COUNCIL MEMBERS

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RESOLUTION 83-4280

ITEM 12

A RESOLUTION FIXING THE DATE, MATURITY SCHEDULE AND REDEMPTION PROVISIONS FOR \$2,335,000 PUBLIC SERVICE TAX REVENUE BONDS, SERIES 1983, OF THE CITY OF NAPLES, FLORIDA; AUTHORIZING THE SALE OF SUCH BONDS AT PUBLIC SALE; AUTHORIZING THE PREPARATION OF THE OFFICIAL STATEMENT FOR THE BONDS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

City Manager Jones explained that the projects proposed for funding by this bond issue were large road re-building projects that would be of benefit to the City, as well as two other capital expenditures for which there was no revenue sources; i.e. expansion of the Public Safety Building and construction of a refuse transfer station. He noted the savings that could be achieved by issuing these bonds prior to July 1, 1983, because of pending bond legislation. James McGrath, citizen, asked about the cost of doing the road work in-house. The City Manager explained that cost comparisons made on each project confirmed the advisability of contracting the work, but evaluation of these projects would continue. He added that as long as the contracting costs were less or comparable to doing the work in-house, it would be less beneficial to the City to expand its staff than to contract the work. In response to another question from Mr. McGrath about accepting bids for financial consultant services, City Attorney Rynders noted that competitive bidding was not required in this case. Councilman Anderson also explained that savings achieved by issuing the bonds prior to July 1 more than offset any savings which might be obtained through competitive bidding. Mr. McGrath then brought up the subject of the controversy surrounding the recent bond issue by the Collier County Commission. Mayor Billick stated that this was not the same situation because the Commission had hired a financial advisor to help them decide to whom to award the bid for their bonds. Another citizen, Gilbert Blanquart, questioned the City's reasons for issuing the bonds prior to July 1, and also noted that the City's decision to compact the road work was to save money. He said that he felt prices and interest rates might go even lower in the future than the current trend had shown so far. City Attorney Rynders then noted corrections necessary in the proposed resolution in Council's packet: "appeal period will expire" (page 1); "public sale on June 1, 1983" (pp. 1, 3, 7 and 9); "The City has applied for a commitment from the Municipal Bond Insurance Association (MBIA) for a policy of insurance on the bonds" (page 4); and changing the address from which copies of the Official Statement may be obtained to "P.O. Box 12529, St. Petersburg, Florida 33733" and adding their telephone number (page 6). Courtland Rudolph, representative of Arch Roberts & Company, Inc., fiscal agents, stated that he did not foresee any problem with obtaining the MBIA insurance.

MOTION: To ADOPT the resolution as corrected by City Attorney Rynders.

Anderson				X
Richardson				X
Rothchild				X
Schroeder	X			X
Thornton				X
Wood		X		X
Billick				X
(6-1)				

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ADJOURN: 1:00 p.m.

*Janet Cason*

*Stanley R. Billick*  
Stanley R. Billick, Mayor

Janet Cason  
City Clerk

*Ellen P. Marshall*  
Ellen P. Marshall  
Deputy Clerk

These minutes of the Naples City Council approved 06-01-83



## Supplemental Attendance List - Regular Meeting 05/18/83

Rabbi Abraham Shusterman  
 Charles Andrews  
 Walter Olson  
 Mr. & Mrs. Sergio Montes  
 Frank Lualdi  
 Fred Voss  
 Charles Meyer  
 Tish Gray  
 Robert Schroer  
 Edward Hannam  
 Regina McInerney  
 Elizabeth Brown  
 Mario LaMendola  
 Sam Aronoff  
 Bob Russell

Aubrey M. Evans  
 John Lowrey  
 Clayton Bigg  
 William H. Morse  
 Ed Kant  
 Daniel Spina  
 Mr. & Mrs. Richard Grant  
 Lloyd Sarty  
 Henry Watkins, Jr.  
 Willie Anthony  
 Fr. Thomas Goggin  
 Arndt Mueller  
 John Pistor  
 Howard Hugus  
 Anita Utter  
 Mrs. Vann

Mr. & Mrs. Richard Chamberlain  
 Dennis Lynch  
 Gilbert Blanquart  
 Mr. & Mrs. John Smith  
 Edward A. Twerdahl  
 Arnold Lamm  
 J. Sandy Scatena  
 Gilbert Weil  
 Jim McGrath  
 Alice Bowling  
 Tom Morgan  
 Clarence Perry  
 Jim Weigle  
 Cortland Rudolph  
 Herb Anderson

## News Media:

Laurie Fugitt, TV-9  
 Susan Gardner, TV-9  
 Ben Garrett, TV-20 WBBH  
 Bob Hansen, TV-20 WBBH

James Moses, Naples Daily News  
 Denes Husty, News Press  
 Gary Arnold, TV-26 WEVU  
 Jeff Leen, Miami Herald

Other interested citizens and visitors.

NOTES FOR NAPLES CITY COUNCIL MEETING

MAY 18, 1983

My name is Frank Luaidi. My address is 3225 Rum Row. I have been a fulltime resident of Naples for 13 years. I am a journalist.

Thirteen years ago I moved my family to Naples to escape the dirty air, polluted water and corrupt governments of the north. Naples has had everything we could have ever wanted -- clean air, the beautiful waters of the Gulf of Mexico and honest, efficient government. *when I got here*

During this past year, however, I've grown increasingly disturbed over what's been happening with our city government. Up until four months ago I watched in silence as our city government was taken over by a handful of hired so-called "professionals." I confess I watched in silence as these men grew more powerful and less responsive to the needs of our citizens. I watched in silence as our City Council delegated its responsibilities and automatically rubber-stamped whatever these professionals put in front of it.

I confess I've been silent when maybe I shouldn't have been, and I know some people wish I'd be silent now. But the time has come for the silent people to speak up and remind both our elected and non-elected officials that <sup>we</sup> don't like what's happening to our city. We don't want Naples to become another Chicago, or New York, or Detroit.

It is truly a sad state of affairs when the citizens of our city can only get action from the government by storming city hall. This happened with the Veranda development proposal last year, and just recently with Mr. Jones' unilateral decision to close down the needed and popular concession stand at the city pier. Mr. Jones was stopped only because 3,000 citizens signed petitions opposing it. Such crowd scenes are not only embarrassing to the city, they're embarrassing to the people who have to take part in them.

Is this really the way you councilmen want Naples to be run? Like New York City? Like Detroit? Like Chicago?

I have spent countless hours over the past few months researching every available bit of information in connection with the change in the water and sewer rates. During these past few months I have been lied to, I have been harrassed, and I have been treated rudely and treated like a fool. What's more important is that a great many other residents of Naples have received this same treatment from our city

government.

On May 4 when I appeared before the City Council, I gave you specific reasons why ordinances #83-4180 and #83-4181 were illegally enacted. Today I come before you again to implore you to do the right thing and revoke these ordinances.

I have consulted with Mr. Carl Westman, one of Naples' prominent and astute attorneys, whom most of you Councilmen know. At my own expense I flew up to Connecticut to consult with another attorney who is an expert in utility matters.

After consulting with these attorneys, I wrote a letter on April 5 to Mayor Billick, of which you all received copies, outlining why the ordinances are illegal:

First, the residents of the City of Naples were deprived of reasonable notice of the proposed water and sewer rate increases, and deprived of reasonable notice of the public hearings about them. That is illegal.

Second, the residents of the City of Naples were deprived of accurate advance information concerning the proposed water and sewer rate increases and the potential financial impact such rates would have upon them.

The city records show there was <sup>3</sup>first reading of the new ordinance on December 15, 1982, and a so-called public hearing on January 5, 1983.

I asked Mr. Jones if he was the one who set the agenda for the December 15 and January 5 meetings. He did not respond. I checked and it was Mr. Jones who put these important utility matters on the city agenda. This schedule gave the public only 15 working days -- 15 working days which included Christmas Eve and New Years Eve. The public had no specific proposed rates to consider until December 15, and before the public had a chance to investigate and react, the new rates were passed into law January 5, 1983.

The official minutes of the January 5 public hearing show that this one and only public hearing lasted a scandalous 60 seconds. Surely that must be the shortest public hearing on a utility rate increase any utility has ever held in recorded history. The city minutes don't specify exactly what was said during this 60 seconds, but most likely very little since 60 seconds is an extremely brief period of time. It's hardly long enough for someone to state his name, let alone state his views.

The truth of it is that not one single resident or taxpayer was at that meeting to talk about the rates. If I were a City Councilman or a City Manager at a public hearing on a water and sewer rate increase and no one from the public showed up to speak, I would know something was wrong.

The truth, the fact of the matter, is the city never.

## ATTACHMENT #2 - page 5

published the new rates prior to their enactment, and to this date they still have not published the new rates. That is not due process under the law.

Third, the recently enacted ordinances establishing the revised water and sewer rates are unconstitutional and violate public policy for the following reasons:

- A. The rate structure is unreasonable because it is based upon arbitrary and capricious criteria totally unrelated to consumption.
- B. The newly enacted rate structure has not been uniformly applied to residents of Naples, and in some instances has been arbitrarily applied. As a result, the residents of Naples have been deprived of equal protection under the law.

It is a fact thousands of residents and businessmen received large increases in their water and sewer bills -- increases of up to 600% -- while some large water users received sharp decreases in their bills. I gave you many of those examples at the last meeting. If you walk across the hall to the billing department, you will be able to verify what I'm telling you.

## ATTACHMENT #2 - page 6

Now, here are some of the facts:

Mr. Coleman P. Cook of 233 Bay Point in the Moorings wrote me a letter giving me the following information: Under the new rate structure, his residential water bill went up 40% despite the fact he used no more water. He used 14,000 gallons in the old period and 14,000 gallons in the new period. His new water rate per thousand gallons is now \$1.35.

In contrast, the city records show the Surfside Condominium on the beach paid \$1,402 for 1,594,000 (one million five hundred ninety-four thousand) gallons of water which works out to 88 cents per thousand gallons under the old system. Under the new rates, this condominium's bill dropped to \$1,399 for 1,937,000 (one million nine hundred thirty-seven thousand) gallons of water, or 72 cents per thousand gallons. Less the point be missed, this condominium paid \$3 less for using 343,000 gallons more water under the new rate structure.

C. The new rate structure violates public policy because in many instances large multi-family complex consumers are charged at lower rates than single family residential consumers. Therefore, a portion of the impact of the new water rate structure has been shifted to single family consumers who are then forced to partially subsidize the

ATTACHMENT #2 - page 7

cost of water consumption by large multi-family complex consumers.

A review of my water bills shows a 130% increase under the new rates, and that is after using five thousand gallons less water.

Another very large condominium on the beach -- namely Gulfside -- "demanded" (Mr. Jones likes to use the word "demanded") 321,000 more gallons of water and paid \$16 less under the new rates. This was a 28% decrease in their cost per thousand gallons.

Mr. Jones told me I didn't understand his "philosophy" and "methodology" in setting these rates. His "methodology" resulted in giving away almost 700,000 gallons to these two condominiums alone. The question is: Is this what the Council wants? Is this what the Council expected to happen?

The case of Mr. Truman Brown -- his rates went from 65 cents per thousand gallons to \$1.08 per thousand gallons under the new billing. This works out to be a 66% increase -- despite the fact his water usage dropped as mine did.

I could go on and on citing examples, but the fact is an examination of the new billing will show it is riddled with these inequities.

It is a fact that Mr. Jones and Mr. Rynders misled you

ATTACHMENT #2 - page 8

into making a great many mistakes in bringing about this legislation. The Council should realize that -- understand that -- and admit to the public it was wrong. The public will admire you for this. And then schedule new hearings where the public can participate -- and if the public is satisfied that rate increases are necessary, put them into effect.

If you do not do what is legal and proper, you will force us to go to the Governor's office and ask for a full investigation of the facts and circumstances surrounding the enactment of these ordinances. And, if necessary, we will go to the courts.

We, the taxpayers, refuse to let our city be run like New York, Chicago or Detroit.

Do you have any questions?

Opening Statement

Good Morning, Mr Mayor and Councilmen:

My name is G. Sandy Seaton and my wife and I reside at 2990 Kennebec Drive Naples, Florida. We have lived in the City of Naples for over 11 years. We own several properties in Collier County since 1967 and in 1975 we opened A Woman's Apparel Shop - Cottage Park at 539 Fifth Ave. So.

Every Ordinance passed by this Council for the City of Naples controls in some way what we the Citizens, Property and Business Owners in the City of Naples can legally do. Now I am here today, AFA concerned Citizen, to discuss repealing Ordinances No. 83-418 and Ordinance relating to Rates for Water Service, Ordinance Section 26-8 entitled "Prohibitions of the Code of Ordinances of the City of Naples which was passed by this Council on January 5, 1983 and to discuss repealing Ordinance No. 83-4181 for Sewer Service Amending Section 11-3.3 entitled "Sewer Service Rates and Charges".

At this time Mr Mayor, I wish to place into the record of this hearing the following Exhibits marked No. 1 through No. 25 which are pertinent to this discussion that we are having today. I will make brief comments about each of these Exhibits. If you want each Exhibit read in full Mr Mayor, I will have that our able Assistant City Clerk, Pat Marshall, can do this for you.

19 of these 25 Exhibits which I have just introduced into the record have recently appeared in our local news papers: the Naples Daily News, "Naples Star" and local Edition of the "Miami Herald".

(See Page 2)

My wife and I have read these 25 Exhibits several times, and as members of the Business Community, are very concerned about the manner in which our City Manager, David Jones and our City Attorney, David Jones are performing their jobs. Common sense tells us that it is not equitable to charge Sewerage and Retrospective Water and Sewer Rate Increases, but the question we want answered is - "Is this legal to do under Ordinances No. 83-4180 and No. 83-4181 as publically stated by our City Manager, Frank Jones and our City Attorney, David Jones. At this Council Meeting today my wife and I hope that you Mr Mayor and Councilmen will vote to repeal both these Ordinances - No. 83-4180 and No. 83-4181, which in our opinion, were passed illegally by you on January 5, 1983.

Council Meeting - Wednesday -  
Agenda Item No. 11 - Discussion/Action with reference to retention of the City Attorney and City Manager.

My name is G. Sandy Seaton. My wife and I are very concerned about the manner in which our City Attorney, David Jones and our City Manager, Frank Jones are performing their duties for the City of Naples.

AN ORDINANCE RELATING TO RATES FOR WATER SERVICE, AMENDING SECTION 26-8, ENTITLED "RATE SCHEDULE", OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.  
 PURPOSE: TO REVISE THE RATE STRUCTURE FOR WATER SERVICE RATES.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

SECTION 1: That Subsection (b) of Section 26-8, entitled "Rate Schedule", of the Code of Ordinances of the City of Naples is hereby amended to read as follows:

Sec. 26-8. "Rate Schedule".

(b) The rate structure for water service is comprised of three distinct elements. Those elements and their definitions are:

Billing Costs: This cost is related to the number of customers in the system and is designed to recover the expenses of meter readings, billings, postage, etc.

Capacity Costs: This is the cost of having the system in place and prepared to serve the customer. This charge recovers all those capital expenses that are not recovered from separate charges and the debt service to pay the bond issues.

Commodity Costs: This is the cost of providing the water, such as chemicals, electricity, labor, etc. This cost is variable and depends on consumption.

\* The rates charged by the City for water furnished to customers inside the city and outside the city limits shall be as follows:

<u>Meter Size</u>	<u>Billing Cost</u>	<u>Capacity Cost</u>	<u>Commodity Cost - \$ .65 per thousand Gallons Over Minimum of</u>
5/8" & 3/4"	\$1.71	\$ 3.67	5,000 gallons
1" & 1 1/4"	1.71	14.68	10,000 gallons
1 1/2"	1.71	36.70	15,000 gallons
2"	1.71	91.75	20,000 gallons
3"	1.71	165.15	40,000 gallons
4"	1.71	330.30	60,000 gallons
6"	1.71	623.90	120,000 gallons

The charges set forth above are on a bi-monthly (2 months) basis.

SECTION 2. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 15<sup>th</sup> DAY OF DECEMBER, 1982.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 5th day of January, 1983.

*Stanley R. Billick*  
 Stanley R. Billick Mayor

ATTEST:  
*Janet Cason*  
 Janet Cason  
 City Clerk

APPROVED AS TO FORM AND LEGALITY BY *David W. Ryndern*  
 David W. Ryndern, City Attorney

# City Water Suit Threatened

Frank Lualdi is a small gray-haired man with a big voice and a bone to pick at Naples City Hall.

"In all my 65 years, I've never fought a city government," the Port Royal resident said after a stormy Friday meeting with Mayor Stanley Billick and City Attorney David Rynders.

"But I'm ready now. I have six pounds of back-up documents and all the money I need to take this matter to court," Lualdi added.

**HE THREATENED** to sue the City Council to revoke a Jan. 5 water rate increase, which Lualdi said raised his bimonthly water bill

## Water

session.

Lualdi had a stormy meeting with Jones in mid-February, after he received his new water bill. Lualdi later told a reporter he "blew the roof off" City Hall that day.

**THOUGH HE** didn't shout at Billick on Friday, Lualdi hammered away for an hour with his primary complaints:

- The public was not properly

**'In all my 65 years, I've never fought a city government. But I'm ready now. I have six pounds of back-up documents and all the money I need to take this matter to court' — Port Royal resident angry about city utility rate hikes**

by 117 percent.

Billick said Lualdi will have a chance to speak during the council's May 4 meeting at City Hall, but the mayor declined further comment because of the lawsuit threat.

Rynders also declined to comment and City Manager Frank

Jones was not available to answer questions on Friday afternoon.

Councilman Harry Rothchild is in Lualdi's corner. During last Wednesday's council meeting, Rothchild called for a discussion on water rates during the May 4 (Please see WATER, Page 2A)

From Page 1

informed of pending water and sewer rate increases.

Billick told Lualdi the council reviewed pending increases during a workshop on Sept. 14, 1982; reviewed the actual rates on Dec. 15, 1982, and reviewed them again during a public hearing before final council action on Jan. 5.

Lualdi then charged that Jones intentionally scheduled the last two sessions during the Christmas

holiday season, "when people are out of town or entertaining guests" and paying no attention to city affairs.

The public was not told of the rate hike's impact. Lualdi said some home owners received rate increases ranging from 20 to 300 percent. He said Jones described the hikes as "moderate" during the council's Dec. 15 session.

**ABOUT 3,000** residents in Old Naples, Royal Harbor, Port Royal and Aqualane Shores were the first to receive their new water bills in mid-February.

Donna Stumbo, a Naples Customer Service Department worker, said about 300 residents called her office to ask why their bills had gone up or down. Some residents received lower water bills under the new rates.

Finance Director Bill Hanley said residents with large water meters would have to pay initial bi-monthly bills, but the city would install meter reducers, which restrict meter capacity to lower potential water demand.

"All they had to do was make the request. The next bills will be lower if they have asked for a reducer, even if the device hasn't been installed," Hanley said Friday.



NAPLES DAILY NEWS

Mon., April 25, 1983

# Some Water Bill Meter Readings Could Be Illegal

Naples city officials confirmed today that perhaps as many as 100 water customers' November and December bills were based on a new rate structure and meter readings taken two days before the City Council passed the new rates into law.

The revelation could add steam to a drive by some city residents to have the new rate structure revised. However, the city's legal expert, City Attorney David Rynders, was in court today and was unavailable to comment on the legal ramifications of the early meter readings.

CITY FINANCE Director Bill Hanley was the city officials who confirmed today that some bills

were based on meter readings taken before the new rates technically became law.

He said he does not know if the charges are illegal or if those bills will have to be recalculated on the old rates.

"There has been no talk with my department about that," he told the Naples Daily News.

The new water rates were approved by council members on Jan. 5. However, city water department workers began reading meters on Jan. 3. Those readings were for water use in November and December.

Hanley said that due to a delay caused by reprogramming the city (Please see WATER, Page 2A)

## Water

From Page 1A

computer to handle the new rates, the bills were sent out on Jan 28, 23 days after the ordinance took effect.

City Manager Frank Jones said that he believed since the actual bills were sent out after the ordinance took effect, the city is in the right. "We think we used a pretty sound basis," he said, noting the city checked with Florida Power and Light Co. and its policy is similar.

HANLEY NOTED that while the new rates increased water fees significantly for some residents, others were charged lower rates.

Of the approximately 100 customers billed under the new rates for meters read before Jan. 5, at least 11 paid significantly higher bills ranging from \$24.22 to \$299.62.



D RYNDERS  
orney for city.

# City Attorney Defends Water-Billing Practice

The debate over water bills in Naples is heating up.

City Attorney David Rynders said Monday afternoon the city was correct in January when it billed homeowners new rates for water used in November and December.

The question came up earlier Monday when it was confirmed that some of the bills were based on meter readings taken Jan. 3, two days before the City Council officially approved the new rate structure.

NOTHING ILLEGAL about it,

Rynders said.

Councilman Harry Rothchild, often a critic of Rynders, disagrees. In fact, he says he is appalled and many of his constituents feel the same way.

Some residents who saw their water bills jump by as much as \$38 a month are using such words as "illegal, unlawful, extortion and fraud." There are threats of a lawsuit. A vocal crowd is expected at the May 4 City Council meeting to protest the billings.

Rynders said he is confident the

city is on firm legal ground. Said it ~~was~~ meter was read or what the w was used. The key ~~is~~ then w the residents billed? ~~is~~ the r weren't sent out until ~~Jan. 28~~, new rates could be charged.

In fact, he said city ~~water~~ dep ment officials had no ~~other~~ ch. They had to base ~~their~~ on r rates, because those were the c rates legally in effect. ~~then~~ bills were actually filed in January.

(Please see WATER, Page 10A)

## Water

ROTHCHILD, ON the other hand, says the water charge is retroactive and the ordinance the City Council approved on Jan. 5 contained no such provisions.

"It's like the city passing a law today saying your dog must be on a leash and then fining you because your dog was not on a leash two months ago," Rothchild said.

His analogy gets some support from a state-employed consumer advocate who was contacted Monday by the Naples Daily News.

"If you buy gas on a credit card for \$1.25 a gallon, but by the time you are billed at the end of the month it costs \$1.50, you should still pay \$1.25," said Steve Burgess, who is an attorney and public counsel for the state Public Service Commission (PSC).

"THE BARGAIN is struck when consumption is made," Burgess added, being careful to note that that's the policy of the PSC, which has no jurisdiction over municipal water systems such as the one in Naples.

However, he said the state Supreme Court has upheld the PSC's decision to disallow retroactive charges. That happened Jan. 28, 1982, after the Gulf Power Co., an electric utility in north Florida, unsuccessfully challenged the PSC's rule that bills cannot reflect rate hikes for service rendered prior to approval of the rate increase.

Again, Burgess cautioned that this might not pertain to the Naples water dispute, because the PSC has no authority. In Naples, the City Council acts as the PSC.

THE COUNCIL gave initial approval to the water rate increase on Dec. 15. They unanimously passed the official ordinance on Jan. 5 following a mandatory public hearing during which no

*"It's like the city passing a law today saying your dog must be on a leash and then fining you because your dog was not on a leash two months ago" — City Councilman Harry Rothchild*

private citizens spoke. The ordinance reads that the rates would go into effect on the day of passage.

On Monday, City Attorney Rynders noted that the new rates lowered more customer bills than they raised.

If the bills are ordered to be refigured, those paying the lower rates would have to reimburse the city at a higher rate. "Who do you make happy?" Rynders asked.

Because the new rate structure is based on meter size, some customers will be paying more, but others will pay less. For instance, if the the water line to your home is three-quarters of an inch wide you will be charged a base rate of \$3.67 every two months. If your water line is two inches in diameter, you are charged a whopping \$91.75.

"This is because a two-inch meter places a demand on the city water system at a ratio 25-to-1 compared to a three-quarter inch meter," explained City Finance Director Bill Hanley.

The city advised those with large meters to have smaller meters installed, thus reducing the bimonthly bills. However, the city also said that the bills already received had to be paid.

AFTER THOSE first bills were sent out, the city water department reported that about 300 residents

complained.

Some customers, like the Keewaydin Club resort, were especially hard hit. The club has a four-inch meter. Under the old rates that charged for the amount of water used, the rustic, sparsely populated club on Keewaydin Island was paying as little as \$32.39 every two months. Under the new rates, the club received a bill in January of \$332.01. Some homes in the Port Royal area with two-inch meters received bills that were \$76 higher than under the old rates.

The new water rates are adding more money to city coffers. In a memo from Fiscal Officer Hanley to City Manager Frank Jones dated Feb. 17, 1983, it noted that the new water rates brought in 9.9 percent more money than the old ones.

The memo read: "Just to keep you posted, we are halfway through the complete billing cycle for water and sewer and here are the latest figures — Old water (rates) \$240,329. New water (rates) \$264,082. Difference \$23,753. (Plus) 9.9 percent."

At the time the ordinance was passed, city administrators predicted the new rates would increase revenues by about 10 percent. It is the first water rate change since 1976.

# City To Alter Water Billing

An estimated 3,600 customers of the Naples water district will get back money, in the form of credit, paid earlier this year when a new water rate structure was imposed.

In a joint statement this morning from Mayor Stanley Billick and City Manager Frank Jones, the city has decided to adjust the bills mailed in January or February that reflected, for the first time, the new rate structure. The plan still must be approved by City Council on May 4.

THE CITY had been criticized for charging the new rates for water consumed in November and December, even though the revised rates weren't passed into law until Jan. 5. A number of residents claimed such charges are retroactive, thus illegal.

City officials do not admit the

billing procedure was illegal but Billick and Jones said it was "not equitable" to increase the price of a product after it has been consumed.

"The mayor and I sat down to see how the new rate was implemented," Jones said. "To be equitable we decided to refund any increase for the first bill received under the new rates."

THAT MEANS that customers who received bills in January or February under the new rates and were billed more than under the old rates will be credited for the extra amount charged. However their next water bill will be calculated under the new rates. Bills are sent out every two months.

Jones said that 70 percent of the municipal water service's 12,000 (Please see WATER, Page 2A)

## Water

From Page 1A

customers are being charged less for water under the new rates. They will not have to make up the money lost when the higher bills are recalculated.

Jones estimated that about \$45,000 will be credited to the 30 percent of the customers who are being charged more for water rates. He said interest on that money is about \$800.

CREDITS ALSO will be issued, Mayor Billick said, for residents who paid high water bills because their water meters were of excessive size.

The new rate structure is based on meter size. For instance, if the water line to your home is three-quarters of an inch wide you will be charged a base rate of \$3.67 every two months. If your water line is two inches in diameter, you are charged \$91.75.

Some older homes have the large meters. The city policy was that if you got the meter replaced with a smaller size, future water bills would be less. However, the city said no refunds would be given to those people for water used prior to finding out how large their meters.

Billick said today that customers who had smaller meters put in will be credited for large bills paid since the new rates took effect.



# City of Naples

735 EIGHTH STREET, SOUTH - NAPLES, FLORIDA 33940

OFFICE OF THE MAYOR

## NEWS RELEASE

### Joint Announcement - Mayor/City Manager

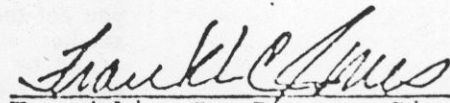
We are aware of concern regarding the method of implementing the new water rates adopted by City Council on January 5. The basic question appears to be whether it was equitable to charge those rates for meter readings which represented water consumed before the ordinance was effective. After having taken a closer look at this process, we have concluded that, irrespective of legalities, it is not equitable to increase the price of a product after it has been consumed. For that reason, we are going to recommend to the Council at their meeting on May 4, that an adjustment be made to the first bills rendered at the higher rate, to remove the increase.

In addition to alleviating the concern with the date the new rates began, this procedure will also reduce the rate billed to those individuals who had meters larger than needed, who subsequently received smaller meters at no charge.

We have also observed that there is a need for the City to aggressively solicit input from the public on a wide range of issues considered by the staff for recommended action by Council, and to keep these lines of communication open. To accomplish this we are implementing a program based on meetings with organizations that represent various interest groups in the community. Sessions are currently scheduled with a committee regarding issues affecting the Black community; another meeting is scheduled with the Presidents' Council, which consists of presidents of each of the property owners associations. The primary purpose of these two meetings is to exchange information concerning the City's budgeting process in advance of preparation of the 1983-84 budget.

Subsequent meetings to discuss important issues will be scheduled with organizations such as the Chamber of Commerce, the Board of Realtors and other groups within the City.

  
Stanley R. Billick, Mayor

  
Franklin C. Jones, City Manager

April 28, 1983

# Water Rate Dispute Spurs Jones-Rynders Ouster Call

Naples City Councilman Harry Rothchild has launched another attack on the abilities of City Manager Frank Jones and City Attorney David Rynders, calling for their dismissal in the wake of the recent water rate controversy.

"I hope, along with other concerned citizens, that this will foster and advance the early removal of both the city manager and the city attorney who have demonstrated that they are incompetent and in-

considerate of the rights of our citizens," Rothchild said.

"NAPLES deserves better. Heaven knows we can get much better and at a much lower cost. We should act now before we have to correct other wrongs."

The statements were in response to last week's joint announcement from Mayor Stanley Billick and City Manager Jones that the billing of citizens for water used in November and December, before a new rate structure took effect, was not "equitable" and those who paid higher bills would be compensated.

While Rothchild praised the announcement — he called it "the first step in an attempt to right a wrong" — he blamed Jones and Rynders for the controversy.

HE SAID citizens were not properly told what the impact of the new water

rates would be. Owners of older homes serviced by larger than normal water lines were hit with significant increases, because the new rate structure keyed water use charges to the size of the line, not just the amount of water used.

Rothchild claimed Jones was negligent in not pointing out that fact to customers, possibly through information leaflets in their water bills prior to the new rates being approved.

He was critical of Rynders for statements the city attorney made after it was confirmed that some customers were charged higher rates for water used prior to the approval of the new rate structure. Rynders said he believed the billings were legal.

THE JOINT statement from Billick and Jones never addressed the legality of the charges. It simply said that the billings were not equitable.

Besides calling for the removal of Jones and Rynders, Rothchild also wants fellow City Council members to rescind the new water rates and better notify the public about future rate structure plans.

All seven City Council members, including Rothchild, approved the rate structure on Jan. 5, after giving it tentative approval on Dec. 15. Both hearings were publicized and mention of a water and sewer rate change first appeared last fall in the Naples Daily News.

But Rothchild claims that was not enough and he was given misinformation, or at least not enough information, before he voted in favor of the rate structure.

Rothchild has been highly critical of both Jones and Rynders in the past, but has received little support, if any, from the other six Council members.

## Letters

### Rynders Can't Make Up Rules To Accommodate City Manager

Editor, Naples Daily News:

At some point in time it is necessary for us all to accept the fact that we are not independent. We all must adhere to certain laws and regulations. Perhaps it is time that City Attorney David Rynders recognize and accept the fact that the city of Naples is not sovereign, but is subject to the Florida and U.S. Constitution. He cannot make up rules as he sees fit to accommodate the wishes of the city manager or anyone else. He must see to it that the city's ordinances comply with applicable state and federal laws.

While he may find it convenient to make up rules to justify actions already taken by the city, if they conflict with existing law, they are invalid.

With respect to the imposition of new water rates on old water use, both the state and federal constitutions provide that it cannot be done without due process. David Rynders wishes to the contrary notwithstanding. The public has an absolute right to know what a governmental service is costing them at the time it is provided. It is not permissible to charge them more for that service than was permissible at the time they consumed it.

S. Craig Kiser  
Naples

Letters from readers are always welcome. Letters should be concise, with a 250-word maximum. All letters must be signed, must include a phone number or address for confirmation, and the name of the sender will be run with the letter. Initials or pen names will not suffice. The newspaper reserves the right to edit all letters and to withhold publication of letters considered possibly libelous, defamatory or lacking in good taste.

A jury consists of twelve persons chosen to decide who has the better lawyer.

— Robert Frost

## Retroactive Increases In Water Rates Unfair

We compliment Mayor Stan Billick and City Manager Frank Jones for deciding that retroactive water rate increases are not equitable.

As a result, they are going to recommend to City Council on Wednesday that an adjustment be made to the first bills containing the higher rate. If council agrees, the increase will be removed.

The issue came up last week when Jones confirmed that some of the bills mailed in January were calculated with the new higher water rates but were based on meter readings taken before the City Council officially approved the new rate structure.

In other words, some city residents were paying higher January rates for less expensive water consumed in November and December. And they were paying those higher rates without advance knowledge that they would have to do so.

That is inherently unfair, unethical — and probably illegal.

City Attorney Rynders said, in attempting to justify Jones' action, that it doesn't matter when the meter was read or when the water was used. What does matter, according to Rynders, is when the residents were billed. Since the new rates were in effect on Jan. 28 when the bills were sent out, the new rates could be charged, he said.

To us, and to numerous angry city residents, that argument just doesn't hold water.

The state's consumer advocate also doesn't buy that argument.

Even though the state has no jurisdiction in this case, the consumer advocate said the bargain is struck when consumption is made. He added that the state has successfully challenged retroactive rate increases that were not agreed to when the increases were granted.

The consumer advocate's reasoning was echoed by that of a local attorney in his letter to the editor: "The public has an absolute right to know what a governmental service is costing them at the time it is provided. It is not permissible to charge them more for that service than was permissible at the time they consumed it."

After the mayor and the city manager took a closer look at the situation, they also agreed that it was not equitable, "irrespective of legalities."

In hopes of preventing this sort of incident from happening again, Billick and Jones are going to set up regular meetings with organizations and special interest groups in the community to keep the lines of communications open. That should help.

We hope the City Council agrees with Billick and Jones on rescinding the retroactive water rate increases and votes on Wednesday to refund the excess charges in future billings.

It is the only fair and equitable thing to do.

Frank P. Lualdi  
3225 Rum Row  
Naples, Florida 33940  
April 5, 1983

Mayor Stanley R. Billick  
735 8th Street South  
Naples, Florida 33940

Dear Mayor Billick:

For the first time in my life I feel compelled to write a letter of protest to a member of government. While many times during my life I have had the urge to speak out on governmental matters, I have not done so. In this instance, however, I feel motivated by a sense of public duty to expose certain misconduct directed toward the City Council and the residents of Naples, during the proposal and enactment of the recently revised water & sewer rates.

My objections to the enactment of the water rate increases are based upon the following procedural grounds and misconduct:

- ✓ First, the residents of the City of Naples were deprived of reasonable notice of the proposed water rate increase.
- ✓ Second, the residents of the City of Naples were deprived of accurate advance information concerning the proposed water rate increase and the potential financial impact such rates would have upon them.
- ✓ Third, The City Council was actually misled by City Manager Frank Jones on at least three separate occasions, to wit:

- A. In an internal memorandum delivered to the City Council on December 6, 1982, City Manager Frank Jones misrepresented that the impact on all Naples homeowners would be minimal.
- B. During the City Council meeting held on December 15, 1982, in response to a question by a member of the Council concerning the potential impact of the proposed new rates on the average homeowner, Mr. Jones stated on the record "As a generality, you should see some reduction or at least an increase, a very moderate increase, to water users in residential units".
- C. During that same December 15 meeting of the City Council, Mr. Jones stated that large water users, (for example 700,000 gallon residential users.

✓ Fourth, The recently enacted ordinance establishing the revised

Mayor Stanley R. Billick  
April 5, 1983  
Page Two

water rates is unconstitutional and violative of public policy for the following reasons.

- ✓ A. The rate structure is unreasonable because it is based upon arbitrary and capricious criteria totally unrelated to consumption.
- B. The newly enacted rate structure has not been uniformly applied to residents of Naples and in some instances has been arbitrarily applied. As a result the residents of Naples have been deprived of equal protection under the law.
- C. The new rate structure is violative of public policy because in many instances large multi-family complex consumers are charged at lower rates than single family residential consumers. Therefore, a portion of the impact of the new water rate structure has been shifted to single family consumers who are then forced to partially subsidize the cost of water consumption by large multi-family complex consumers.

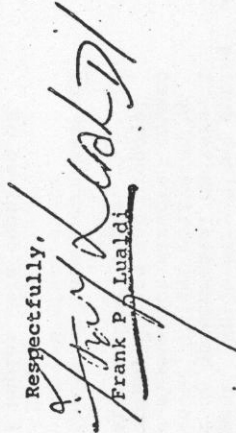
Based upon what I have uncovered during my thorough investigation of the water rate matter I am prepared to initiate judicial proceedings to challenge the legality of the recently enacted water rate ordinance. Such proceedings will also afford an opportunity for interested parties to formally examine the procedures and recommendations that were employed to support passage of the ordinance. However because of my respect for you and the members of the City Council and my genuine belief that the City Council was as much victimized by misleading reports and recommendations as were the residents of the City of Naples, I consider that responsible action on my part dictate that I first bring my objections to your attention and that you and the Council members be given a reasonable opportunity to investigate the procedures and recommendations that lead to the enactment of the increased water rate ordinance and to examine the empirical billing data generated since the enactment of the ordinance to determine whether remedial action is called for by the City Council.

Please be assured of my complete cooperation if you or other members of the Council should desire to meet with me or to examine

Mayor Stanley R. Billick  
April 5, 1983  
Page Three

the detailed results of my investigation concerning this matter.  
For your preliminary information, my single family residential water  
rate increased 117%.

Respectfully,

  
Frank P. Lualdi

- cc: R. B. Anderson ✓
- Lyle S. Richardson ✓
- Harry Rothchild ✓
- Wade H. Schroeder ✓
- Randolph J. Thornton ✓
- Kenneth A. Wood ✓

Exhibit No. 10

NOTES FOR PUBLIC STATEMENT BEFORE  
MAPLES CITY COUNCIL MEETING  
May 4, 1983

My name is Frank Lualdi. My address is 3225 Rum Row. I have been a fulltime resident of Naples for 13 years. I am a journalist.

You have a copy of my notes and, if I'm allowed to speak, you should be able to follow my presentation. If you have any questions on any point, I would appreciate it if you would make a note on your copy and then ask me any questions when I am through. This will save a great deal of time for everyone.

Before I begin, I would like to make certain that everyone here understands that I have the highest regard for the honesty and integrity of this City Council and our Mayor. I voted for all of you.

But it is a fact the Naples City Council was misled into passing bad legislation, and that bad legislation should be revoked as quickly as possible.

I have spent countless hours over the past few months researching every available bit of information in connection with the change in the water and sewer rates.

During these past few months I have been lied to, I have been harrassed, and I have been treated rudely and treated like a fool. What's more important is that a great many other residents of Naples have received this same treatment from our city government.

We don't like it. We won't tolerate it. This is the United States -- not a banana republic.

Why have I been lied to? Why have I been harrassed? That's simple -- because I'm asking questions no one wants to answer. Because if the truth is told, it will show that great injustices have been brought about by the city government.

Here are some of the facts my research has uncovered:

On February 6 I told the City Manager, Mr. Jones, that my water bill had gone up 130%, and that some other residents' bills had gone up 200% and 300%. I asked him the question: "When he was making his recommendation to the City Council, did he tell the City Council that some residents' bills would go up 200% - 300% - 600%? He did not respond.



thousand gallons under the new billing. This works out to a 66% increase -- despite the fact his water usage dropped as mine did.

I could go on and on citing examples, but the fact is an examination of the new billing will show it is riddled with these inequities.

On December 6, Mr. Jones wrote a memorandum to the Mayor and the members of the City Council recommending that the new rates be implemented. In his memorandum he stated, quote, "For additional clarification, I am presenting some typical water and sewer rate comparisons, and enclosing an addendum that presents the numbers used to arrive at the new rates."

Of the five examples he cited, none showed a water rate increase of more than 9%, and in fact, two of his three residential examples demonstrated substantial decreases. Nowhere in this memorandum, or in his remarks to the City Council, did Mr. Jones indicate that a fair number of Maples residents would be facing rate hikes of up to 600%.

The City Council trusted and accepted Mr. Jones' examples. He didn't tell you that some residential units would go up 200% - 300% - 600% -- and some large condominiums would have their rates drop 23%. If he had told you that, you certainly would have asked for a complete review of the matter.

The lesson to be learned here is that the larger the condominium, the less its residents have to pay for their water, and the single family homeowner winds up subsidizing them. Does Mr. Jones want me to give up my home and move to a large condominium? Perhaps he is suggesting I buy stock in large condominium development companies.

The city records show there was first reading of the new ordinance on December 15, 1982, and a so-called public hearing on January 5, 1983.

I asked Mr. Jones if he was the one who set the agenda for the December 15 and January 5 meetings. He did not respond. I checked and it was Mr. Jones who put these important utility matters on the city agenda. This schedule gave the public only 15 working days -- 15 working days which included Christmas Eve and New Years Eve. The public had no specific proposed rates to consider until December 15, and before the public had a chance to investigate and react, the new rates were passed into law January 5, 1983.

I asked Mr. Jones the question: "Had the city ever published the proposed rates prior to the enactment?" He did

I checked all the records -- all the hearing records -- and unless there were meetings off the record -- he didn't tell you that. On December 15 he told you there would be a "moderate" increase or actual decrease.

I asked Mr. Jones if he was aware there were very large water users that received drastic cuts in their water bills. He did not respond.

On December 15 Mr. Jones told you that large water users -- for example 700,000 gallon users -- would be charged higher rates for their water than smaller residential users.

Now, here are some of the facts:

Mr. Coleman P. Cook of 233 Bay Point in the Moorings wrote me a letter giving me the following information: Under the new rate structure, his residential water bill went up 40% despite the fact he used no more water. He used 14,000 gallons in the old period and 14,000 gallons in the new period. His new water rate per thousand gallons is now \$1.35.

In contrast, the city records show the Surfside Condominium on the beach paid \$1,402 for 1,594,000 (one million five hundred ninety-four thousand) gallons of water which works out to 88 cents per thousand gallons under the old system. Under the new rates, this condominium's bill dropped to \$1,399 for 1,937,000 (one million nine hundred thirty-seven thousand) gallons of water, or 72 cents per thousand gallons. Less the point be missed, this condominium paid \$3 less for using 343,000 gallons more water under the new rate structure.

A review of my water bills shows a 130% increase under the new rates, and that is after using five thousand gallons less water.

Another very large condominium on the beach -- namely Gulfside -- "demanded" (Mr. Jones likes to use the word "demanded") 321,000 more gallons of water and paid \$16 less under the new rates. This was a 28% decrease in their cost per thousand gallons.

Mr. Jones told me I didn't understand his "philosophy" and "methodology" in setting these rates. His "methodology" resulted in giving away almost 700,000 gallons to these two condominiums alone. The question is: Is this what the Council wants? Is this what the Council expected to happen?

The case of Mr. Truman Brown -- 963 Galleon Drive -- his rates went from 65 cents per thousand gallons to \$1.08 per

not respond. The truth, the fact of the matter, is the city never published the new rates prior to their enactment, and to this date they still have not published the new rates. If they had published the new rates prior to their enactment you can be sure that instead of there being no one at the one and only public hearing re these water rates, there would have been many people there with questions.

The city government's failure to provide the public with full and complete details of its proposed action precluded the possibility of any meaningful debate. This might not be government in the dark, but it's certainly government in the dusk.

The very speed and silence with which this rate restructuring was introduced and passed by the City Council raises several critical questions. As a normal matter of course there is usually at least an eight month to two year interval between the time a utility rate change is first proposed and is actually put into effect.

This gives the public an adequate amount of time in which to assimilate and evaluate the facts of the case and make their views known to the proper authorities. Fifteen days, wrapped around the Christmas holidays, can hardly be called adequate -- or just.

I believe the City Council didn't realize what was happening, but the City Manager, who set up the agenda, knew exactly what he was doing. I believe he did not want to hear from the public. Mr. Jones may think that our water and sewer public utilities belong to him, but he's wrong. They belong to the taxpayers of this city. This water utility is not Mr. Jones' backyard nose.

The official minutes of the January 5 public hearing show that this one and only public hearing lasted a scandalous 60 seconds. Surely that must be the shortest public hearing on a utility rate increase any utility has ever held in recorded history. The city minutes don't specify exactly what was said during this 60 seconds, but most likely very little since 60 seconds is an extremely brief period of time. It's hardly long enough for someone to state his name, let alone state his views.

The truth of it is that not one single resident or taxpayer was at that meeting to talk about the water rates. If I were a City Councilman or a City Manager at a public hearing on a water and sewer rate increase and no one from the public showed up to speak, I would know something was wrong. I would wonder whether the public really knew what was happening and whether they had been adequately informed.

The proper legal thing, the proper moral thing, the proper ethical thing would have been to postpone the decision re the new water and sewer rates and to instruct the City Manager to publish the new rates and make certain the public was informed as to what was being proposed. Then a public hearing should have been scheduled for a later date to receive taxpayer input.

At one point in my discussion with Mr. Jones, he informed me that my problem was that I didn't understand the "philosophy and methodology" behind the rate restructuring he had devised and recommended to the City Council. I agreed I did not understand, and asked what had been the "philosophy and methodology" of previous City Councils and City Managers? Mr. Jones said it was obvious they hadn't had any "philosophy and methodology." In effect he was telling me that all the previous City Managers and City Councilmen hadn't known what they were doing.

During the course of my research I also met with the City Finance Director, Mr. ~~John~~ Hanley. I asked him the same question I had previously asked Mr. Jones: "Why hadn't the city warned the public in advance that this new billing system might double or triple our water bills?" He did not respond.

I also inquired as to how much additional revenue he estimated the city would receive as a result of this water and sewer rate restructuring. He replied that he did not know -- an answer which totally baffled me since I had assumed that as City Finance Director he would be familiar with whatever financial projections had been used as the basis for this new legislation.

When it turned out Mr. Hanley had no idea how much additional funds he expected to come in as a result of these water and sewer rate increases, I decided to review the transcripts of all the meetings. These transcripts show that no figures were ever presented to the City Council as to how much money the city needed. There was no definition of any problem, there was no explanation as to why they should raise the rates, there was no explanation as to how much money should be raised. You don't merely raise people's rates on the strength that it would be nice.

At the time the Council made the decision to approve the rates Mr. Jones recommended, they did not even know how much money was needed or how much money would be brought in by these new rates. At least I can't find it in the records. I can't find it in the newspapers. And everyone I ask has no idea about it.

Does the city need \$400,000? \$400,000? \$4 million? If the Council did not know, how could it decide to increase the rates? I listened to all the tapes of the meetings, and I also had the city transcribe them for me (for over \$100), and I still can't find any mention of this.

Is the city running out of water? Does the city want to build a new water plant for outside growth? Why does the city need to raise the rates?

Whether it's a private utility or a public utility, it first examines whether or not it really needs a rate increase. Then calculates how much is needed --- \$40,000? \$4 million? The utility then goes to a public service commission, or in this case the public, and states it needs an increase of say, \$40,000, or \$400,000 or \$4 million, and the detailed reasons for it.

According to the official records, the council was never told, the public was never told and the press was never told the reasons for these increased water and sewer rates. According to the official records, our city's Finance Director, Mr. Hanley, was never consulted by the City Council, which is strange in itself. Mr. Jones seems to wear many hats.

The record seems to indicate the City Council, on January 5, passed legislation raising sewer and water rates without telling the residents why. The record seems to indicate the City Council passed these rate increases without even knowing why. They simply took Mr. Jones' advice.

Mr. Jones, for his part, relied on the advice of outside consultants who charged the city \$31,000 for a useless report.

I would like to point out that the information these consultants used was one and a half to two years out of date at the time they made their recommendations to the City Manager and the City Council. In other words, when the City Council made its decision to raise the rates, it was relying on a report containing information that was two years old. I would like to ask the councilmen this question: "When you were in business, did you make important decisions based on two-year old information? When the up-to-date information was available in five minutes?"

During the meeting on either December 15 or January 5, why didn't one of you turn to the City Manager and say, "Mr. Jones, where is the up-to-date information? This information is two years old."

I don't believe the councilmen really studied this report. I had to read it three times, and altogether I spent over eight hours studying it. If there had been a proper public hearing on January 5, and if I had been provided with a copy of the consultant's report, there would have been something like 20 questions I would have asked the outside consultants if they had been there -- which they weren't. And the first one would have been: "Why are you giving me a report based on information that's two years old?"

This study is outrageous and the city should ask for its \$31,000 back. I had to pay the city \$12 to get a copy of this report which is as full of holes as Swiss cheese.

I'd also like to ask: "Why did the City Attorney absent himself during the December 15 first reading of this legislation? What could have been more important than utility legislation? He made sure he was in attendance when the City Council discussed how much an astrologer should pay for a city license."

The utilities in this city are owned by the public -- not by Mr. Jones, not by Mr. Rynders. These ordinances, # 234180 and #34161, should be revoked as soon as possible. They're illegal, they're immoral.

This Council has made a great many mistakes in bringing about this legislation. The Council should realize that -- understand that -- and admit to the public it was wrong. The public will admire you for this. And then schedule new hearings where the public can participate -- and if the public is satisfied that rate increases are necessary, put them into effect.

I appreciate your giving me this time to speak. There are many more facts I can give you if you desire. Thank you again.

RESOLUTION NO. 83-4268

A RESOLUTION AUTHORIZING ADJUSTMENTS TO CERTAIN CUSTOMERS BILLED FOR WATER SERVICE UNDER THE NEW RATE STRUCTURE ADOPTED ON JANUARY 5, 1983 IN THE FORM OF A CREDIT ON FUTURE BILLINGS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 5, 1983 the City Council adopted Ordinance No. 83-4180 which revised the rate structure for water service and increased the rates for certain users of the City Water System; and

WHEREAS, subsequent thereto water bills were sent out implementing the new water rates, based on meter readings representing water consumed prior to the effective date of the ordinance; and

WHEREAS, after reviewing the method used in implementing the new water rates and in an effort to alleviate any concern or questions relating thereto, the Mayor and City Manager have recommended that an adjustment be made to the customers billed at the higher rate for water consumed prior to the effective date of Ordinance No. 83-4180;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

SECTION 1. That the City Manager is hereby authorized to provide adjustments to those customers who were billed for water service under the new rate structure adopted by Ordinance No. 83-4180 for water consumed prior to the effective date of said ordinance and that said adjustment shall be reflected by a credit on future billings.

SECTION 2. This resolution shall take effect immediately upon adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 4th DAY OF MAY, 1983.

Stanley R. Billick Mayor  
Stanley R. Billick

ATTEST:  
Janet Cason  
Janet Cason  
City Clerk

APPROVED AS TO FORM AND LEGALITY BY David W. Rynders  
David W. Rynders, City Attorney

COUNCIL MEMBERS	N O T I O N	S E C O N D	VOTE		A B S E N T
			Y E S	N O	
Anderson					X
Richardson			X		
Rothchild				X	
Schroeder		X	X		
Thornton	X		X		
Wood			X		
Billick			X		

NAPLES DAILY NEWS Wed., May 4, 1983

# Higher Taxes Warned for City

By JAMES MOSES  
Staff Writer

Naples City Manager Frank Jones hasn't run out of money for city operations, but he will have to spend carefully in the next six months to avoid a projected \$80,000 deficit.

Jones gave the City Council his mid-year budget review during a Tuesday workshop and predicted an end to six years of reduced city taxes when the council approves the 1983-84 budget this September.

NAPLES MILLAGE rates have

dropped for the past six years to the current 1.45 mills, but rates could stay the same or increase in 1983-84 to avoid another deficit, Jones added.

Councilmen Roland Anderson and Lyle Richardson said Jones is doing well to hold the projected loss at \$80,000 — only 1 percent of the \$7.9 million total operating fund.

"Good operations," Richardson remarked as he studied Jones' figures.

But the city may have another

shortfall — \$104,000 in the \$1.9 million capital improvements budget, which is supported by city utility taxes. The total deficit for operating and capital funds could be \$184,000 by Oct. 1, when the new fiscal year begins.

ANDERSON AND Mayor Stanley Billick said Jones should bring the budgets into balance, if possible, before the fiscal year's end so the city won't have to spend its surplus account — \$1.3 million built up during the past several years. Jones puts extra money in

this account every year. "You have six months to correct this (deficit)," Anderson said to Jones. Billick said he wants another budget report in three months.

The city has a third fund — income and expenses for water and sewer service. Jones predicted a \$20,000 surplus for this \$6.6 million annual budget.

The city manager said he will have to use most of the \$310,000 annual contingency fund. About (Please see CITY, Page 2A)

From Page 2A

## City

\$270,000 has been spent for employee salaries, including Jones' own pay increase, from \$42,500 to \$47,250 — an 11 percent raise approved by the council last September.

POLICEMEN, firemen and general workers, represented by three different unions, received 8-percent pay hikes last year. Jones said health insurance costs are up by \$80,000 and many employees, including general workers and administrators,

earned 2- to 4-percent merit increases this year.

Wages and benefits are appropriated from the contingency fund every year.

Jones said income from two operating revenue sources has been less than he expected. Interest rates paid by banks on city accounts have fallen from about 16 percent to about 8 percent in the past several months. The interest income loss could be \$83,000.

JONES SAID state sales tax

income is \$80,000 lower than his projections when the current budget was approved.

He plans to defer buying small equipment and delay hiring employees.

"The money adds up pretty quickly when there are (job) vacancies," Jones said.

He said some street repairs, a fire truck overhaul and new public works equipment could be deferred until the 1983-84 fiscal year.

NAPLES DAILY NEWS

Thurs., May 5, 1983

# Naples To Extend Credit For Water Over-Charges

By JAMES MOSES  
Staff Writer

Naples resident Frank Lualdi, upset over the recent city water rate increase, didn't like the looks of City Manager Frank Jones at Wednesday's heated City Council session.

"You can make all the faces you want, young man," Lualdi told Jones, "but I have the facts to prove you broke the law."

The Port Royal resident won a three-month fight to get a city water payment credit for himself and about 3,000 others, who were

billed under new rates approved in January for water they used last November and December.

THE COUNCIL approved higher rates Jan. 5 and Lualdi said his own water bill went up, without warning, by 130 percent. On Wednesday, the council voted 5-1 to refund the extra money in the form of credit on future bills.

Councilman Harry Rothchild, though sympathetic to Lualdi's cause, voted against the refund because of a technicality. He said the meeting agenda should have mentioned a resolution for the rebate.

Councilman Roland Anderson was absent.

Payment credits on future bills didn't satisfy Lualdi. He said he would sue to revoke the Jan. 5 ordinance, claiming the public and council members were misled by Jones in thinking no major rate increases would result. He also complained that the city never printed the new rate structure before it became law.

LUALDI SPOKE for more than an hour, accusing Jones of:

- Refusing to answer Lualdi's (Please see WATER, Page 6A)



FRANK JONES  
...target of protes

## Water

questions about the new water rates. Jones later said he would not comment on the charge because Lualdi has threatened to sue the city. Lualdi also said Finance Director Bill Hanley refused to answer his questions.

- Not telling the council that residents with large water meters would pay up to 600 percent more with the new rate structure. On Dec. 15, Jones told the council some water users would have "moderate" rate increases. During a council workshop and two regular meetings on the matter, Jones did not mention water meter size as a billing factor, Lualdi claimed.

- Not telling the council that some condominium dwellers would pay less per gallon than single-family homeowners. The effect is that one-family houses subsidize condominiums, Lualdi told the council. He offered comparisons showing that single-family homeowners are paying more per gallon for water.

- Basing the rate increase on "potential demand" for water instead of the actual amounts consumed, as measured by meters. Jones said the rates are based on potential demand because the city must charge for the cost to produce the water (the water plant and pipes), the water itself and the cost to serve the customer with repairs and billing.

- Not giving the public

time to respond. Lualdi said Florida Power and Light Co. warns its customers up to seven months in advance of rate increases, but the council passed new water rates in 15 working days between initial approval last Dec. 15 and final action on Jan. 5.

"NOT ONE resident was at (the Jan. 5 meeting) to talk about the water rates. If I were a city councilman or a city manager at a public hearing and no one showed up to speak, I would know something was wrong," Lualdi said. All councilmen voted for the new rates on Dec. 15 and Jan. 5.

After several other homeowners complained about the new rates and how they were enacted, former City Councilman Gil Blanquart took Jones' side. He said Rothchild, who called for the removal of both Jones and City Attorney David Rynders in the wake of the water controversy, constantly attacks Jones and Rynders. Blanquart called for a council vote of confidence — a vote to either fire or retain Jones and Rynders — during the May 18 meeting. Mayor Stanley Billick said he would place the item on that day's agenda.

The mayor also said the council will discuss new sewer rates, which are affected by water consumption, during the May 18 session. Lualdi said the sewer rate structure, also approved on Dec. 15 and Jan. 5, is illegal.

*Donna's copy*

ORDINANCE NO. 83-4181

AN ORDINANCE RELATING TO RATES AND CHARGES FOR SEWER SERVICE, AMENDING SECTION 11-3.3, ENTITLED "SEWER SERVICE - RATES AND CHARGES", OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES; AND PROVIDING AN EFFECTIVE DATE.  
PURPOSE: TO REVISE THE RATE STRUCTURE FOR SEWER SERVICE RATES AND CHARGES.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

SECTION 1. That Subsection (b) of Section 11-3.3, entitled "Sewer Service - Rates and Charges", of the Code of Ordinances of the City of Naples is hereby amended to read as follows:

Sec. 11-3.3. Sewer Service - Rates and Charges.

(b) The rate structure for sewer service is comprised of three distinct elements. Those elements and their definitions are:

Billing Costs: This cost is related to the number of customers in the system and is designed to recover the expenses of meter readings, billings, postage, etc.

Capacity Costs: This is the cost of having the system in place and prepared to serve the customer. This charge recovers all those capital expenses that are not recovered from separate charges and the debt service to pay the bond issues.

Commodity Costs: This is the cost of providing the collection and treatment of sewage such as chemicals, electricity, labor, etc. This cost is variable and depends on consumption.

Rates charged by the City for sewer services furnished to customers inside the city and outside the city limits shall be as follows:

Billing Costs - \$.80

Capacity Costs - \$4.12 per ERU (equivalent residential unit)

All non-residential customers will be charged a whole number multiple of an ERU that has been determined by taking the average monthly consumption and dividing by 8,000 gallons.

Commodity Costs - Each ERU will have a cap of 18,000 gallons. There will be a charge of \$.78 per 1,000 gallons based on 75% of consumption.

The charges set forth above are on a bi-monthly (2 months) basis.

In instances where the rate is inequitable due to facilities where water used does not go into the sewer system, the aggrieved party or parties may apply in writing to the City Manager for relief. The application shall include satisfactory data to substantiate the request. The City Manager shall review the application and may make such adjustment as he deems equitable in accordance with the following criteria:

*# of Condo x 18,000  
x 75% x .78¢  
+ 4.12 x # of Condo.  
+ .80¢  
If they use less than  
than 18,000 units, then use  
actual usage.*

ORDINANCE NO. 83-4181

PAGE TWO

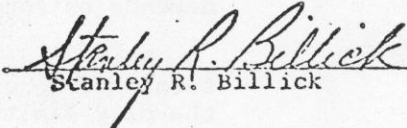
- (1) Consideration for an adjustment will be given in instances where less than fifty (50%) per cent of the water over a six-month period goes into the sewer system.
- (2) Consideration will not be given where the average bi-monthly sewer bill over a twelve-month period is less than the charge would be if based on a \$4.92 minimum.
- (3) The adjustment will be based on the amount of water going into the system as determined by the City Manager or his designee. In no case shall the rate be adjusted to an amount which is less than the amount required to adequately compensate the City for the cost of providing the service.

In the event the rates set forth above are insufficient to cover the cost to the City of providing the service, then the City Manager, after consultation with and recommendation by the City's consulting engineer, shall make a recommendation to the City Council for approval of an adjustment in the rate to adequately compensate the City for the cost of such service.

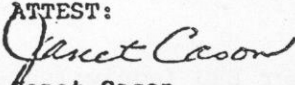
SECTION 2. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 15<sup>th</sup> DAY OF DECEMBER, 1982.

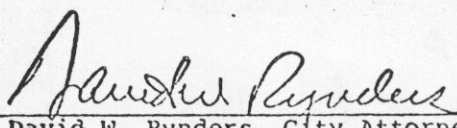
PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 5th DAY OF January, 1983.

  
 Stanley R. Billick Mayor

ATTEST:

  
 Janet Cason  
 City Clerk

APPROVED AS TO FORM AND LEGALITY BY

  
 David W. Rynders, City Attorney



Thursday, May 5, 1983 / The Miami Herald

# Commission OKs rebates on water fee

## 5-1 vote follows public criticism

By JEFF LEEN  
Herald Staff Writer

After a heated public hearing, the Naples City Council Wednesday voted 5-1 to give more than 3,000 water users an estimated \$45,000 in credit for "retroactive increases" they were forced to pay when new water rates were passed last January.

"In the wake of public criticism, Mayor Stan Billick and City Manager Frank Jones jointly recommended the credit last week after deciding it was not equitable to increase the price of a product after it has been consumed."

During Wednesday's discussion, the council and City Manager Frank Jones were berated by residents who said they were not properly informed about the increase, which boosted rates for customers with over-sized meters as much as 400 per cent.

Many of those who spoke out were residents of Port Royal, where most of the city's over-sized, two-inch meters that serve residential homes are located. The new rate schedule charges customers on the basis of meter size in order to make those who put greater demand on the water system pay more of the system's capital costs.

The schedule, prepared for the city by consultants Coopers and Lybrand, reduced water bills for 70 per cent of the city's 17,000 water customers, including most small residential users, Jones said.

Frank Lualdi, of 3225 Rum Row in Port Royal, took up the bulk of the discussion with a seven-page prepared statement undertaken after he saw his water bill jump from \$62 to \$135 after the new rates were passed by the council Jan. 5.

Calling the new rate schedule "riddled with these inequities," Lualdi pointed out that the ordinance containing the schedule passed after a "public hearing that lasted a scandalous 60 seconds."

In addition, Lualdi said the public was not given adequate time to study the rates because the public hearings were "wrapped around the Christmas holidays."

"The city government's failure to provide the public with full and complete details of its proposed action precluded the possibility of any meaningful debate," the 65-year-old Lualdi said. "This might not be government in the dark, but it's certainly government in the dusk."

Meters were read for billing on Jan. 3, two days before the council passed the ordinance, and customers were billed for water consumed in November and December. Lualdi's bill dropped to \$57 after he had a smaller meter installed, according to figures released by Billick.

In February, following a storm of protest from customers with two-inch meters, the city offered to exchange the meters with smaller, less expensive meters.

"There is no generalization you can apply to what will happen with somebody's water rates," Jones said.

Coopers and Lybrand spokesman John Michalik said the rate structure based on meter size was a fair and accepted method of allocating a water system's cost of satisfying customer demand. City water rates have not been increased since 1976, and the city's mid-year budget review Tuesday revealed the water and sewer fund would fall into a deficit without the new rates.

But Councilman Harry Rothchild said Coopers and Lybrand's report was so technical and esoteric that it was hard for the councilmen to understand. Lualdi agreed.

"I don't believe the councilmen really studied this report," he said. "I had to read it three times. Altogether I spent eight hours studying it."

Lualdi accused Jones of "stonewalling" him when he went to City Hall in February seeking answers about his larger bill. He angrily chided Jones for not knowing how much revenue the new rates would produce.

NAPLES DAILY NEWS

Thurs., May 5, 1983

# City, County Deep In Water Bill Feud

By JOHN LUNSFORD  
Staff Writer

Naples residents screaming that they were over charged in January for water used in November and December, should consider the plight of Collier County, which has been over-billed for water purchased from the city the last four years to the tune of \$483,438.

That's what city officials admit. County officials believe it may be more.

Naples taxpayers shouldn't be alarmed, the money is safely tucked away in an escrow account at a local bank.

But the county strongly suspects

that an impartial third party — like a court — might decide that the city should pay back a lot more. At next Tuesday's meeting, the Collier County Commission is going to talk about hiring a utilities rate specialist to dig into the potentially explosive misunderstanding.

FOR \$5,000, it hopes to find out if it has grounds to pursue an even larger rebate from the city.

At issue is a basic question:

Should Collier County pay twice for the same water plant?

When the county established its own utilities department, it arranged to purchase water from the (Please see FEUD, Page 2A)

## Feud

city until its own water treatment plant could be constructed.

The deal guaranteed the city the same profit on water sold to the county as it earns from its other customers. The county has yet to determine what it is being charged under the new rates approved by City Council on Jan. 5. That should be known by next week.

Under the old rate schedule, the county agreed to pay a base rate, at that time about 93 cents per 1,000 gallons, minus the cost of billing and the use of transmission lines.

The city pumps the water to four huge meters scattered about the county where it is transferred to county-owned lines for delivery to county customers. And, the county handles its own billing.

**THE WAY IT** really works is

that the county pay Naples 81.7 cents per 1,000 gallons for the first 500 million gallons and a slightly lower rate thereafter. In addition, the county kicks in about \$235,000 annually as its share of retiring the bonded indebtedness on the city's water plant.

Once a year, the city audits its operation and either bills or credits the county for the difference between what the county paid and what it should have paid on its cost-plus contract.

Here's where the problem pops up, according to county Utilities Director Irving Berzon.

The first year, the county owed Naples about \$23,000 which it paid promptly.

The second year, according to Berzon, the city changed the rules. In February, 1978, the City Council decided to up the ante by charging the county for plant depreciation in addition to unspecified "additional costs."

That maneuver reduced the rebate owed by the city that year from an estimated \$78,000 to only \$2,602.

**THE RUB**, according to Berzon, is the depreciation charge.

"That means we're paying twice for the same plant," he said Wednesday. "We're helping pay off the bonds to build the present plant and then they're charging us

depreciation to amortize the same debt."

According to a letter from City Manager Franklin C. Jones, the city calculates that it owes Collier County Utilities \$483,438.78. That's \$2,602.58 for 1978-79, \$128,783.11 for 1979-80, \$153,209 for 1980-81 and \$198,844 for 1981-82.

The county has asked, "Are your retail customers charged depreciation as part of their semi-monthly bill?"

The city said no.

But, it argued that when it's time to build a new plant customers within its service area will help pay for it while county will be long gone as a customer. That's true enough because the county is now building its own water treatment plant and will disconnect from the city system as soon as it's completed.

Clerk of Courts William J. Reagan agrees with the utilities director and, in fact, helped negotiate the April 28 letter from Jones admitting the \$480,000 liability to the county.

"It makes no difference to the stability of the system," Reagan said, "but it should be settled."

And not, he says, necessarily on terms dictated by the city.

The Naples Star - Friday, May 6, 1983

# The power of Naples people, or how to get city council to change its mind

By Leslie Wyatt

**T**he will of the people. No governmental body seems to respect it more than the Naples City Council.

Cases in point:

★ After an outpouring of public protest last month, City Manager Frank Jones reversed his decision to close the Naples Pier concession stand and replace it with vending machines. The stand, he decided, will remain open for at least six months while monthly proceeds are evaluated. If it makes more revenue than it incurs in expenses, the concession will continue to operate.

★ At this week's council meeting, members voted to return an estimated \$45,000 in credit to some 3,000 water-users for "retroactive increases" they were made to pay in January when council passed new water and sewer user fees.

The revelation came last month, that some water customers' November and December bills were based on new rate and meter readings taken two days before council passed the rates into law.

At Wednesday's heated meeting, councilmen were bombarded with criticism from angry residents who attended en masse charging they weren't properly appraised of the water-sewer rate increase, which raised some customers rates as much as 100 percent.

In wake of the criticism, Mayor Stanley Billick and City Manager Frank Jones recommended council credit customers, deciding it isn't fair to

increase the price of a product after it has been consumed.

Councilman Harry Rothchild cast the only negative vote charging the new rate schedule prepared for the city by the consulting firm of Coopers & Lybrand is so technical and esoteric that it is too hard for councilmen to understand. He wants it rewritten in layman's terms.

Port Royal resident Frank Lualdi contributed most to the council's discussion. A journalist, Lualdi read a seven-page statement he said he wrote after his water bill jumped from \$62 a month to \$135 a month when new rates were passed in January.

He said councilmen "failed to provide the public with full and complete details of its proposed action and that precluded the possibility of any meaningful debate."

He also said the ordinance containing the new schedule passed after a public hearing that "lasted a scandalous 60 seconds."

Other residents of Port Royal echoed Lualdi's sentiments, calling the new rate schedule inequitable.

However, the new rate structure, according to Coopers & Lybrand, is based on meter size — those who use the most water, pay more of the system's capital costs. Most of the city's oversized, two-inch meters are located within the subdivision.

And, a full 70 percent of the city's 17,000 water users realized a decrease in water bills under the new rate structure. ★

NAPLES DAILY NEWS Sun., May 8, 1983

# Mayor Supports Rebates For Overcharged Service

By JAMES MOSES Staff Writer

Naples residents who were retroactively billed for sewer service after rates were increased Jan. 5 should be given a rebate, Mayor Stanley Billick said Friday.

The refunds can be in the form of credits on future sewer bills if the council approves during its regular meeting May 19 at City Hall.

CREDITS WOULD be the same type of rebate approved by the council last Wednesday for water users. The city has about 13,000 water and sewer customers and roughly 3,000 will receive water rebates.

The council approved the water credits because resident Frank Lualdi challenged the legality of retroactive rate increases

approved on Jan. 5. About 3,000 customers were billed for water used last November and December under rates that weren't approved until Jan. 5.

The same principle applies to the sewer rate, Billick said Friday. "We cannot retroactively raise the rates and we should give credits to consumers," he added.

Lualdi said Friday the rebate will be welcome, but he still intends to sue the city to revoke the Jan. 5 rates for both water and sewer.

"The people were illegally billed. In addition, they weren't given proper notice (of the rate increase)," he added.

LUALDI AND Donna Stumbo, the city's customer service representative, said most residential sewer bills went up by

about 24 percent, as Jones predicted last December. But Lualdi claimed, and Mrs. Stumbo confirmed, that commercial sewage rates went up by 100 percent or more.

Last December, Jones gave what he called "typical water and sewer rate comparisons" showing 30- to 34-percent increases for motels and condominiums.

"Many of our commercial customers are paying at least 100 percent more for sewage service (under the new rate structure)," Mrs. Stumbo said.

On Friday, Lualdi repeated his lawsuit threat. "I AND A number of other citizens will bring about a class-action suit against the city and several city executives if the city does not, on its own, remedy the injustices brought about (on Jan.

that kind of money when it is the council's power to revoke the (Jan. 5) law, without going to court," he added.

Also calling for the elimination of the Jan. 5 rates is City Councilman Harry Rothchild, who puts the blame for the public outrage on Jones and Rynders.

"The recently adopted sewer service rates and charges are equally illegal as the new water rates," Rothchild said Friday. "The improper charges must be returned or credited to the city customers. I have gotten many calls from citizens who object to being illegally billed for sewer services, and they want their money back."

"This is still another indication of the incompetent handling of the city business by Frank Jones."



NAPLES RESIDENT FRANK LUALDI ...still plans to sue city.

# Bill Credits Hike Deficit

By JAMES MOSES

Staff Writer

Naples water and sewer rate credits to consumers will cost the city about \$75,358, plus staff time for billing, Finance Director Bill Hanley said today.

He confirmed that the city's small surplus — about \$20,000 on a \$6.6 million water-sewer service annual fund — would be wiped out and replaced by a small deficit, about \$55,358.

THIS WOULD raise the city's total mid-year deficit to \$239,358.

The current total budget shortfall is about \$184,000, City Manager Frank Jones' reported to the City Council last week. Councilmen told Jones to spend carefully so he can balance the current budget by the end of this fiscal year on Sept. 30.

The City Council reacted last Wednesday to pressure from resident Frank Lualdi and others, who said they should not have been charged retroactively for water used last November and December, before the water rate was raised by council action on Jan. 5.

Lualdi and about 3,000 other users, who were billed in February for water used the last two months of last year, will receive credit on future water bills.

LUALDI ALSO said the council should revoke the Jan. 5 ordinance because its impact wasn't properly explained by Jones, but the council did not. Lualdi said he will sue the city to revoke the new law.

During the council's May 18 meeting, it will consider a second rebate — credit on future bills for retroactive billing for sewer ser-

vice. The council also raised sewage rates on Jan. 5 and Mayor Stanley Billick has said the rebate should be approved because the same 3,000 users were billed retroactively, starting in February, for sewage service last November and December.

Hanley said the total water rebate would be \$46,851 and the total sewage rebate, if approved by the council on May 18, could be \$25,327. He said the city will lose

(Please see CREDITS, Page 2A)

## Credits

about \$3,200 on interest paid by banks on the city's accounts.

HANLEY ESTIMATED that Stanley Dykes, the city's data processing manager, will spend 36 hours on the billing credits.

"That's not an actual loss of money because Stanley would be here anyway, but other projects may have to languish (so Dykes can plan the billing credits)," Hanley added.

The finance director said the city won't lose money on about 300 meter capacity "reducers," installed at residents' request to lower water demand. This is

because residents paid for larger meters when houses were built and won't receive meter size rebates when reducers are installed, Hanley added.

A two-inch diameter meter costs \$519 and a 1.25-inch meter — which is a more common size — costs \$322. Consumers are not being billed for the reducers.

MANY OF THE city's 13,000 water and sewer users had lower bills in February under the new rate structure. These users will not have to make up the difference in retroactive billing unless the council directs Jones and Hanley to

charge them. Billick has said he won't recommend that undercharged users make up the difference.

"The council has already addressed this by not addressing it," Hanley said. "The council apparently just wanted to give credit to those whose bills went up."

Hanley said residents would not see credits for "a couple of months" because he will wait until after May 18 for council direction on sewage rebates. When credits are given, they will be noted in a small box on water-sewer bills.



## City Roundup

By James Moses

Naples City Manager Frank Jones had nothing to say last week when residents claimed they had been overcharged for city water.

Finance Director Bill Hanley and City Attorney David Rydners had no comment.

Resident Frank Lualdi said the three men "stonewalled" the City Council the same way they refused to answer his questions during a three-month investigation, he began after his water bill went up 130 percent.

Though the administrators were mute, Lualdi's persistence finally led to partial relief. The council voted Wednesday to give water users credit on future bills for consumption during last November and December. About 3,000 residents were billed for last year's consumption at a rate set by the council on Jan. 5.

"That is illegal," Lualdi said to Jones and the council. He and Councilman Harry Rothchild grilled Jones, Rydners and Hanley, but no one would admit to illegal acts.

"The city executives are either very, very stupid or they just don't care about the public. Whatever it is, they will answer in court," Lualdi said after the meeting.

Resident Henry Watkins Jr. had the same message. He said past administrations have "been open and fair" with the public, but the Jones administration has not.

Lualdi said the billing credit decision is fine, but he wants the ordinance revoked because Jones misled the council, saying increases would be "moderate." Instead, some increases were as high as 600 percent, Lualdi added.

Jones had other problems last week. He reported a projected \$184,000 annual budget deficit during the council's Tuesday workshop.

Mayor Stanley Billick said he wants another report in three months and Councilman Roland Anderson said the budget should be in balance by the fiscal year's end on Sept. 30.

Jones blamed the imbalance on falling interest rates (banks pay interest on city accounts) and low state sales tax revenue. The combined loss is about \$163,000 for the year.

*Naples Daily News*

1075 Central Ave. Naples, Fla. 33940 Tues., May 10, 1983 Ph: 813-262-3161

THOUGHT FOR THE DAY

*Justice ... is so subtle a thing that to interpret it one has only need of a heart.*

— Jose Garcia Oliver

## U.S. Legal System Justly Criticized

Derek Bok, president of Harvard University, has joined a number of influential Americans who are critical of the nation's legal system. Given Bok's position and his background as a lawyer and former law school teacher and dean, his comments deserve thoughtful attention from lawyers and citizens alike.

What mainly troubles Bok, in common with other critics, is the cost and complexity of the nation's legal system. It can be unjust as well as wasteful.

"Access to the courts may be open in principle," Bok says in a report to the Board of Overseers of Harvard College. "In practice, however, most people find their legal rights severely compromised by the cost of legal services, the baffling complications of existing rules and procedures, and the long, frustrating delays involved in bringing proceedings to a conclusion."

Bok complains that the country's legal system is "among the most expensive and least efficient in the world," a cumbersome, inequitable monster dispensing "a spurious form of justice."

Overall, he concluded, "there is far too much law for those who can afford it and far too little for those who cannot."

Bok also is critical of the draining off into legal careers of the talented young people who might otherwise become engineers, business executives, public servants or school teachers. He points to the contrary example of Japan, which has fewer than 15,000 lawyers, while American universities graduate 35,000 lawyers each year. However, the annual number of engineering graduates in Japan is 30 percent higher than in the United States.

Bok quotes a Japanese comment: "Engineers make the pie grow larger; lawyers only decide how to carve it up."

"Contrary to popular belief," says Bok, "it is not clear that we are a madly litigious society." But there is no question that the volume and intricacy of litigation are increasing in a system where "the elaborateness of our laws and the complexity of our procedures absorb the energies of this giant bar, raise the cost of legal services" and make it difficult, if not impossible, for the poor and the middle class to have access to the system at all.

"The blunt, inexcusable fact is that this nation, which prides itself on efficiency and justice, has developed a legal system that is the most expensive in the world, yet cannot manage to protect the rights of most of its citizens."

Lawyers pride themselves on their mastery of the adversarial system. A trial is a contest with one victor. Bok suggests that law schools should train students less for conflict and more for "the gentler arts of reconciliation and accommodation."

Bok offers more than criticism. He reasonably suggests that some litigation might be reduced by adoption of no-fault automobile insurance throughout the nation and by extending the no-fault concept to new areas of liability. He also urges lawmakers to "take a hard look at provisions for treble damages and other artificial incentives that stimulate litigation."

Bok's report ought to be placed on every bulletin board of every law school, every law firm, every bar association and every legislative office in the country.

NAPLES DAILY NEWS Tues., May 10, 1983

# Rothchild Plays Down Water Service Deficit

City Councilman Harry Rothchild, in his continuing fight against water and sewer rates approved Jan. 5, said today that the city should not be concerned about the \$75,000 it will refund to customers because that money was collected illegally.

Rothchild was referring to a Monday article in the Naples Daily News that quoted city finance Director Bill Hanley as estimating that the refunds will give the municipal water-sewer service a deficit of \$55,358.

Hanley said the refunds will add up to \$75,358 plus staff time, wiping out a \$20,000 surplus in the city's \$6.6 million water-sewer budget.

**ROTHCHILD SAID** the city was never entitled to the money, because residents were billed under rates approved Jan. 5 for sewer and water service received in November and December. The City Council has voted to refund money to those who paid higher water rates for November and December service. Next Wednesday, councilmen are expected

to do the same for residents who paid higher sewer bills.

Rothchild used the announcement of the projected deficit to again lash out at City Manager Frank Jones and City Attorney David Rynders.

"If the city really wants to wipe out its deficit it can begin by getting rid of the waste generated by the inefficiency and incompetency of its top city executives," Rothchild said.

He also took a shot at Mayor Stanley Billick.

"We look to the mayor for leadership in cleaning up this mess. When is he going to begin?" Rothchild asked.

Rothchild elaborated by saying Billick, who is an attorney, should admit the billings were illegal. In public statements calling for the refunds, Billick only says the billings were "not equitable."

Rothchild said the mayor also should stop following the lead of Jones, Rynders and City Councilman R.B. Anderson, the former mayor. Rothchild is often an opponent of all three on city issues.

## Letters

that the City of Naples has the right to charge a new rate on old water consumption. He persisted in his position even after he was abandoned by the mayor, council and city manager.

Last year the city attorney steadfastly told the council that his position on the conversion of motels to timeshare was correct. When the Circuit Court said Rynders was wrong, he claimed the judge "misconceived" the situation and the law. When the District Court of Appeals affirmed the opinion of the Circuit Court, he tried to claim it as some sort of moral victory.

Rather than admit he was wrong in advising the council that it could demand money in return for vacating a street or alley, he argued that the two attorney general opinions contradicting this practice were only "another attorney's opinion."

A man who can't or won't admit his fallibility lacks the character and integrity to hold a position of public trust such as city attorney. How can he or his opinions be relied on? How can we know when he's right or merely defending his ego? Such a man has no credibility. Naples deserves better.

S. Craig Kiser  
Naples

~~to an effort to correct Mr. Hoffman's letter in  
April 23.  
I will also check my check out to see that I  
think paying our income tax is the best country  
try to do in the world.~~

NAPLES DAILY NEWS Tues., May 10, 1983

### City Attorney Rynders Can't Admit Mistakes

Editor, Naples Daily News:

Perhaps the worst character flaw any of us can have is the inability to admit we don't know or that we made a mistake. That is especially true of an attorney or a doctor or any person in a similar position in whom the public tends to place blind faith and total reliance.

This week City Attorney David Rynders attempted to maintain the untenable position

The Naples Star Friday, May 13, 1983

## Naples Taxpayers' Association: a new watchdog for City Hall

By Leslie Wyatt

**F**rank Lualdi, the man city water-users have to thank for credit they will receive on future water bills, has just begun to fight.

He and some 30 Naples residents are forming the Naples Taxpayer's League, a watchdog civic organization that will monitor city government and provide a sounding board for disgruntled taxpayers.

Though not yet organized, Lualdi, a resident of Port Royal, says he hopes to enlist at least 3,000 Neapolitans by the end of next year's winter season. "As a group, we are going to try and facilitate dialogue between government officials and the taxpayers of Naples."

City officials, however, might be reluctant to talk. They have endured much criticism from Lualdi of late, at times interpreting it as a personal attack.

Lualdi says that just isn't so. "We simply don't

like having to pay these so-called city executives for the sort of incompetency and bungling that resulted in the illegal billing of more than 12,000 city water and sewer taxpayers."

Water rate credits Lualdi and other angered residents called for at last week's city council meeting will cost about \$75,000. Paying that will wipe out the city's water-sewer fund surplus and raise a mid-year deficit from \$184,000 to \$239,000.

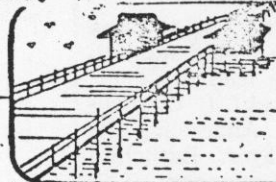
Lualdi and members of the newly-formed Naples Taxpayer's Association are calling for council to revoke the ordinance it passed Jan. 5 raising water and sewer rates because it wasn't properly brought before Naples residents. In fact, he says, he will personally sue the city if that's what it takes.

Councilmen are scheduled to consider a second rebate — credit for retroactively billed sewer rates — at their May 18 meeting.

Lualdi says he plans to attend. ★

**NAPLES DAILY NEWS**

**Fri., May 13, 1983**



**City  
Briefs**

### Law Repeals On Agenda

Naples Councilman Harry Rothchild has called for a council vote Wednesday morning to repeal a Jan. 5 city ordinance that raised water and sewage service rates for about 3,000 of the city's 13,000 customers.

If the council approves, the Jan. 5 laws would be revoked and old rates would be reinstated. If the council wanted to raise the rates again, it would have to hold first and second ordinance readings and schedule another public hearing on the matter.

This Wednesday, the council will hear the first reading of Rothchild's proposed ordinances. If the laws are approved on first reading, there will be a second reading and a public hearing on June 1.

The council meets at 9 a.m. Wednesday at City Hall.



# Majority Indicates Support of Jones, Rynders

By JAMES MOSES  
Staff Writer

Naples City Manager Frank Jones and City Attorney David Rynders won't have to look for new jobs next week.

Six of the seven city council members indicated Friday they will vote to retain both officials when the council meets Wednesday morning.

THE COUNCIL is scheduled to cast a vote of confidence requested May 4 by former Councilman G. Blaquart, who accused Councilman Harry Roth-

child of constant unwarranted attacks on Jones and Rynders.

Rothchild has ripped Jones for alleged mismanagement since he replaced the late City Manager George Patterson in August 1981. The councilman has accused Rynders of giving poor legal advice since the attorney came to Naples in 1978.

Blaquart's request came after Rothchild and several residents blasted Jones and Rynders on the way they handled the recent institution of new

water and sewer rates.

About 3,000 customers received bills in mid-February for water-sewer service last November and December. Rothchild claimed that the billing was illegal because the council didn't raise water-sewer rates until Jan. 5.

WHEN THE council meets at 9 a.m. Wednesday at City Hall, Mayor Stanley Billick and councilmen Roland Anderson, Lyle Richardson, Ken Wood, Wade Schroeder and Randolph Thornton are likely to retain the two

city officials. Schroeder did not answer directly.

"I suggest that you review the results of such votes in the past, to make a forecast of what's going to happen," Schroeder told the Naples Daily News. "Sometimes, history repeats itself, but there is no guarantee," he added.

Schroeder referred to regular 6-1 council votes, with Rothchild dissenting on yearly pay raises for Jones and Rynders. Thornton and Wood said

the city officials should not be condemned. He thought it's stupid to have a vote of confidence.

Wood added, "Everyone is entitled to make a mistake. Richardson and Rynders might have erred on the water-sewer rate increase, but the officials should not be fired."

"I WILL VOTE yes (to keep the administrators)," Billick said. "I don't agree with all this sniping. It's bad for the council and

bad for the city of Naples." Billick and Richardson said Jones could improve public relations by giving complete explanations before the council acts on administrative proposals.

They also said Jones should hit the speakers circuit. Patterson often talked to civic groups, giving background and status reports on many city projects.

"You've got to tell the people what's happening. At the same time, you can

test the water. You can get the public reaction," Richardson said.

"The council cannot discuss years of observed performance. If cannot let the controversial incident dictate its assessment of Jones and Rynders," Anderson said. "Naples has been provided with good government and the water-sewer incident, which has been blown out of proportion, does not affect my overall judgement."

ROTHCHILD SAID he had not made up his mind about the vote of confidence. "However, I intend to wait until the issue is discussed openly at the council meeting. After the public has had the opportunity to express its opinion, I will be in a better position to evaluate the problem and cast my vote," he added.

dence. "If the vote was taken today, on the basis of information I have gathered, I would ask for the dismissal of both Mr. Rynders and Mr. Jones," Rothchild said.

"However, I intend to wait until the issue is discussed openly at the council meeting. After the public has had the opportunity to express its opinion, I will be in a better position to evaluate the problem and cast my vote," he added.



FRANK JONES  
...city tax outlook.

# Area Crime, Taxes in News Quiz

EDITOR'S NOTE: How much do you remember about the stories that have been in the news recently? If you score fewer than five correct answers, you have been spending too much time on the crossword. If you get eight or more right, you rate an "A."

1. Protect our children, the parents said as they marched outside the sheriff's substation. They were asking for increased patrols in the wake of one murder and at least one kidnapping. The march and the criminal incidents took place in a.) Marco Island b.) Immokalee c.) Golden Gate d.) North Naples.

2. Robert F. MacKie died recently at age 71. He was one of the men responsible for the development of Marco Island during the 1970s. In that decade he served as chairman of a.) Avstar, Inc. b.) The Marriott Marco Beach Hotel c.) The Marco

Island Chamber of Commerce d.) Deltona Corp.

3. At first, investigating officers thought they might be looking at a case of fraud. Several clients of the Total Success Clinic had lost their money. Further investigation showed that Total Success had failed financially. Total Success was designed supposedly to help people stop a.) smoking b.) gaining weight c.) drinking d.) gambling.

4. Naples City Manager Frank Jones has projected an \$80,000 deficit by the end of the current fiscal year for the city. If that projection pans out, he said, it could mean an end to six years of declining city taxes. The city millage rate currently stands at a.) 2.5 mills b.) 3.9 mills c.) 1.45 mills d.) 1.67 mills.

5. County Commissioners were taken aback when Sheriff Aubrey

Rogers presented his budget requests for the coming year. He asked for a 26.7 percent increase. If the commission would decide to reject the request, Rogers can appeal to a.) the U.S. Justice Department b.) the Florida Supreme Court c.) the Florida Association of Sheriffs d.) the Governor and Cabinet.

6. Collier County officials learned the county is eligible for part of \$2.9 billion in federal aid being distributed among communities with high unemployment. The money will be split among a.) 532 communities b.) 890 communities c.) 1,523 communities d.) 2,163 communities.

7. A 32-3 season came to an abrupt end for the Barron Collier Cougars, as they vied for the Class AAA Section 3 championship in girls softball. Coach Bob Spano and his troops tried but came up on the short end of a 4-0 game with a.) Cy-

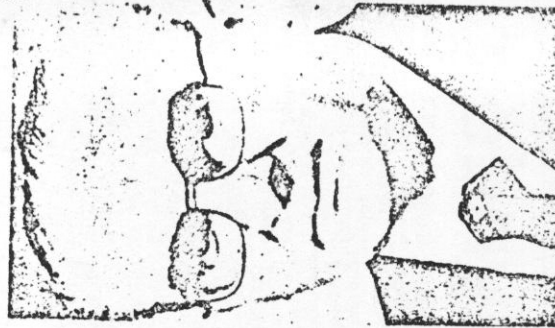
press Lakes b.) Gibsonton East Bay c.) Countryside d.) Sarasota Baldwin.

8. Soviet leader Yuri Andropov offered to reduce Soviet nuclear medium-range forces in Europe to present NATO levels in numbers of a.) warheads, as well as in numbers of missiles and planes b.) warheads c.) missiles and planes.

9. A damaging earthquake shook California's San Joaquin Valley area — on the Richter scale the 'quake registered a.) 4.5 b.) 5.6 c.) 6.5.

10. A tax research group, the Tax Foundation, estimated that this year the federal government's bite out of a typical family's income would a.) rise by about 3.8 percent b.) stay about the same as last year c.) drop by about 3.6 percent.

ANSWERS: 1. b; 2. d; 3. a; 4. c; 5. d; 6. d; 7. b; 8. a; 9. c; 10. c.



YURI ANDROPOV  
...missile offer.



## Perspective

editorials  
analysis  
opinions

## Section G

NAPLES DAILY NEWS  
Sun., May 15, 1983

NAPLES DAILY NEWS Mon., May 16, 1983

# Sewage Credit Expected At City Council Meeting

The Naples City Council sewage customers because proved the rate increases is expected to give sewage these rates were raised in January, but several payment credits to about Jan. 5, but residents were residents have said it is 3,000 city customers when billed under the new rates illegal to bill customers the council meets Wednesday for sewage service last retroactively. The council meets at 9 day morning. November and December. The councilmen ap a.m. Wednesday.

All councilmen ap a.m. Wednesday. to rebate to customers. payment for water con- sumed last November and December, before the council raised sewage rates on Jan. 5. Mayor Stanley Billick has endorsed a similar rebate for

NAPLES DAILY NEWS Tues., May 17, 1983

# Jones, Rynders Ripped as Confidence Vote Nears

By JAMES MOSES } Jones and Rynders, but he } wants the vote of confi- } dence to offset constant } Naples resident Frank } Lualdi, whose three-month } criticism of the two high- } ranking city officials by } Councilman Harry Roth- } child.

• The council will con- sider sewage service re- bates for 3,000 consumers. The council did not raise water-sewer rates until Jan. 5, but residents were billed under the new rates for service received in November and December. The council approved re- bates — credits on future bills — for water service and Rynders — as re- quested by former Coun- cilman Gil Blanquart.

• The council will cast a vote of confidence — ei- ther to retain or fire Jones and Rynders — as re- quested by former Coun- cilman Gil Blanquart.

LUALDI AND Rothchild have said retroactive bill- ing is illegal, but neither Jones nor Rynders have commented on the charges because Lualdi has threat- ened to sue to revoke the Jan. 5 water-sewer rate or- dinances.

• The council will con- sider two laws, requested by Rothchild, that would revoke the Jan. 5 water and sewer rate structure. Lualdi tore into the councilmen for their com- ments in the Sunday edi- tion of the Naples Daily News. All but Rothchild said they probably will vote to keep Jones and Rynders.

"I was shocked to read that six of our Naples City Council members have in- dicated they have already decided how they're going to vote," Lualdi said. "The public is supposed to have a chance to speak match. This is the Naples, City Council, not a carnival," the mayor added. Lualdi would not reveal all charges, but he said Rynders should have the council have competitive bids from financial advis- ers before they retained Arch Roberts and Co. on March and April, when he first stated that the city has a budget surplus, then issue bonds for street re- pairs. The city election is Feb. 7, 1984.

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Stanley Billick said he will allow public comment during the Wednesday session. "I will not allow Mr. Lualdi or anyone else to turn this into a shouting match. This is the Naples, City Council, not a carnival," the mayor added. Lualdi would not reveal all charges, but he said Rynders should have the council have competitive bids from financial advis- ers before they retained Arch Roberts and Co. on March and April, when he first stated that the city has a budget surplus, then issue bonds for street re- pairs. The city election is Feb. 7, 1984.

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May 17, 1983



The Honorable Stanley Billick  
Naples City Hall  
735 Eighth Street South  
Naples, Florida 33940

Dear Stan,

This is in response to your request concerning my opinion of the qualifications and performance of David Rynders as City Attorney.

As you know, I have been a member of the City of Naples Airport Authority since October 1979 and was its chairman from January 1980 until February 1983. During the entire time of my service on the Authority, I have had extensive and many in-depth discussions and work experiences with Mr. Rynders; the more so, I imagine, because I too am a lawyer.

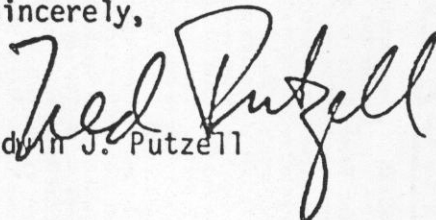
During my term as chairman, The authority studied, contracted for, and built the new airport terminal. We also accomplished its debt financing and transacted a number of other major items. In all of them, I worked closely with the City Attorney who acts as counsel to the Authority.

Prior to coming to Naples, I have practiced law for over forty years following my graduation from Harvard Law School. Such practice included a large New York City firm, being general counsel of Monsanto Corporation for almost thirty years and again private practice as senior partner of a St. Louis firm with which I continue to be actively associated in the "of counsel" role.

During such years, I have had considerable contact with lawyers all over the United States, both in governmental roles as well as in private and corporate practice. Having observed Mr. Rynders at such close hand here in Naples, it is a pleasure to respond to your request by stating, in my opinion, he is an exceedingly well trained, extremely able and dedicated City Attorney. He stands head and shoulders in ability, commitment and industry above most others in similar positions with whom I have had contact. In my opinion, he is a very important and able member of the city staff.

I hope the foregoing is responsive to your request.

Sincerely,

  
Edwin J. Putzell

Resolutions  
re - Jones &  
Rynders

2225 Rum Row  
Naples

illegal billing of thousands of taxpayers for over \$75,000. On May 4, after many citizens complained, the City Council instructed Mr. Jones to return that \$75,000 to the injured taxpayers. However, to this date, Mr. Jones still has not issued specific instructions to the city's accounting department to repay these monies.

It is apparent that Mr. Jones and Mr. Rynders do not understand the law. Collectively we, the taxpayers, pay these men salaries and perks of over \$120,000 a year. For what?

In March of 1983, in the annual report, Mr. Jones told the taxpayers he's going to lower the millage (taxes) because the city will have a surplus. In April he told the press and the City Council they might have to raise taxes because we're facing a deficit. What is it today Mr. Jones? Lower or raise, or stay even? Surplus or deficit?

A few weeks ago he recommended the city spend an additional \$36,000 to hire a consultant to study whether or not we should build docks in competition with private enterprise. That's just the consultant's fee. That's on top of the time and money that's already been spent on this project.

If we are going to have a deficit, it's wasteful items like this \$36,000 consultant's fee that will be the cause of it. His solution to the deficit is to increase taxes. Is

NOTES FOR NAPLES CITY COUNCIL MEETING

MAY 18, 1983

The resolution you are considering today goes beyond deciding whether or not to retain the services of Mr. Jones as City Manager or Mr. Rynders as City Attorney. You will, in fact, be deciding the fate of this city. You will, in fact, be deciding whether Naples is going to have an efficient, honest, responsive government.

We, the public, cannot make this decision. It is up to you, our elected representatives. We trust when the time comes to vote, you will make the proper decision. I implore all of you councilmen to do the right thing.

I could go on at great length about the inefficient actions of Mr. Jones and Mr. Rynders, but our time is limited, so I will only touch on a few of the important points.

Part of the job description of the City Manager as put down in the City Charter includes the responsibility to "see that the laws, ordinances and contracts are properly enforced."

Nevertheless, Mr. Jones and Mr. Rynders allowed the

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that the only solution? How about taking the fat out of government and eliminating waste? Taxes, taxes, taxes -- taxes seem to be the only answer for some bureaucrats.

On May 4, Mr. Jones and the top executives of the city went up to Fort Myers and at taxpayers' expense checked into a hotel for two days. This cost the taxpayers a lot of money. I understand they had a big bachelor's party for Mr. Jones that night. If they had to go to a hotel, why couldn't they go to a Naples hotel? The Naples hotels could have used the business.

My questions is: how does that affect the deficit Mr. Jones is predicting? My own research shows me we will be facing a large deficit in the next few years if the government does not bring about more efficient operations.

There is no doubt in my mind that 99% of the city's employees are efficient and hardworking. It is the policies set down by Mr. Jones that these employees have to follow which cause the costly inefficiencies of our government. It is the judgements issued by our City Attorney, Mr. Rynders, that leads city employees to make illegal mistakes, not only on water and sewer matters, but on many other matters.

On January 5, Mr. Rynders signed ordinances #83-4180 and #83-4181 stating, "approved as to form and legality by David M. Rynders, City Attorney." The city record shows that the

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city attorney absented himself during the December 15 first reading of this legislation. He should have been there to hear what the public had to say. He made sure he was in attendance when the City Council discussed how much an astrologer should pay for a city license. Is that more important than utility legislation that affects every man, woman and child in the city? Between salary and perks, he gets over \$70,000 per year. We citizens think that's a very bad buy.

Mr. Rynders told the newspapers that the water and sewer ordinances were legal. On May 4, he refused to answer a taxpayer at a public meeting, i.e. Mr. Scatena. Mr. Scatena's question to Mr. Rynders was, "Was the measure legal or not?" What do the taxpayers pay Mr. Rynders for? To tell the press what he wants to tell them? To refuse to answer a taxpayer's legitimate question on the same subject at a public hearing? The taxpayer asked him the question five times, and Mr. Rynders stonewalled him.

That's the kind of action we've been getting from both Mr. Jones and Mr. Rynders. These gentlemen give the press all sorts of misinformation while at the same time refusing to answer legitimate taxpayers' questions. That's not the way it was under the previous city managers..

A few weeks ago Mr. Rynders told the press, "he is

confident the city is on firm legal ground. He said it doesn't matter when the meter was read, or when the water was used. The key is: When were the residents billed?" The lowest law clerk in the smallest law firm would know better than that. And as a matter of fact, the City Council decided he was wrong and ordered the City Attorney and the City Manager to return these illegally collected funds. It is this sort of advice Mr. Rynders gives Mr. Jones and the City Council that contributes to the problems of inefficiency and bungling we've been dealing with lately.

A few weeks ago, City Manager Frank Jones told the press, "he believed since the actual bills were sent out after the ordinance took effect, the city is in the right." "We think we used a pretty sound basis," he said, noting the city checked with Florida Power and Light Co. and its policy is similar." We now know that's nonsense. I checked with two executives of Florida Power and Light and they both said if they followed the practices of the city they'd lose their franchise. As I said before, the City Council finally determined that Mr. Jones and Mr. Rynders didn't know what they were talking about and instructed them to return the money to the taxpayers.

I could go on and on and on citing examples of how these highly paid gentlemen continue to give the press misinformation while refusing to give the general public the information that its legally entitled to.

I again implore you Councilmen to do the right thing. You have been misled, you have been misinformed by these gentlemen. The public has been injured because of their inefficiencies. It's time to clean up the mess. The public is watching.

Again I want to thank you for your attention.

The City of Naples is an organization of 405 people operating under the City Manager.

Good government requires mutual cooperation within this group and constructive suggestions from the Mayor and City Council.

Mistakes and errors of judgement will happen in the best of organizations and a willingness to recognize and correct these items are what builds for the future.

Destructive sniping and constant badgering will get media time and space, but do nothing to help build a smooth working organization.

A continuation of our present staff leadership is vital.



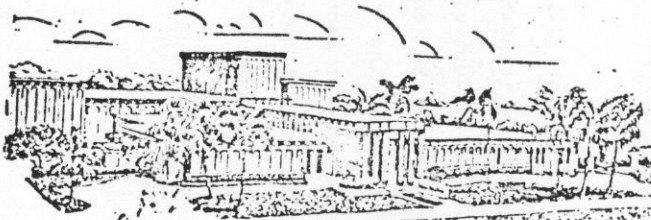
Under the circumstances I wish to express some of my views for the record.

I, along with many others, have observed the controversial and vindictive behavior of some people in connection with our recent change in water rates. In fact, as has been noted by others, it has been used to launch personal attacks on the City Manager and to some extent, the City Attorney. If there is any responsibility to be attached to this matter, it rests upon the shoulders of the City Council. Responsibility cannot be delegated.

But, more to the point, Mr. Rothchild for over three years, has been attributing all kinds of dastardly conduct to the City Manager and City Attorney -- without merit to his accusations. More than that, for three years he has criticized the behavior of his fellow Councilmen, alleging misconduct at times but never pursuing or proving it. He consistently nitpicks and attacks the City staff. In so doing, he has ignored facts, resorted to half truths, and at times, I believe, to untruths. He continues to conduct himself in the same self-serving, abrasive, irresponsible, publicity-seeking, ingratiating and patronizing manner.

He has, in my opinion, alienated his fellow Councilmen as well as the City staff and the majority of the people of Naples. He has done little or nothing constructive in providing good government. As a matter of fact, he has been destructive. He seems not to know just what good government is. He does not know the first thing about getting along with people. He violates every known rule for the conduct of affairs with his fellow man. No wonder he is frustrated.

He pretends to be a watch-dog. If he pictures himself a knight in shining armor, then I would say that his armor is tarnished, rusty and ugly. He has been censured by the Council for conduct unbecoming and indeed deserves to be censured again. Because of the reasons I have touched on, Mr. Rothchild is completely ineffective as a representative of the people of Naples. He has no credibility. He cannot be believed. His attacks on Frank Jones and David Rynders warrant no serious consideration. We are fortunate to have the services of these fine, competent young professionals.



## Naples Daily News

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Sun., Apr. 11, 1982

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# Harry Rothchild Has Gone Too Far

Councilman Harry Rothchild finally has gone too far.

Despite pleas from the public, other councilmen past and present, the mayor and the mayor before him and heaven knows who else, Rothchild has continued his single-minded onslaught on the dignity and decorum of City Council.

His performance at Wednesday's council meeting was disgraceful and unacceptable. Long bitterly opposed to City Attorney David Rynders — among others — he launched a bitter attack on Rynder's character, honesty and professional capability.

Rothchild's caustic diatribe so upset Rynders that the normally placid city attorney was unable to contain his own anger and an ugly shouting match erupted. Calm was restored only after Mayor Stanley Billick forced a break for lunch.

The public whom Rothchild is sworn to serve does not deserve this type of berserk behavior. We have no doubt Rothchild feels he is serving some greater purpose by his continued assaults on other city officials, but is destroying the normal functioning of City Council the

only way he can achieve his goal?

We think not. If he has a point to prove, it can be done in a calm, dignified manner, as countless councilmen before him have done.

We feel Rothchild has become so consumed by his passion for public assault that he has lost sight of what he was elected to do. His actions have become so counterproductive that even if he did have a legitimate point, that point would be lost in the ensuing shouting he would generate.

Worse yet, other members of council have been drawn into the tumult and are participating.

This has got to stop. Now.

Muzzling Rothchild won't work. That's been tried. Censoring Rothchild won't work. That's been tried. Pleading with Rothchild apparently hasn't had any effect either.

If Harry Rothchild is not willing to abide by normally accepted standards of behavior, he should step down from office.

The city can't stand two more years of his erratic behavior.