

MINUTES OF THE REGULAR MEETING OF NAPLES CITY COUNCIL HELD IN THE PARKS & RECREATION BUILDING, NAPLES, FLORIDA, WEDNESDAY, FEBRUARY 15, 1978 AT 9:00 A.M.

Present: R. B. Anderson
Mayor

C. C. Holland (9:05 a.m.)
James. F. McGrath
Wade H. Schroeder
Randolph I. Thornton
Edward A. Twerdahl
Kenneth Wood
Councilmen

Planning Advisory Board:

Clayton E. Bigg, Chairman
Lawson Adams
Roger Billings
Donald Boyes

Also Present:

George M. Patterson
City Manager
John Fletcher
City Attorney
Roger Barry
Planning Director
William Savidge
Director of Public Works
Mark Wiltsie
Purchasing Department
Anders Sandquist
Building & Zoning Official

Harry Rothchild
Sam Aronoff
Lloyd Sarty
Robert Russell
John Conroy
Charles Andrews
Jack Miller
Robert Hall
George Henderson
Herman Teetor
Spence Robinson
Walter Keller
Warren Henderson
David Heron
John Mudd
Stockton Renfroe
Paul W. Leathe
Robert Uhlich

Bill Nelson
William McGowan
Colette Dyches
Robert Carsello
Robert Blascoe

News Media:

John Robinson
WNOG
Ray McNally
Mike Johnson
Ann Dias
Jerry Pugh
TV-9
Tom Murphy
Tom Martino
WBBH-TV
Kent Weissinger
WINK-TV
Dave Swartzlander
Naples Daily News
Allan Bartlett
Ft. Myers News Press
Frank Davies
Miami Herald
Suzanne McGee
Naples Star

Other interested citizens and visitors.

Mayor Anderson called the meeting to order; whereupon, Mr. Lawson Adams, Planning Advisory Board member, gave the invocation followed by the Pledge of Allegiance to the Flag.

AGENDA ITEM 3. Approval of Minutes.

Mayor Anderson called Council's attention to the minutes of the Regular Meeting of January 18, 1978. Mr. Thornton moved for approval, seconded by Mr. McGrath and unanimously carried on voice vote.

The second set of minutes to be submitted to Council were the minutes of the Regular Meeting of February 1, 1978. Mr. Thornton moved for approval as submitted, seconded by Mr. McGrath and carried unanimously on voice vote.

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AGENDA ITEM 4. JOINT PUBLIC HEARING: City Council and Planning Advisory Board.

Mr. Bigg organized the Planning Advisory Board and roll call indicated all members present.

AGENDA ITEM 4-a. Rezone Petition No. 77-R6, from "R1-7.5" Single Family to "C4" Airport Commercial Zone.

City Attorney Fletcher read the Notice of Public Hearing as published in the January 27, 1978, edition of the Naples Daily News

Mr. Bigg spoke in favor of approving this petition to enable the Airport Authority to carry on activities that could not be undertaken in the present residential zoning.

Mr. Barry referred to the covering memo in the Council members' packets reviewing some background. He mentioned one particular business, Royal Airways, that had been prevented from building a new facility on the airport because of the residential zoning. He also pointed out the airport development plan which comes from the airport master plan. He suggested that Council's action include approval of the plan as the overall development plan along with approval of the petition to re-zone the airport.

Mayor Anderson declared the Public Hearing open at 9:13 a.m.

Mr. Jack Miller came forward to state that "we concur completely with the statement of Mr. Bigg and the Planning Board."

Mr. Bob Uhlich, a realtor representing Mr. Doug Bathey, who owns property on Airport Road directly across from the airport, stated that his client wished it to be known that he supports the Airport Authority and their interests.

There being no one else present wishing to speak for or against, Mayor Anderson declared the Public Hearing closed at 9:15 a.m.

Mr. Adams moved that Re-zone petition 77-R6 be re-zoned from R1-7.5 Single Family to C-4 Airport Commercial Zone and that this be approved and submitted to Council for approval and that included therein it be approved that the airport lay-out plan be included in the acceptance, seconded by Mr. Billings and carried unanimously by voice vote.

Mr. Twerdahl moved that Council accept the recommendation of the Planning Advisory Board, seconded by Mr. Schroeder.

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Mr. McGrath questioned the notation "Potential area for Commercial and Industrial Development" on the master plan and Mr. Barry explained that they made that notation, but that development would be airport related.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

The Planning Advisory Board was excused at 9:20 a.m.

AGENDA ITEM 5. Discussion and action on 701 Planning Assistance. Requested by Planning Director.

Mr. Barry explained that this program is a federally funded assistance grants program to assist local communities in the preparation of their comprehensive plan. Council's action is requested for this preliminary application. He pointed out that the state is administering these federal funds and will determine whether the City is eligible based on a formula based on population expansion, local fiscal data and local need. Mr. Barry felt these funds could be most useful possibly in the printing of the completed document. He also mentioned that the City could receive up to \$20,000 of which a 1/3 match of funds would be required, possibly in in-kind services rather than a cash outlay. The only requirements are several statements in the resolution that Council is asked to pass that the City recognizes certain problems in the community which relate to planning and management exist, the comprehensive planning assistance program offers an opportunity to strengthen the community development process through the conduct of a planning program and, third point, simply that we request that the state include the City of Naples in its application to the federal government for these funds.

City Attorney Fletcher read the below titled resolution for Council's consideration.

A RESOLUTION REQUESTING THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS TO INCLUDE THE CITY OF NAPLES IN ITS APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR LOCAL PLANNING ASSISTANCE FUNDS FOR THE FISCAL YEAR BEGINNING JULY 1, 1977; AND PROVIDING AN EFFECTIVE DATE.

Mr. Twerdahl moved to approve Resolution 2894, seconded by Mr. McGrath.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	No
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 6-1.

AGENDA ITEM 6. Election of Vice-Mayor.

There being no discussion Mr. Thornton moved to nominate Mr. McGrath for the position of Vice-Mayor, seconded by Mr. Schroeder.

Mr. Twerdahl moved that the nominations be closed, seconded by Mr. Schroeder, and carried unanimously by voice vote.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

City Attorney read the below titled resolution for Council's consideration:

A RESOLUTION OF THE CITY COUNCIL ELECTING A MEMBER OF CITY COUNCIL VICE MAYOR, PURSUANT TO SECTION 2.4 OF THE CHARTER; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 2895, seconded by Mr. Wood and carried unanimously by voice vote.

AGENDA ITEM 7. Appointment of a member of Council to fill the vacancy on the Southwest Florida Regional Planning Council created by the expiration of the Council term of John M. McGregor. Requested by City Manager.

Mr. Patterson briefly outlined the duties of this Planning Council and Mr. Thornton emphasized the fact that this takes times and energy.

Mayor Anderson endorsed Mr. McGrath's suggestion that Mr. Schroeder had some experience along these lines and asked Mr. Schroeder if he would be agreeable to this nomination.

Upon Mr. Schroeder's indication of being agreeable to this, Mr. Thornton moved to nominate Mr. Schroeder to fill the vacancy on the Southwest Florida Regional Planning Council, seconded by Mr. McGrath.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

City Attorney Fletcher read the below captioned resolution for Council's consideration.

A RESOLUTION APPOINTING A MEMBER OF COUNCIL TO THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL TO FILL THE VACANCY CREATED BY THE EXPIRATION OF THE COUNCIL TERM OF JOHN M. MCGREGOR; AND PROVIDING AN EFFECTIVE DATE.

Resolution 2896 approved by unanimous voice vote.

AGENDA ITEM 8. Appointment of two members of Council to fill the unexpired terms of Gilbert V. Blanquart and John M. McGregor on the Board of Trustees of the City of Naples Retirement System. Requested by City Manager.

Mr. Patterson explained that this was the general retirement system for all employees other than the police and firemen and this board consisted of five members, two of which were Council members, who were responsible for the administration and investment of the funds. He pointed out that there were 4 to 6 meetings a year, the longest of which would be the annual report.

Mr. Thornton asked why there was not a resolution covering the firemen's pension board and Mr. Patterson explained that that would be presented after the ordinance governing the firemen's pension was passed. He went on to point out that previously the Mayor had automatically been chairman of each of those boards, but due to the press of time, it had been changed to a member of Council.

Mayor Anderson asked for volunteers for membership on the Board of Trustees of the Retirement System and Mr. Twerdahl and Mr. Schroeder so volunteered.

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

A RESOLUTION APPOINTING TWO MEMBERS OF COUNCIL TO THE BOARD OF TRUSTEES OF THE CITY OF NAPLES RETIREMENT SYSTEM TO FILL THE VACANCIES CREATED BY THE EXPIRATION OF THE COUNCIL TERMS OF GILBERT B. BLANQUART AND JOHN M. MCGREGOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 2897 naming Mr. Twerdahl to serve until October 10, 1979 and Mr. Schroeder to serve until February 15, 1982, on the Board of Trustees of the City of Naples Retirement System, seconded by Mr. Holland.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

AGENDA ITEM 9. Appointment of a member of Council to serve on the Board of Trustees of the Police Officers' Retirement Fund. Requested by City Manager.

There being no discussion, Mr. McGrath moved to approve Resolution 2898 nominating Mr. Thornton to serve on the Board of Trustees of the Police Officers' Retirement Fund, seconded by Mr. Wood.

Mr. Thornton inquired if he would serve in the capacity of Chairman of this Board to which Mr. Patterson explained that whatever member of Council was appointed to the Board would serve as Chairman.

Mr. Harry Rothchild came forward to question the fact that he understood Chapter 75 of the Florida Statutes to state that the Mayor would act as Chairman of this Board.

Mr. Fletcher explained that the City had the option to go the route of the Chapter or to develop their own ordinance complying with certain requirements of the Chapter and then submit their plan to the state for approval.

City Attorney Fletcher read the below captioned resolution for Council's consideration.

A RESOLUTION APPOINTING A MEMBER OF COUNCIL TO SERVE ON THE BOARD OF TRUSTEES OF THE CITY OF NAPLES POLICE OFFICERS' RETIREMENT TRUST FUND; AND PROVIDING AN EFFECTIVE DATE.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

AGENDA ITEM 10. PUBLIC HEARING: An ordinance amending Chapter 8, entitled "Buildings" of the Code of Ordinances of the City of Naples, Florida, by amending Paragraph (a) of Section 8-2.3, relative to erection of buildings in flood hazard areas, providing construction criteria for buildings erected in flood hazard areas; and providing an effective date. (Second Reading)

City Attorney Fletcher the above titled ordinance in its entirety for Council's consideration on Second Reading.

It was noted by members of Council that they were running ahead of schedule and would defer this item until the proper time. (page 11)

Motion was made by Mr. McGrath and seconded by Mr. Wood to proceed to Agenda Item 16 and items thereafter, unanimously carried on voice vote.

AGENDA ITEM 16. Discussion and action on the purchase of land for City Hall parking lot. Requested by City Manager.

Mr. Patterson explained that this property is located directly south of our present fire station and police station and was budgeted in the capital improvement budget. Through negotiations with the owner, Mr. Morton, a price of \$65,000 plus closing costs has been arrived at; and since it was budgeted at \$70,000, Mr. Patterson recommended the purchase at this price.

Mr. Thornton moved approval to purchase property of Mr. Morton for \$65,000 plus closing costs, seconded by Mr. Twerdahl.

Mayor Anderson asked Mr. Patterson if this would bring the City in compliance with existing parking ordinances to which Mr. Patterson replied the City would be slightly short, but in a much better position due to gaining some spaces around the new City Hall because of the design of the building and the fact that of the removal of the police station and the parking needs involved there.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

AGENDA ITEM 17. An ordinance repealing Ordinance No. 1449 which established a pension and retirement system for firemen of the City of Naples, and substituting the within ordinance therefor, establishing a pension and retirement system for firemen of the City of Naples, to be known as the "City of Naples Firemen's Retirement Trust Fund", providing definitions for the words and phrases used herein; creating a Board of Trustees for the operation of said pension and retirement system, setting forth the powers and duties of said Board; providing for the maintenance of said Fund; providing for the keeping of records, accounts, disbursements, deposits, contributions and actions of said Board of Trustees; providing for normal retirement, early retirement and optional forms of retirement; providing death benefits, disability benefits and providing for benefits or refund of contributions in event of separation from municipal service; repealing all ordinances or parts thereof in conflict herewith to the extent of such conflict; providing a savings clause and an effective date. (First Reading) Requested by Firemen's Pension Board.

City Attorney Fletcher and City Manager Patterson read the above titled ordinance in its entirety for Council's consideration on First Reading.

Mr. Fletcher noted that "55" had been read in error for "50 years" on page 9, paragraph B.

Mr. Thornton noted that on page 8, paragraph F the period of time specified in this ordinance was three months waiting period on disability retirement, and in the police retirement plan it was six months and he wondered if that was an error. He also stated that he felt both plans should specify the same length of time.

Mr. Fletcher suggested that between the first and second reading the intention of the firemen's trust board could be verified.

Mr. Thornton also questioned the wording with regard to the cut-off time for the employee's contributions to be credited towards his pension and he cited the age of 55 in the police ordinance and 62 as this ordinance was written for the firemen; to which Mr. Fletcher replied that the firemen didn't like the provision as written in the police retirement system and wanted to have the provision as it is in this ordinance.

Mr. Harry Rothchild came forward to question some details in this ordinance as read. He pointed out what he thought were vague or questionable areas.

In view of his expertise in these matters it was suggested by several members of Council and the Mayor that he obtain a copy of this ordinance, critique it, and offer his comments, preferably in writing, at the Public Hearing that would be held on Second Reading.

Mayor Anderson asked City Manager Patterson to check with the firemen's trust board on the disability waiting period of three months and the six month period with the board of trustees for the police.

Mr. Thornton moved adoption of the ordinance on First Reading seconded by Mr. Schroeder.

Mayor Anderson observed that it should be verified that this ordinance is not in conflict with the contract with the insurance company and he made inquiry as to whether this fund would be actuarially sound.

Mr. Patterson responded that this ordinance was really to formalize what was already being done and that the deductions and other sources of contributions would actually fund these benefits

Mr. Fletcher cited the City's contribution which is a tax that is specifically collected for this purpose.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

RETURN TO AGENDA ITEM 10.

Mayor Anderson declared the Public Hearing open at 10:37; whereupon City Attorney Fletcher read title of the ordinance again for Council's consideration on Second Reading.

Mr. Thornton made the observation that this was mandated by the federal government.

Mr. Patterson gave a brief outline of the history of this inasmuch as the first elevations were set by separate studies of the City and the County and some abutting properties had differing elevations which didn't make any sense so they then went back and did the City and County at the same time. The new elevations will be received later in this year and we will continue under the present standards until the new ones arrive. In some areas there will be a slight relaxing of some of the requirements.

There being no one to speak for or against, Mayor Anderson declared Public Hearing closed at 10:40 a.m.

Mr. Thornton moved adoption of Ordinance 2900, on Second Reading, seconded by Mr. Schroeder.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

AGENDA ITEM 11. PUBLIC HEARING: An ordinance amending Chapter 8 of the Code of Ordinances of the City of Naples, Florida, by amending Section 8-3 thereof, relating to amendments to the Standard Building Code, by adding a new paragraph (c) to Section 105-2 of the Standard Building Code, 1976 edition, requiring each applicant for a building permit to submit a time schedule indicating construction completion date; further, by amending Section 8.5 thereof, providing a time limitation on building permits and requiring completion of construction in accordance with the time schedule submitted; and providing an effective date.
(Second Reading)

City Attorney Fletcher read the above titled ordinance by title for Council's consideration on Second Reading.

Mr. John Mudd, representing the Towers Corporation, spoke to Council stating that he felt this ordinance was very unclear regarding the need for the submitting of a time schedule for approval for those who already had building permits and the standards to be used for determining the reasonable period of time for construction of like buildings.

Mr. Fletcher referred him to Section c, paragraph (f) for clarification.

Mayor Anderson observed that each builder would submit a time schedule and if it appeared reasonable for the type building that was being constructed, it would most likely be approved. If it was not, the disagreement could be resolved.

Mr. Mudd still maintained that the language of the ordinance was unclear to him and he felt it could be clarified before the ordinance was passed.

Mr. McGrath pointed out that Council was trying to avoid a delay in building of two to three years.

Mr. Schroeder commented that if a schedule is disapproved there's always a remedy and if it is not, there's no problem.

Mr. Twerdahl felt that the City Attorney had presented it to Council clearly.

Mr. Paul W. Leathe, President of the Towers Development Corporation and an officer of Continental Mortgage, stated that they hoped to announce the sale of the property to parties who would complete the project post haste.

Mr. Jack Conroy came forward to speak against the ordinance because it would impose another burden of time and energy on builders and contractors because of an isolated problem.

Mr. McGrath pointed out that there have been other such cases and Council was trying to prevent these things from happening.

Mayor Anderson questioned the requirement for establishing this ordinance to which Mr. Thornton replied that it was pretty much related to the Towers; however, Mr. Schroeder cited another similar situation in the City.

Mr. Lloyd Sarty spoke in support of the ordinance, citing the Towers and another such case in the same area. He pointed out that builders must furnish this same time schedule to a bank when applying for financing. He reminded Council that the Towers' permit was four years and three months old.

Mr. Rothchild spoke in support of the ordinance and expressed his feeling that this ordinance would accomplish its purpose without discrimination by applying itself to all builders and contractors without singling out those that the City felt were taking too long.

Mayor Anderson, in acknowledging some of the speakers' input, noted that when a loan is applied for a construction schedule is submitted and he questioned Mr. Conroy's contention that this was an extra burden, to which Mr. Conroy responded that this was one other area of approval that he had to go through.

Mr. Walter Keller addressed Council and pointed out a similar problem years back, and while he did not know how it was solved, he felt it wasn't necessary to put restrictions on everyone to achieve this. He went on to point out that most construction deadlines are never met.

Mr. Fletcher pointed out a provision for additional time allowance for the reasons set forth therein; to which the Mayor responded that this requirement placed an administrative burden on builders. The Mayor inquired if there could be more flexibility in the time extension for excusable reasons.

Mr. Fletcher answered that he could provide language for that; and he went on to respond to the question of burden by saying that this ordinance was substituting one burden for another type of burden. He cited the burden in the present law of a builder having to keep a work force out on all work days which was difficult for the City to enforce. This has been litigated many times and almost every time, the government loses. He pointed out that nobody really knows what constitutes a full complement of men working. There may be a very valid reason to pull people off to do

another job and under this ordinance it would give a builder the flexibility of doing that and not be afraid of losing his permit so long as he met the schedule. Mr. Fletcher suggested for flexibility, an automatic grant of perhaps 5% increase in time could be made on first delay; if that's not sufficient, then they could come back and show cause.

Mr. McGrath summarized the two questions on the floor as (1) will this help this type of situation and (2) will it be a burden to contractors and builders.

Mr. Twerdahl felt that this ordinance would give the Building Inspector something to stand on in enforcing this ordinance.

Mr. Sandquist of the Building Department addressed Council and pointed out the number of buildings that sat idle on the East Coast where they had the same ordinance Naples has and as Mr. Fletcher pointed out, not much could be done about it. He did not see any problem in submitting a schedule because he felt it is a document that already exists. It was his opinion that requirements of this ordinance are better than the one the City has, because there's no way that he can prove whether there is a full complement of men on a job. In answer to a question from the Mayor, Mr. Sandquist stated that he did not feel these new requirements would place a considerable burden on him or his staff.

Mr. Bob Carsello asked to make some observations. He questioned to whom he would appeal if his time schedule were turned down. When told it would be City Council, he responded that that would tie up his time in having to go through that type of appeal. He also asked the penalties for not being able to complete a project on time.

Mr. Fletcher again explained that if a project is not completed then under another section of the Standard Building Code it is taken down. He went on to state that this ordinance only makes a more rational way of determining when a project is abandoned.

Mr. Carsello again, in answer to a question from the Mayor, stated that it would be an extra burden to him if he had to present reasons why he needed an extension of time for valid cause. He went on to point out that unreasonable lengthy delays are usually money problems and he didn't think this ordinance would help that at all. He added that he didn't think the City was in a position to buy out such a problem as the Towers and tear it down.

Mr. Schroeder explained that the foundation and steel work could have been removed and charged back to the land, which Mr. Fletcher pointed out was what the code called for, but this

couldn't be done because the Building inspector could not make a determination that the project was in violation of the law as it was written.

Mayor Anderson again inquired if the ordinance had been proposed mainly to solve the Towers problem.

Mr. McGrath outlined the reasons why the present ordinance became unenforceable which was that in Seattle, using the same ordinance, the city lost a large law suit because they could not prove that there was not a complement of men on the job.

Mr. Fletcher suggested adding at the end of Section C "plus 10% additional time for a grace period" and at the end of section 8.5 of section 2; adding a sub sub-section 2". Automatic Extension - In any event without necessity of proof, any permit holder so requesting in writing shall be granted one time extension of 5% of the time schedule previously approved."

Mr. Conroy felt he would still have to oppose in principle the need to apply for extensions even with the added flexibility.

Mr. Schroeder suggested substituting "date of completion" for "time schedule", to which Mr. Fletcher responded that date of completion is what was intended.

Mr. Holland made a statement agreeing with the need for some method of restriction to keep these problems like the Towers from happening in the future but he did not agree with tying up all the builders in town with another layer of paper work. He felt the ordinance needed more research and consideration.

Discussion returned to the difficulty of making a judgment call on a full complement of men under the present ordinance.

Mayor Anderson inquired if there was a real need for this ordinance, aside from the Towers, at this time.

Mr. Thornton made a motion to defer action on this ordinance until the meeting of April 5, seconded by Mr. Holland.

Mr. Holland proposed that the builders, the City Manager, and Mr. Sandquist get together and come up with something that they feel would do the job and not get into this position again.

Mr. Sarty came forward to say he was sorry to see this being put off; he cited other problems in connection with the Towers; and he concluded by stating that he felt it was important to have something on the books to take care of this kind of situation.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

Mayor Anderson then closed the Public Hearing at 11:43 a.m.

AGENDA ITEM 12. PUBLIC HEARING: An ordinance amending Article IX of Chapter 1A of the Code of Ordinances of the City of Naples, Florida, by amending Section 1A-149 thereof, relating to duties and functions of the Board of Appeals, providing a procedure for filing appeals from decisions of the Building and Zoning Administrator in the application and interpretation of the Standard Building Code, as amended, the City of Naples Housing Code and Section 8-2.3 of the Code of Ordinances (Flood Insurance Criteria); providing for review of certain decisions by the City Council; and providing an effective date. (Second Reading)

City Attorney Fletcher read the above titled ordinance by title for Council's consideration on Second Reading.

Mayor Anderson opened the Public Hearing at 11:44 a.m. and there being no one present wishing to speak either for or against, closed the Public Hearing at 11:45 a.m.

Mr. Thornton made a motion that Ordinance 2901 be adopted on Second Reading, seconded by Mr. Schroeder.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Absent
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 6-0, with Mr. McGrath temporarily absent.

AGENDA ITEM 13. PUBLIC HEARING: An ordinance repealing Ordinance No. 1523 which vacated and abandoned a drainage easement over Lot 21, Oyster Bay, Unit No. 5 and a cul-de-sac on Lot 19, Oyster Bay, Unit No. 2; and providing an effective date. (Second Reading)

City Attorney Fletcher read the above captioned ordinance by title for Council's consideration on Second Reading.

Mr. Fletcher requested that this be deferred until March 1.

Mr. Holland made a motion that action on this Ordinance be deferred until March 1, seconded by Mr. Thornton.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

AGENDA ITEM 14. PUBLIC HEARING: An ordinance establishing a design review committee under the Planning Advisory Board for the purpose of reviewing plans and specifications submitted in connection with applications for building and sign permits, excluding therefrom single-family construction, and making recommendations to the Planning Advisory Board relative thereto, to assure harmonious design and good appearance; providing for the appointment of said committee by the City Council; and providing an effective date. (Second Reading)

City Attorney Fletcher read the above titled ordinance by title for consideration by Council on Second Reading; whereupon Mayor Anderson opened the Public Hearing at 11:47 a.m.

Walter Keller came forward to speak against the ordinance representing the Community Appearance Board Task Force Committee. He read from a statement (Attachment #1) and added some comments of his own, and asked Council to vacate this ordinance.

Jack Conroy presented a letter to the Mayor and Council (Attachment #2) to re-present a resolution of the Naples Board of Realtors, (Attachment #3) submitted sometime ago, opposing the creation of a Community Appearance Board and he felt they would oppose a Design Review Committee for substantially the same reasons. He went on to add objections of his own, one of which was that he felt it was impossible to set up aesthetic standards. He was in agreement with the objections presented by Mr. Keller.

Mr. Bigg again stated his feeling that in lieu of a Community Appearance Board or a Design Review Committee, two members, expert in the field of design, could be added to the Planning Advisory Board, thus avoiding another level of bureaucracy, but he would not object to a committee that would meet with the Planning Advisory Board, when necessary.

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Mr. Thornton spoke in defense of the proposed ordinance. It was his feeling that its object was to make sure a building would be harmonious to its surroundings.

Mr. Twerdahl was more interested in the appearance of the community, not necessarily building design, and he thought possibly some of our existing ordinances, if followed up and enforced, might accomplish what he felt was needed.

Mr. Keller again asked that Council vacate this ordinance and get back with the task force and other interested parties to start again.

Mr. Fletcher pointed out that the ordinance was on the agenda because it had been requested by a member of Council. He outlined how this ordinance would work in reference to an application for a building permit, pointing out that the Design Review Committee as established in this ordinance could only recommend. He further stated that criteria could be established as guidelines, but that it could not be aesthetically judgmental. He added that he believes that Mr. Barry can come up with some aesthetical standards that are supportable and can be put into law.

Mr. Bill Nelson read a recommendation from the Chamber of Commerce opposing this ordinance. (Attachment #4)

Mr. Barry suggested that possibly Council should discuss this further at a study session and come to a consensus as to whether a Community Appearance Board or a Design Review Committee is warranted and then what form it ought to take and what responsibilities it should have.

Mr. Robert Carsello came to speak against this ordinance both as a private citizen and as a builder. He wondered if a board of this kind were needed at all and he went on to question how much of a delay this new procedure would create for the issuance of his building permits. Speaking as a representative of the Five County Builders Association he also opposed the ordinance.

There being no one else to speak for or against, Mayor Anderson closed the Public Hearing at 12:45 p.m.

Mr. Thornton felt that this ordinance should start all over again and he stated he would move for its adoption with the understanding that he would vote against it.

Mr. Thornton moved adoption of this ordinance on Second Reading, seconded by Mr. Wood.

Roll Call Vote:	Mr. Holland	No
	Mr. McGrath	No
	Mr. Schroeder	No
	Mr. Thornton	No
	Mr. Twerdahl	No
	Mr. Wood	No
	Mayor Anderson	No

Motion Defeated 0-7.

Mr. Patterson asked for clear direction from Council on how they wished to proceed, either to have more discussion at a Council Workshop or to refer the matter back to the Task Force and let them continue with their work, to which Mayor Anderson responded that he understood that it would be latter.

Mr. Twerdahl also suggested that Roger Barry be included at the Task Force's meetings and he stated that he, too, would like to participate.

AGENDA ITEM 15. PUBLIC HEARING: An ordinance authorizing the transfer of funds from the Contingency Fund to the appropriate accounts to cover expenditures as set forth herein; and providing an effective date. (Second Reading)

City Attorney Fletcher read the above captioned ordinance by title for Council's consideration on Second Reading.

Mayor Anderson opened the Public Hearing at 12:50 a.m., and there being on one present wishing to speak either for or against, closed the Public Hearing at 12:51 a.m.

Mr. Thornton made a motion that Ordinance 2902 be adopted on Second Reading, seconded by Mr. McGrath.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

AGENDA ITEM 18. An ordinance amending the Charter of the City of Naples, Florida, by repealing Paragraph (5) from Subsection (a) of Section 15.4, Article 15, relating to contributions and positions in political campaigns involving City and County elections; and providing an effective date. (First Reading) Requested by City Attorney.

City Attorney Fletcher read the above titled ordinance in its entirety for Council's consideration on First Reading.

Mr. Fletcher explained that this was on the Agenda because he was requested for a legal opinion regarding this because it appeared that perhaps some violation had taken place. He wrote an opinion that should this be tried in court, there was a very good chance that it would be declared unconstitutional considering the trends of the United States Supreme Court and the courts of the state of Florida. He went on to state that Council did not have a duty to repeal this, because it has not been declared unconstitutional by a court; but he felt he would be derelict in his duty, if he did not bring this to the attention of Council. He added that he felt he would have a difficult time defending this in court.

Mr. Schroeder felt that he saw merit in this provision as it stands because it would prevent anyone putting any pressure on an employee to contribute; however he had mixed feelings on it because he would like to think the officials in Naples would not "put the arm on people." He thought he might follow the line of reasoning of the City Attorney.

Asked his opinion on this, Mr. Patterson stated that in one sense it does protect the employee and in the other sense it also takes away his right to make a contribution, if he should wish to do so.

Mr. Holland pointed out that similar language has not been declared unconstitutional in the state of Florida but on the United States level, it has been.

Mr. Thornton felt that this ordinance should be defeated, so he proposed to make a motion for its adoption with the idea that he would vote against it.

Mr. Thornton made a motion to adopt this ordinance on First Reading, seconded by Mr. Schroeder.

Further discussion on the motion and the effect of each vote established that a "no" vote would leave this provision in the Charter and a "yes" vote would change the Charter.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	No
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	No
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 5-2.

AGENDA ITEM 19. Bid Award - Front Loader Containers for the Public Works Department!

City Attorney Fletcher read the above captioned resolution for Council consideration.

Mr. Holland moved that Resolution 2903 be approved, seconded by Mr. Thornton.

Roll Call Vote:	Mr. Holland	Yes
	Mr. McGrath	Yes
	Mr. Schroeder	Yes
	Mr. Thornton	Yes
	Mr. Twerdahl	Yes
	Mr. Wood	Yes
	Mayor Anderson	Yes

Motion Carried 7-0.

CORRESPONDENCE AND COMMUNICATIONS

Mr. Fletcher corrected his statement at the workshop and stated that there are change order provisions in the general provisions of the contract for City Hall; however, they do require City Council action to issue any change orders so a resolution will be presented delegating some of that authority to City Manager Patterson.

Mr. Patterson had a letter from Mr. Wightman, Director for the Airport Authority inviting Council to come out to the airport to preview activities of the Authority. Council decided on February 23rd, 2:30 p.m., tentatively.

Mr. Thornton referred to Mr. Fletcher's memorandum on hospitalization insurance (Attachment #5). He felt there should be no fringe benefits for elected officials, even on an optional basis.

Mr. Wood was in favor of being able to avail himself of this and Mr. Holland concurred.

Mayor Anderson inquired about the availability of life insurance and noted that these fringe benefits had been extended to the School Board members and Mr. Holland pointed out that they were also extended in the County.

Mayor Anderson directed the City Manager to get a figure on how much money this would involve and find out the pros and cons on this matter.

Mr. Schroeder stated that if he took advantage of it, he would cut his salary by the amount of monthly premiums.

Mr. Twerdahl was not opposed to the idea in principle.

There being no further business to be brought before this Regular Meeting of the Naples City Council, Mayor Anderson declared the meeting adjourned at 1:16 p.m.

R. B. Anderson

R. B. Anderson, Mayor

Janet L. Davis

Janet L. Davis
City Clerk

Ellen P. Marshall

Ellen P. Marshall
Deputy City Clerk

These minutes of Naples City Council approved on 3-1-78

N. Kay
Mayor Anderson & Councilmen

I am here as the chairman of the Community Appearance Task Force, appointed by previous council, and as directed by the membership of the Task Force to speak in its behalf.

The committee met in emergency session last Tuesday, February 7th, to discuss and review the proposed ordinance, since the ordinance was formulated, proposed for adoption and passed by your predecessors without consultation or notification of either myself or any member of the Task Force.

The Task Force was formed by Council resolution on the 1st day of June, 1977, for the purpose of drafting a proposed Community Appearance Advisory Board Ordinance, and is composed of nine members (one of who has since resigned).

The Task Force has been meeting periodically since that time, continually striving to separate the "wheat from the chaff" - to determine the appropriateness of all various aspects of a proposed Community Appearance Board.

We have reviewed ordinances obtained from a number of committees throughout the United States, and have spent quite some time in review of the Publication - "Design Review Boards: A Handbook for Committees" - a study started in 1968 and published in 1973. (It is my understanding that all members of the past council also had access to all the above).

The Task Force in open meeting on October 31, 1977 and by a vote of 7 to 1, recommended to City Council that a Community Appearance Board, "be created as a separate design review board" - that is - if a board was to be created.

In the absence of any response from the City Council - it was assumed that the Task Force should proceed along those lines.

It was, therefore needless to say, somewhat of a surprise to learn through the media that not only had an ordinance been formulated and passed on first reading by Council on Feb. 1, 1978, but that the proposed Board was to be a sub-committee of the Planning Advisory Board - i.e. - its actions required approval of not only the five members of the Planning Advisory Board, but was required to be further reviewed and approved or disapproved by the City Council.

Be that as it may, the Task Force then directed itself towards a review of the proposed ordinance. Seven of the eight members attended. In general, the majority of the Board found the proposed ordinance to be completely inadequate in all aspects as a viable, working tool for the City of Naples and a future design review committee. Specifically, under Section 1,

A design review board was "created under the planning advisory board". Directly the opposite of the Force recommendation. Section 2: The committee was "composed of 5 members". No criteria was set out for the qualifications for members, or whether they were also members of the Planning Advisory Board. No provisions were made for alternate members in the event regular members were absent, it found to be in conflict of intent with the matters to come before the Board.

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Section 3: No specific time was set for committee meetings - i.e. - "as is deemed necessary" to review plans and specifications.....". This could mean that the committee, by intent, could meet only 1 time a month, once a week, or once a year.....

A majority of the committee shall constitute a quorum and the vote of a majority of those present shall be necessary for any recommendation thereof". Without alternate members provided - a committee could be at a standstill for months, with two members absent, three meetings, and a vote other than unanimous. ^{members present}

The ordinance then conflicts itself by stating that "Said Committee shall submit its recommendation to the Planning Advisory Board in writing within ten days from the date of the application for such building and/or sign permit". Whereas in the beginning of Section 3 it states that the committee shall meet at such times as is deemed necessary by the Committee.

In order not to create a complete slow-down of proposed development in the City, the committee could be required to meet daily, since building permits are not scheduled as to their day of application, but are applied for when a project is ready.

Further: The proposed ordinance sets no guideline for a proposed developer indicating what exhibits, if any, he must present for a review. Working plans and specifications are technical instruments of construction, not related to presentation drawings that are three dimensional, colored, and presented in scale with adjacent properties. A developer, having spent countless hours and dollars in the preparation of his plans to the point of applying for a building permit, is then subject to review by 5 persons on a Design Review Board, who may not approve his basic concept. But assuming this board approves the plans, the project is then subject to a further review, if so desired, by the P.A.B., since they must approve the recommendations of the Design Review Committee. Thus two approvals have been required so far, and 10 persons involved. Since all actions of the P.A.B. must be reviewed and approved by Council, another delay is created, and another 7 persons must review and approve the project. We now have had three separate reviews by a total of 17 persons and approval given by the first 10 may be overturned by 4 of the last 7.

It is not realistic to assume that every project proposed would be required to go through the actual review by the P.A.B. or Council BUT, dependent upon the composure of either, and the criteria "the Committee may recommend such changes in plans and specifications as in its judgement may be requisite or appropriate to the maintenance of a high standard of development, architectural design, beauty and harmony", a complete stall could be created by persons with intents other than the best intent of Naples at heart.

Section 4: No building or sign permit shall be issued until.....and subsequently approved by the Planning Advisory Board". Again, according to ordinance, the action of the P.A.B. must be approved by Council. The ordinance as proposed is mis-leading since a building permit could not be issued prior to the approval by Council of the P.A.B. actions.

Draft

ADDITIONAL COMMENTS SPECIFICALLY TO SECTIONS OF THE PROPOSED ORDINANCE - IT SHOULD BE POINTED OUT THAT THERE IS NO DEFINED PROVISION INCLUDED FOR SPECIFIC APPROVAL FROM DECISIONS BY ANY OF THE BOARD'S RESOLUTIVE APPROVAL

I have now gone through each section of the proposed ordinance with you, much the same as the C.A.T.F. did on February 2nd. After a great deal of thoughtful discussion on that date, the motion was made to request that you, the City Council, vacate the proposed ordinance. The motion was seconded and passed by a vote of 6 to 1.

It is therefore recommended to you, that this ordinance be vacated at this time and that, if you so desire, a reaffirmation be expressed by you regarding the establishment of a Community Appearance Task Force ~~be given.~~

to logically & sensibly formulate a workable ordinance that can be accepted by opponents & proponents alike in the best interest of our community

BBC637

February 14, 1977

Hon. R. B. Anderson, Mayor
City Councilmen
City of Naples
Naples, Florida

Gentlemen:

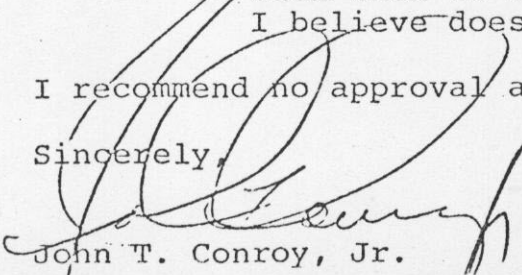
Several months ago, the Naples Area Board of Realtors presented a resolution opposing the creation of the Community Appearance Advisory Board; it is my opinion, as a Director of the Board of Realtors, that the Design Review Committee, under the Planning Advisory Board, would also be opposed by the Board of Realtors, for substantially the same reasons that the Board opposed the original body.

I should like to point out that the Ordinance approved at the first reading on February 1, 1978, includes several basic problems:

1. No qualification is set forth for membership on the committee.
2. No standards for acceptance or rejection of any permit application are set forth.
3. To have signs included along with building permits for review introduces added bureaucratic levels required for the businessman, without significant social benefit.
4. Adequate zoning and sign ordinances already exist.
5. The ordinance approved, without the concurrence or consultation of the Special Task Force on Community Appearance, is small thanks, and no recognition, to that body; and though I opposed its creation, such lack of sensitivity suggests a smallness that I believe does not exist on this Council.

I recommend no approval at the Second Reading.

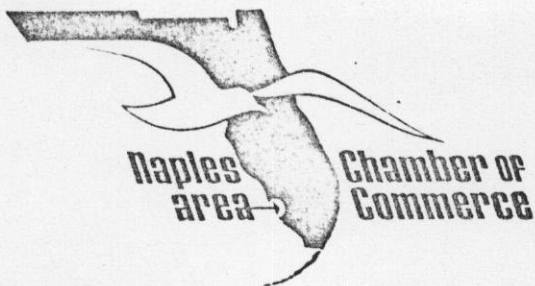
Sincerely,


John T. Conroy, Jr.

PREAMBLE

There is no group in Naples more concerned with the "Image" of our area than those in the Real Estate Profession. The creation of an environment that is rich in human and aesthetic values ought to be, and is, central in the minds of those Realtors and Realtor-Associates who are responsible for development in our area. The level of harmony, beauty and architectural excellence is apparent to all who care to look carefully.

Sometimes, however, there are other considerations that are of critical importance to members of a Board of Realtors. In taking the Realtor's Pledge, we promise to "protect the individual right of real estate ownership and to widen the opportunity to enjoy it." This implies the necessity of examining proposed legislation and evaluating it in terms of whether more rights are being removed from the individual property owner, without compensating social value. Sometimes, it appears that the most significant enemy to the Free Enterprise System is our form of government, intent upon legislating every element of our lives, even to our sense of aesthetics. At such a time, it is incumbent upon members of a Board of Realtors to oppose such legislation as a further infringement and restriction on those individual property rights.



1700 NORTH TAMiami TRAIL • NAPLES, FLORIDA 33940 • PHONE (813) 26 41

February 14, 1978

Relative to the proposed Ordinance establishing a Design Review Committee, the Naples Area Chamber of Commerce wishes to again state its position as outlined in our May 27, 1977 letter to Mayor Heineman with copies sent to the City's Community Appearance Advisory Task Force.

In summary, this Communication stated "we do not feel this type of control is necessary or warranted. Since you cannot legislate good taste, it is our opinion that if specific guidelines or "advisory suggestions" can be developed they be included under existing Boards or Agencies, thus providing the total desired effect we all seek ... that being our beautiful "Naples Image."

It is our recommendation that the proposed ordinance not be adopted due to lack of Specific Criteria for its board members and lack of detailed guidelines for use in evaluation.

It is further recommended, that the question be returned to the Advisory Task Force for further study.

The Chamber feels that any action by the City Council regarding the establishment of an "Appearance" Ordinance should be based on the recommendations of the Task Force established for that purpose.



City of Naples

735 EIGHTH STREET, SOUTH · STATE OF FLORIDA 33940

OFFICE OF THE CITY ATTORNEY

February 14, 1978

M E M O

TO: Honorable Mayor and Members of Council

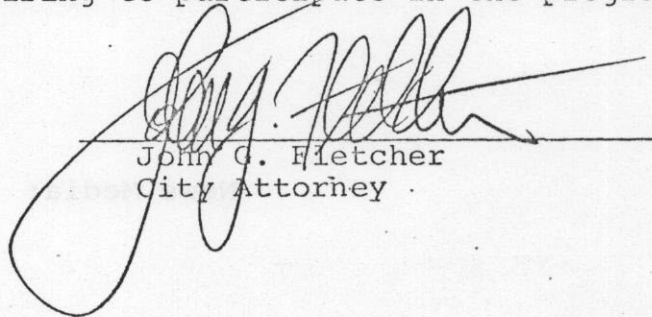
FROM: John G. Fletcher, City Attorney

SUBJECT: Hospitalization Insurance

Several members of Council have inquired as to their eligibility to participate in the City's group hospitalization insurance program.

It is my understanding that Blue Cross/Blue Shield has indicated that there should be no problem with regard to including Council members in the City's group hospitalization program if the Council members elect to participate and to pay their share of the premiums.

Accordingly, we will prepare and place on the Agenda for the next meeting of Council a Resolution authorizing members of Council to participate in the program if they so elect and providing that one-half of the insurance premium will be paid by the City and one-half by the Council member desiring to participate in the program.


 John G. Fletcher
 City Attorney

cc: City Manager

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