City of Naples

City Council Minutes

Regular Meeting 05/06/87

City Council Chambers
735 Eighth Street South
Naples, Florida 33940

City Council Chambers
735 Eighth Street South
Naples, Florida 33940

CITY COUNCIL MINUTES
Regular Meeting

Time 9:00 a.m.

Date 05/06/87

Mayor Putzell called the meeting to order and presided as Chairman:

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT

ROLL CALL: Present: Edwin J. Putzell, Jr., Mayor — ITEM 2

Kim Anderson-McDonald
William E. Barnett
William F. Bledsoe
Alden R. Crawford
John T. Graver
Lyle S. Richardson
Councilmen

Also Present:

Franklin C. Jones, City Manager
David W. Rynders, City Attorney
Mark W. Wiltsie, Assistant City Manager
Gerald L. Gronvold, City Engineer
Norris C. Ijams, Fire Chief
Jodie M. O'Driscoll, Deputy Clerk
Jon C. Staiger, Ph.D., Natural Resources Mgr.
Roger J. Barry, Community Devlpmt. Dir.
Stewart K. Unangst, Purchasing Agent
Bonnie Lucrezi, Administrative Clerk
Clifford Gorden, Building Official
George Henderson, Sergeant-At-Arms

See Supplemental Attendance List - Attachment #1.

*** *** ***

INVOCATION: Reverend H. Peter Lyberg, Shepherd of the Glades Lutheran Church — ITEM 1

*** *** ***

ANNOUNCEMENTS — ITEM 3

MAYOR PUTZELL: None.

CITY MANAGER JONES: None.

*** *** ***

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

APPROVAL OF MINUTES — ITEM 4

April 08, 1987, Workshop Meeting
April 15, 1987, Regular Meeting
April 22, 1987, Workshop Meeting
April 22, 1987, Interviews with Planning Advisory Board Candidates

*** *** ***

PURCHASING — ITEM 5

---RESOLUTION NO. 87-5265

A RESOLUTION REJECTING ALL BIDS RECEIVED FOR A PORTABLE BARKHOG (OR WOOD CHIPPER); AUTHORIZING THE CITY MANAGER TO READVERTISE FOR BIDS ON SAID PORTABLE BARKHOG; AND PROVIDING AN EFFECTIVE DATE.

Title not read.

In response to Mr. Graver, Assistant City Manager Wiltsie explained that the original specifications

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald		X	X		
Barnett			X		
Bledsoe	X		X		
Crawford			X		
Graver			X		
Richardson			X		
Putzell			X		
(7-0)					

called for equipment which exceeded the budgeted amount and the City could obtain a less expensive model to meet requirements.

MOTION: To APPROVE the Consent Agenda as presented.

*** *** ***

-----END CONSENT AGENDA-----

COMMUNITY DEVELOPMENT DEPARTMENT/NAPLES ADVISORY BOARD — ITEM 6

---ORDINANCE NO. 87-5266 — Item 6-a

AN ORDINANCE REZONING THE CITY HALL COMPLEX, CITY HALL PARKING LOT AND CAMBIER PARK, MORE PARTICULARLY DESCRIBED HEREIN, FROM "R3T-12" MULTI-FAMILY RESIDENTIAL AND "R1-7.5" SINGLE FAMILY RESIDENTIAL TO "PS" PUBLIC SERVICE; DIRECTING THAT THE ZONING ATLAS BE REVISED TO REFLECT SAID REZONING; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 9:09 a.m.
Closed: 9:09 a.m.

No one present to speak for or against.

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

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald	X		X		
Barnett		X	X		
Bledsoe			X		
Crawford			X		
Graver			X		
Richardson					X
Putzell			X		
(6-0)					

*** *** ***

---RESOLUTION NO. 87-5270 — Item 6-b

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ESTABLISH EXISTING CITY FACILITIES AS PERMITTED USES IN THE "PS" PUBLIC SERVICE ZONE DISTRICT, MORE PARTICULARLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

No one present to speak for or against.

MOTION: To APPROVE the resolution as presented.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald			X		
Barnett			X		
Bledsoe		X	X		
Crawford			X		
Graver			X		
Richardson	X		X		
Putzell			X		
(7-0)					

*** *** ***

---RESOLUTION NO. 87-5267 — ITEM 7

A RESOLUTION VACATING AND ABANDONING A NORTH-SOUTH ALLEY APPROXIMATELY 20 FEET BY 150 FEET LOCATED IMMEDIATELY EAST OF THE PETITIONER'S PROPERTY AT 19 SIXTH AVENUE SOUTH, SUBJECT TO THE CONDITION SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 9:10 a.m.
Closed: 9:10 a.m.

No one present to speak for or against.

City Attorney Rynders advised that the resolution contained a utility and access easement requirement.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald	X		X		
Barnett			X		
Bledsoe			X		
Crawford			X		
Graver		X	X		
Richardson			X		
Putzell			X		
(7-0)					

The petitioner, he continued, had provided the City with a $8,437.50 cashier's check as compensation based on a land value of $11.25 per square foot. In response to Mr. Graver, the City Attorney explained that it is not necessary to deed this property over to the petitioner as adoption of the resolution would suffice.

Mr. Graver asked if the City was responsible for maintaining the alley and Community Development Director Barry advised that the City has not in the past maintained the alleys.

Mr. Barry also pointed out that the petitioner needed this vacation to assure conformance with the necessary setback requirements for a swimming pool in his backyard.

MOTION: To APPROVE the resolution as presented.

*** *** ***

---RESOLUTION NO. 87- ITEM 8

A RESOLUTION GRANTING A VARIANCE FROM SECTION 6-23 OF APPENDIX "A" - ZONING OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES IN ORDER TO REBUILD THE SQUARE FOOTAGE OF THE EXISTING BERG BUILDING, WHICH HAS 19 PARKING SPACES LESS THAN THE CURRENTLY REQUIRED PARKING, IN A PROPOSED COMMERCIAL COMPLEX TO BE BUILT ON THE SOUTH SIDE OF BROAD AVENUE SOUTH, BETWEEN THIRD STREET SOUTH AND SECOND STREET SOUTH, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Mayor Putzell reiterated the procedure for addressing Council and reminded the audience that there is a seven minute time limit. The Mayor then read a letter from the Collier County Historical Society, Inc., supporting retention of the Old Naples Building, herein included as Attachment #2.

Mr. Davis Camalier, petitioner, read his statement into the record (Attachment #3).

Mr. Graver pointed out that the Planning Advisory Board did recommend approval of the variance, but the recommendation was dependent upon the petitioner meeting certain conditions. He further noted that some members of the Board also had reservations concerning this variance as it did not fully protect the Old Naples Building.

Mr. John Gandy, representing the London interest (Speyhawk), reiterated his statement from previous meetings that his company has no intention of destroying the Old Naples Building; further, it believes approval of the variance and preservation of the Old Naples Building should be considered separately.

Citizen Ed McMahon suggested that either the City raise the funds needed to purchase the Old Naples Building or the Camaliers donate the building to the City.

Mr. Richardson observed, however, that the petitioner's plans do not include the destruction of

the Old Naples Building, as evidenced by the petitioner's statement.

Citizen Paul Arsenault urged the Council to deny the variance until the Camalier's could guarantee that the Old Naples Building would not be demolished.

Mayor Putzell pointed out that since this Council's election in 1986, it has enforced the laws of the City with little or no deviation except in cases where a substantial need has been presented. This request, he continued, is not in the best interest of the public, therefore, it would be difficult to support.

Mr. Richardson moved to approve this variance, however, his motion died for lack of a second.

Mr. Davis Camalier reiterated his statement that there are no plans to destroy the Old Naples Building and disagreed that approval of the variance should be contingent upon its preservation.

Mayor Putzell suggested that Mr. Camalier's group meet with Mr. McMahon to further explore the suggestions he has made about donation of the structure.

Citizen Gilbert Weil spoke in favor of the variance and said he believed the Camaliers were trying to work with the City to settle this issue.

Mr. Graver noted that although the Camalier group refers to "grandfathered" parking spaces in connection with the existing Berg Building, those spaces would not exist if the building were reconstructed because current zoning regulations would then be in force.

Mr. Crawford, however, reiterated that the variance and the Old Naples Building are separate issues and should be handled as such.

MOTION: To DENY the resolution as presented.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald	X		X		
Barnett			X		
Bledsoe			X		
Crawford			X		
Graver		X	X		
Richardson			X		
Putzell			X		
(7-0)					

*** *** ***

-----END COMMUNITY DEVELOPMENT DEPT./ P.A.B.-----

---ADVERTISED PUBLIC HEARINGS---

---RESOLUTION NO. 87-5268 ITEM 9

A RESOLUTION GRANTING A VARIANCE FROM THE CITY'S MOST RESTRICTIVE COASTAL CONSTRUCTION SETBACK LINE TO PLACE FILL FOR ELEVATION TRANSITION BETWEEN THE REQUIRED FLOOD ELEVATION OF THE FLOOR SLAB TO THE EXISTING GRADE SEAWARD OF THE COASTAL CONSTRUCTION SETBACK LINE AND TO INSTALL A TEMPORARY CONSTRUCTION FENCE, SUBJECT TO THE CONDITIONS SET FORTH HEREIN, AT THE POINT; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

PUBLIC HEARING: Opened: 9:55 a.m.
Closed: 9:55 a.m.

No one present to speak for or against.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald			X		
Barnett		X	X		
Bledsoe			X		
Crawford			X		
Graver			X		
Richardson	X		X		
Putzell			X		
(7-0)					

Natural Resources Manager Staiger advised that the petitioner wished to place fill past the Coastal Construction Control Line, although the fill would not cross the City's most restrictive setback line (75 feet landward of the vegetation line).

Mr. Richardson said that it was important the temporary fence remain behind the Coastal Construction Control Line and moved to approve the resolution as presented. Mr. Barnett seconded the motion.

In response to Mr. Crawford, Dr. Staiger also advised that the fill would be in the general vicinity of the main house, not the guest house.

Mr. Bledsoe asked where the fill would be obtained and Dr. Staiger responded that although the fill would be "clean", it was from an unidentified off-site location.

Mr. Crawford suggested that Section 1, line 5 be amended to read: "elevation of the floor slab 'of the main house' to the existing grade..." Messrs. Richardson and Barnett accepted this amendment.

MOTION: To APPROVE the resolution with an amendment to Section 1, line 5: "elevation of the floor slab 'of the main house' to the existing grade..."

*** *** ***

---RESOLUTION NO. 87-5269 ITEM 10

A RESOLUTION AUTHORIZING A DREDGE AND FILL PERMIT REQUEST FOR THE CONSTRUCTION OF A SEAWALL AND THE REPLACEMENT OF AN EXISTING DOCK AT 2171 FORREST LANE, SUBJECT TO THE STIPULATIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Natural Resources Manager Staiger explained that the petitioner is requesting a permit to dredge, fill, construct a seawall and replace an existing dock and has just added another request for a boat lift. The staff had no objections to these requests, he added.

In response to Mayor Putzell, Mr. William Johnson, representing the petitioner, advised that the Department of Environmental Regulation (DER) has approved a permit for all of the petitioners' requests, including the boat lift.

Mr. Graver asked about the height of rip rap in front of the new seawall, and Mr. Johnson explained that it would be approximately at -1 mean low water.

Mayor Putzell asked if this was a new house and Mr. Johnson advised that the petitioners had purchased an existing house which presently is non-conforming. This will be remedied with the passage of the resolution, however, Mr. Johnson stated.

MOTION: To APPROVE the resolution as presented.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald			X		
Barnett			X		
Bledsoe	X		X		
Crawford			X		
Graver		X	X		
Richardson			X		
Putzell			X		
(7-0)					

*** *** ***

-------END ADVERTISED PUBLIC HEARINGS------

CITY OF NAPLES, FLORIDA

City Council Minutes Date 05/06/87

---RESOLUTION NO. 87-5271 ITEM 11

A RESOLUTION APPOINTING TWO MEMBERS TO THE PLANNING ADVISORY BOARD TO FILL THE VACANCIES CREATED BY THE EXPIRATION OF THE TERMS OF C. LODGE MCKEE AND EARLE VINCENT JOHNSON; AND PROVIDING AND EFFECTIVE DATE.

Title read by City Attorney Rynders.

Mr. Richardson moved that the Council reappoint C. Lodge McKee and appoint Alan Korest to the Planning Advisory Board (PAB).

Mayor Putzell commented that each applicant interviewed by the Council had an excellent background and showed a willingness to volunteer service to this Board. He further thanked all applicants and encouraged them to reapply when other positions become available. Mr. Graver echoed the Mayor's statements.

Mayor Putzell then suggested that the Council consider increasing the PAB membership from five to seven to represent a fair cross-section of the community's interests. Mr. Richardson suggested that Council request the staff to draft such an ordinance and City Manager Jones advised that the staff would proceed.

MOTION: To APPROVE the resolution with the appointment of C. Lodge McKee and Alan Korest to the Planning Advisory Board.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald			X		
Barnett		X	X		
Bledsoe			X		
Crawford			X		
Graver			X		
Richardson	X		X		
Putzell			X		
(7-0)					

*** *** ***

---RESOLUTION NO. 87-5272 ITEM 12

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT BETWEEN THE CITY OF NAPLES AND SPECIALIZED DREDGING AND EQUIPMENT, INC. FOR DREDGING DOCTORS PASS; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

City Engineer Gronvold explained that because the original contract to dredge 10,000 cubic yards of material exceeded the amount budgeted, the staff is recommending Council approve the dredging of 6,125 cubic yards of material at a cost of $30,000. Mr. Gronvold also pointed out that the project would not begin until approximately 30 to 45 days after the Department of Natural Resources' (DNR) final survey.

In response to Mayor Putzell, City Attorney Rynders advised that he has reviewed the contract but would withhold his approval until the other party executed the contract.

Mayor Putzell asked for information on the insurance requirement for such a contract and the City Attorney stated that only a Certificate of Insurance from the contractor is necessary.

Mr. Crawford called the contract clear and precise.

MOTION: To APPROVE the resolution as presented.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald			X		
Barnett			X		
Bledsoe			X		
Crawford			X		
Graver		X	X		
Richardson	X		X		
Putzell			X		
(7-0)					

*** *** ***

ITEM 13

---RESOLUTION NO. 87-5273 Item 13-a

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CITY CLERK TO EXECUTE A FRANCHISE AGREEMENT BETWEEN THE CITY OF NAPLES AND CLASSIC CARRIAGE RIDES, RELATIVE TO THE OPERATION OF HORSE-DRAWN CARRIAGE RIDES IN THE CITY; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Assistant City Manager Wiltsie advised that Classic Carriage Rides, the grantee, was requesting an extension of its current franchise agreement and staff recommended approval for a one-year period.

Mr. Edward McMahon, representing the Old Naples Association, suggested that the operators of the horse-drawn carriages install additional lighting to be more visible where there is little or no street lighting.

MOTION: To APPROVE the resolution as presented.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald			X		
Barnett			X		
Bledsoe			X		
Crawford	X		X		
Graver		X	X		
Richardson			X		
Putzell			X		
(7-0)					

*** *** ***

---RESOLUTION NO. 87-5274 Item 13-b

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE CITY OF NAPLES AND A CLASSIC CARRIAGE WHICH EXTENDS THE PERIOD OF OPERATION; AND PROVIDING AN EFFECTIVE DATE.

Title read by City Attorney Rynders.

Assistant City Manager Wiltsie advised that although this request was to extend the franchise agreement until October 10, 1987, the staff recommends a one-year period.

Mrs. Anderson-McDonald asked if the Council had the right to revoke franchises if it were found that the carriages were a hindrance to area merchants. City Attorney Rynders confirmed that the City could do so.

MOTION: To APPROVE the resolution as presented.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald			X		
Barnett			X		
Bledsoe		X	X		
Crawford			X		
Graver			X		
Richardson	X		X		
Putzell			X		
(7-0)					

*** *** ***

ITEM 14

ACTION ON FINDINGS OF CONTRACTORS EXAMINING BOARD AT THE BOARD'S MAY 1,1987, MEETING WITH REFERENCE TO COMPLAINTS AGAINST KENDRICK D. TUCKER, GENERAL CONTRACTOR. PURSUANT TO SECTION 8-48(C)(5) OF THE CODE OF ORDINANCES.

Title read by City Attorney Rynders.

Community Development Director Barry referred to the Contractors Examining Board (CEB) findings against Kendrick D. Tucker (Attachment #4) and stated that Sections 8-48 and 8-49 of the Code outline

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT

disciplinary proceedings and unlawful acts or omissions. (A complete record of the complaints issued against Mr. Tucker and his response can be reviewed from this meeting's packet in the City Clerk's Office.)

City Attorney Rynders further advised that this was the first such case to come before the CEB or the City Council and that the Council should, in all fairness to Mr. Tucker, consider not only the CEB findings, but also any new material presented at this meeting.

Attorney Victoria Felden, representing Kendrick D. Tucker, reiterated her statements from previous CEB meetings (a copy of which can be reviewed from this meeting's packet in the City Clerk's Office). She also submitted excerpts from a transcript of the May 1, 1987, CEB meeting into the record, herein included as Attachment #5. Ms. Felden said she did not believe the CEB had sufficient evidence upon which to recommend revocation of Mr. Tucker's license.

Mayor Putzell pointed out that this was an administrative hearing and such hearings are generally an informal way to settle disputes without the technical rules of the law. Ms. Felden agreed but objected that the CEB is being allowed testimony from people who lived outside of the City. Mayor Putzell pointed out, however, and Ms. Felden agreed, that such testimony is needed to help in determining the credibility of the contractor.

In response to Ms. Felden's allegations that Mr. Tucker had not violated any sections of the Code, City Attorney Rynders cited several examples of such violations specifically in Section 8-49, Subsections (a), (g), (h) and (j).

Attorney Robert Menzies, representing Mr. & Mrs. H. M. Thornton (complainants), pointed out that the CEB had visited his clients' home to review Mr. Tucker's work and that the Thornton's and Mr. Tucker are currently involved in a lawsuit over remodeling their residence. Attorney Menzies further advised that he concurred with the CEB's recommendation.

Ms. Margaret O'Halloran and Mrs. Rosanna Loach also gave examples of their experiences with Mr. Tucker and added their support of the CEB's findings.

Mr. Jerry Hester also advised that he had had several problems in dealings with Mr. Tucker, but City Attorney Rynders pointed out that Mr. Hester's difficulties arose mostly from his construction contract and warranties therein.

In response to Ms. Felden, City Attorney Rynders further advised that Mr. Hester and Mrs. Loach's testimony could only be used to determine the credibility of Mr. Tucker.

Mayor Puztell cited the Code wherein it states that the City Council could act on the item at this meeting or it could adjourn and meet within five days at which time it would either affirm or disaffirm the CEB's recommendation.

It was the consensus of Council to proceed with the item at this meeting. Mr. Richardson moved to

accept the CEB's findings relative to Kendrick D. Tucker and the revocation of his building permitting privileges in the City of Naples. Mr. Barnett seconded.

Mrs. Anderson-McDonald said she believed the CEB's and Council's decision was correct and should be comforting to those contractors who operate in a law abiding manner.

MOTION: To AFFIRM the Contractors Examining Board's recommendation to revoke the building permitting privileges in the City of Naples of Kendrick D. Tucker.

COUNCIL MEMBERS	MOTION	SECOND	VOTE YES	VOTE NO	ABSENT
Anderson-McDonald			X		
Barnett		X	X		
Bledsoe			X		
Crawford			X		
Graver			X		
Richardson	X		X		
Putzell			X		
(7-0)					

*** *** ***

CORRESPONDENCE AND COMMUNICATIONS: None.

*** *** ***

ADJOURN: 11:06 a.m.

EDWIN J. PUTZELL, JR., Mayor

Janet Cason
JANET CASON
CITY CLERK

Jodie M. O'Driscoll
JODIE M. O'DRISCOLL
DEPUTY CLERK

These minutes of the Naples City Council were approved on MAY 20 1987.

ATTACHMENT #1

SUPPLEMENTAL ATTENDANCE LIST

Herb Anderson
Lodge McKee
Egon Hill
Reverend H. Peter Lyberg
Ellie Krier
Edward McMahon
Phillip Darnell
Richard O. Sykes
Alma Potts
Rosanna Loach

Robert Schroer
Deborah St. John
Paul Arsenault
Isabel Wood
Charles Andrews
Davis Camalier
Lee Layne
Joe Lynch
Robert Menzies

Clarence Pettit
Harry St. John
Eileen Arsenault
Laura Davis-Lehman
Robert J. Laughlin
John Brugger
Marilee West
Jerry L. Hester
Margaret O'Halloran

Other interested citizens and visitors.

NEWS MEDIA

Donna Winn, TV-9
Kevin Parks, News-Press

Marty Bonvechio, Naples Daily News
William Upham, Naples Times

Collier County Historical Society, Inc.
POST OFFICE BOX 201
NAPLES, FLORIDA 33939
(813) 261-8164

May 5, 1987

Mayor Edwin J. Putzell, Jr.
735 - 8th Street South
Naples, Florida 33940

Dear Ned:

The Board of Directors of the Collier County Historical Society have followed closely the developments surrounding the future status of the Old Naples Building. We are for obvious reasons keenly interested in any methods which may be pursued to maintain and preserve this important landmark on its original site.

The latest proposal involving a variance request is extremely perplexing in that it promises nothing in return for a development advantage which simply adds value to an adjacent commercial property.

We urge you and the City Council to explore and require an alternative such as a planned development overlay, which would give some protection to the Old Naples Building as a prerequisite to granting a variance.

We are also disappointed that the developers' architect has made no effort to integrate their project with the Old Naples Building when a unique opportunity to do so exists.

We have investigated the possibility of a facade easement and would welcome an opportunity to explore such a plan with the owner wherein improvements and restoration efforts might be donated from an independent source.

Thank-you for your consideration.

Sincerely,

C. Lodge McKee II
President

STATEMENT OF PETITIONER

IN THE MATTER OF: VARIANCE PETITION 87-V5

HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

The petitioner-trustee under Variance Petition 87-V5 joins with his associates and successors in interest as owners of the three parcels of land directly or indirectly involved in the peitition, in expressing appreciation for the thoughtful and energetic consideration accorded his request by City Council and the Planning Advisory Board.

The development plan which your Advisory Board has recommended to you for approval will add some 61,000 feet of high quality commercial space to the City's property tax roles with concomitant revenues to be derived from increased employment, etc., etc.

If that plan is rejected then some 55,000 feet still may be built if the project remains economically feasible in the sole opinion of the developer.

The project in the form requested will provide City residents with approximately 186 underground parking spaces in the Third Street district. In reality these are new parking spaces. A denial of the variance request will eliminate nineteen of those "new" parking spaces.

The City Council by linking the Variance Petition to the "status" of the Old Naples Building would appear to suggest that some arrangement with respect to the latter might result in sympathetic consideration of the former.

Petitioner asks that your decision be based on the merits of its application giving due consideration to the recommendation of your Planning Advisory Board.

Petitioner further wishes to advise the City Council for the record:

(1) That petitioner has no plans to raze or remove the Old Naples Building;

(2) That the Old Naples Building is subject to an existing tenancy with all the rights and obligations normally attendant thereto;

(3) That the City forced the petitioner to destroy at its own, considerable expense, some 20,000 square feet of historic space in the form of the old Hotel Annex and adjacent residences. (See attached correspondence and order.) One building would have been 50 and the other building was built in 1926 and would have been 62 years old - the same age as the Old Naples Building!

(4) That petitioner is reluctant to surrender the last and least of its "historic" structures as a hostage for nineteen parking spaces;

(5) That petitioner is ready, willing and able to work with the City to accommodate that constituency (regardless of its size) that wishes to preserve the Old Naples Building provided that his rights and obligations are also recognized, protected and/or accommodated;

(6) That petitioner has discussed in public and private with members of the City administration many attractive possibilities for utilizing the Old Naples Building and will continue to work for a positive solution within a format and in a proper forum that will recognize the rights and obligations of all parties and avoid a repetition of the hardship occasioned by the earlier taking referred to above;

(7) That petitioner wishes to be a good neighbor who will work for the economic and cultural well-being of the Community and hopes that the approval of this project will be the beginning step in that direction.

THANK YOU

JOHN E. BAKER
SUITE 401
1725 DESALES STREET, N.W.
WASHINGTON, D.C. 20036
202/833-8762

October 19, 1977

City Manager
City of Naples
Naples, Florida 33940

Gentlemen:

I am associated with other parties in the recent acquisition of the Old Naples Hotel property at Broad Avenue and Second Streets South, in Naples.

It is our present intention to utilize the property in a manner that will require renovation of the existing buildings at considerable expense. Unfortunately, we are advised that these structures are being subjected to periodic, illegal entry and occupancy for various and sundry purposes to the detriment of the premises and the consternation of neighboring property owners.

I believe that the only authorized, extant set of keys to the buildings are in the possession of Mrs. Collette Dyches. I am sure that she would make them available to local law enforcement agencies for the purpose of facilitating access to discourage any unlawful activity.

One of our associates, Mr. Charles Camalier, will be in Naples, the middle of next month for the purpose of discussing the development of the property and will certainly contact you should this condition persist. In the meantime please know that it is our intention to use these buildings; that we regard them as private property of considerable value and that we are willing to cooperate with the City in your efforts to discourage any trespass.

Sincerely,

John E. Baker

City of Naples

735 EIGHTH STREET SOUTH STATE OF FLORIDA 33940

BUILDING AND ZONING DEPARTMENT

July 7, 1978

Mr. Charles A. Camalier
1629 K Street NW
Washington, D. C. 20006

[illegible] Beach Club Hotel

Dear Mr. Camalier:

The Old Beach Club Hotel has now become a real source of concern to the Third Street South area of the City of Naples.

Last night there were three different fires set in the building. The grounds are unsightly. The building is now a definite hazard to health and safety, and it is also an abandoned building.

Under Section 103.4 UNSAFE BUILDINGS (enclosed) found in the 1976 Edition of the Standard Building Code, which is adopted by the City of Naples, we declare this building an unsafe building because it constitutes a hazard to safety and also it is an abandoned building.

It is required that you, as owner of the building, within thirty (30) days from receipt of this letter, demolish and remove building from the site.

Very Truly Yours,

Anders B. Sandquist,
Building & Zoning Administration

ABS/skp

Enclosure

cc: Matt Patton, Fire Marshall

CERTIFIED #46045

Date: July 5, 1978

Nuisance #6322

TO: Charles A. Cuelier

700 Spy Glass Lane, Naples, Fl 33940

You are hereby directed to abate an insanitary condition existing on your property owned (owned, rented, etc.) by you at Broad Ave., So. & 2nd St., So. (city address, land description, etc.) in the county Collier, State of Florida, contrary to the laws of the State of Florida and which subject the offender to a penalty for failure to remove or abate the above described nuisance.

An inspection on June 3[illegible], 19[illegible] (date) discloses [illegible] are maintaining a insanitary nuisance injurious to health

You are hereby directed to remedy this condition within 1 days of this notice.

By Direction of:

Name: John N. Winters

Title: Sanitarian

County Health Officer

Gunnard J. Antell, M.D.

Director

representing the Collier County Health Department.

Served upon

at (street) (town or city)

on the day of , A.D. 19 , at o'clock M., by delivering a true copy hereof.

Witness the execution and delivery of this notice.

(name of person serving)

Title

STATE OF FLORIDA
DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES
DIVISION OF HEALTH

OFFICIAL NOTIFICATION OF A SANITARY NUISANCE SAN-427
(Rev. 6/73)

City of Naples

--- MEMO ---

TO: Honorable Mayor and Members of the City Council

FROM: Franklin C. Jones, City Manager

SUBJECT: Contractors Examining Board Action relative to K.D. Tucker

DATE: May 1, 1987

Background:

As explained in our April 22, 1987 memo (attached), the city's Contractors Examining Board concluded various administrative hearings regarding complaints against K. D. Tucker at its meeting on Friday, May 1, 1987, and reached a decision.

Decision of the Board:

The board considered the various complaints, all of the testimony and evidence presented at the hearings, the provisions of Section 8-19 "Unlawful Acts or Omissions"(attached to April 22, 1987 memo), and the arguments of counsel, and concluded that Mr. Tucker had violated the provisions of Chapter 8 of the Municipal Code and, therefore, revoked his permitting privileges in the City of Naples - effective May 1, 1987.

City Council Action:

As stated in Section 8-48(C)(5) of the Municipal Code - "The City Council shall meet within five (5) days after the decision of the examining board, as listed in (4) above and shall affirm or disaffirm the finding and decision of the examining board within five (5) days thereafter."

Respectfully Submitted,

Franklin C. Jones
City Manager

Prepared by:

Roger J. Barry
Community Development Director

City of Naples

--- MEMO ---

TO: Honorable Mayor and Members of City Council

FROM: Franklin C. Jones, City Manager

SUBJECT: Complaints against K. D. Tucker, General Contractor

DATE: April 22, 1987

BACKGROUND

The City's Contractors Examining Board (CEB) has held Administrative Hearings over the last several months regarding various complaints against Kendrick D. Tucker, a General Contractor.

The Board is expected to close these hearings at a meeting on May 1, 1987 and make a decision at that same meeting. The Board will find Mr. Tucker either not guilty or will recommend suspension of his permitting privileges in the City for a specific period of time or will recommend revocation of his permitting privileges.

Sec. 8-48 (C)(5), of the Municipal Code states that "The City Council shall meet within five (5) days after the decision of the Examining Board as listed in (4) above and shall affirm or disaffirm the findings and decision of the Examining Board within five (5) days thereafter".

Given this provision and the anticipated action of the CEB on May 1, 1987, we have scheduled the City Council's consideration of this matter for the meeting of May 6, 1987.

We will send a memo to the City Council immediately following the CEB's meeting on May 1, 1987.

APPLICABLE CODE PROVISIONS

Attached is a copy of Section 8-48, Disciplinary proceedings, and Section 8-49 Unlawful Acts or Omissions, from Chapter 8 of the Municipal Code, which are applicable to this matter.

COMPLAINTS AGAINST KENDRICK D. TUCKER

The following is a list of each of the complaints filed with the CEB, a brief comment and reference to attached information on each. There are, of course, complete files on each of these complaints in the Building Division office. We did not xerox all of the file information because of the quantity of information.

(1.) COMPLAINT BY MR. & MRS. H. M. THORNTON, referencing work at their residence at 675 Wedge Drive, Naples, Fla.

The attached Nov. 12, 1986 letter from Mr. & Mrs. Thornton is self-explanatory and generally alleges that there were a variety of deficiencies on the job and that Mr. Tucker spent "three-fourths of the money for a job only half completed".

The following exhibit includes both the complaint statement by the Thorntons on the left side of the page and Mr. Tucker's response on the right side of the page.

The third and fourth exhibits are statements by Mr. Tim Hendrixson, City of Naples Building Inspector.

(2.) COMPLAINT BY MR. THOMAS B. HUDGINS, referencing work at their residence at 1947 8th Street, So., Naples, Fla.

The attached Nov. 8, 1986 letter from Mr. Hudgins and a subsequent Jan. 15, 1987 letter are self-explanatory and generally allege "unqualified and inefficient work practices".

The next series of exhibits are Mr. Tucker's response to this complaint, including an Aug. 27, 1986 "Letter Of Agreement", drawings from Bruns & Bruns, Inc., a survey of the subject property, the building permit and a specific response to each complaint item.

The last exhibit is a statement by Mr. Tim Hendrixson, City of Naples Building Inspector, in a letter to Mr. Richard C. Hartog, Investigation Specialist II, Dept. of Professional Regulations.

(3.) COMPLAINT BY CITY OF NAPLES, Community Development Dept., referencing work at the Woodward residence at 1466 Curlew Avenue, Naples, Fla.

Please find attached, copies of correspondence between this department and Mr. Tucker and from this department to the CEB. Mr. Tucker did not call for the required framing inspection on this roof job and used very unorthodox construcion techniques.

The second series of exhibits includes Mr. Tucker's response to this complaint.

(4.) COMPLAINT BY LEACH/O'HALLORAN, referencing work at their residence on North Road, Naples, Fla.

The attached Nov. 17, 1986 letters from Dr. Leach are self-explanatory and the attached statement from Peter J. DiPietro attests to various plumbing-related deficiencies in the Tucker job at the Leach's residence at 3505 North Road.

(5.) LABOR FORCE COMPLAINT

The Labor Force alleges (see attached statements of Dec. 11, 1986 and March 19, 1987), that Mr. Tucker has not paid them certain monies that are due.

(6.) SUNSHINE PIPE & SUPPLY COMPLAINT

Sunshine Pipe & Supply alleges (see attached Dec. 30, 1986 complaint) that Mr. Tucker has not paid them certain monies that are due.

(7.) RUCK BROS. BRICK, INC. COMPLAINT

Ruck Bros. (see attached Jan. 22, 1987 letter) alleges that Mr. Tucker owes them a payment due for brick delivered to the Naples Dinner Theatre job site.

(8.) MR. BEN SPANIOLI AND MR. & MRS. RYAN COMPLAINTS, regarding business dealings with Mr. Tucker, but not any actual work.

We have attached a Oct. 26, 1986 statement from Mr. Spanioli and a Nov. 20, 1986 statement from Mr. & Mrs. Ryan.

As mentioned above, we will send to the City Council, on May 1, 1987, a memo explaining the Contractors Examining Board's decision.

Respectfully Submitted;

Franklin C. Jones
City Manager
City Of Naples

Prepared by:

Roger J. Barry / BL

ROGER J. BARRY
DIRECTOR OF COMMUNITY DEVELOPMENT

1 ADMINISTRATIVE HEARING

2 IN RE: Kendrick Tucker

3

4

ORIGINAL

5

6

7 May 1, 1987

8

9 City Hall

10 Naples, Florida

11

12 CONTRACTOR'S EXAMING BOARD

13 Roger J. Barry, Director

14 Michael A. Baviello

15 Robert Carsello

16 Jerry Curlew

17 Don Flock

18 Tom Abbott

19 Clarence Petit

20 E.J."Buck" Kidd

21 Melvin Engel

22

23 David Rynders, City Attorney

24

25

* * * * * * * * * * * *

MR. FLOCK: I'm having a little problem in feeling somewhat not represented. I guess, emotionally you can be concerned when people can't get along with people out there. When it begins to multiply by the numbers and you get an emotional reaction to these things and yet, we are brought here, it's brought to our attention that we have to deal with facts. And I'm feeling a little bit unrepresented in regards to a summary statement that says on A through J these particular facts were violated. I feel I'm trying to summarize out of volumes of information that were put in front of us in making legal decisions not based with -- on the kind of back up that I would be hoping we would be getting being represented by some fairly serious legal-looking at by the City.

Therefore, I'm having a general problem right now with the decision that we are -- placed in front of us to make this morning.

MR. RYNDERS: You're saying that you need a summary statement, pulling all of the evidence together to show how it relates to these various items?

MR. FLOCK: If I have to deal in facts -- because that's what it comes down to -- then I need a recommendation that says these items were not adhered to in a factual manner.

* * * * * * * * * * * *

1 * * * * * * * * * * * *.

2 MR. CARSELLO: Board members any other comments?

3 MR. ABBOTT: I have one.

4 We've listened to this for five months now. And

5 this is my own personal opinion. I've known Mr. Tucker since

6 -- well, he and I were little fellows together many years

7 ago in this town.

8 I think the key word here this morning is caring.

9 You have a responsibility when you are a businessman in this

10 community. And I feel that -- that this caring about your

11 client, about your reputation has been completely overlooked

12 by Mr. Tucker. Countless letters that we've received, the

13 information we've received, what we've received from the

14 Building Department and what have you, has indicated a lack

15 of concern for the client and -- for your customer. And I

16 just know -- I have to speak once again just personally from

17 my own business experience, it's a very hard thing to say,

18 but when you have somebody that's unhappy with the work that

19 you do, you go back and you make that person happy if you

20 want to succeed in business in Naples, Florida.

21 And I've just heard enough of it. I mean, we've

22 heard this for five months. There's been wrong doing, in my

23 opinion, by Mr. Tucker's firm. And I think that this will be

24 found out later by other -- other people maybe in higher

25 places. But, I have the opinions that I do and I just -- I

1 just want to express that.

2 Caring is most important when you're operating a

3 business and you should try to have satisfied customers.

4 That's all I have to say.

5 MR. CARSELLO: Any further comments?

6 Basically, I'd like to summarize, probably bring

7 this to a conclusion with a suggestion on my part.

8 As I pointed out to you earlier, I am somewhat

9 convinced that Mr. Tucker has neglected to provide proper

10 supervision to his jobs on one or two occasions. I feel as

11 though he has failed in the process of providing the proper

12 supervision. He has failed to call for timely inspections and

13 he has also failed to pay all of his subcontractors or

14 creditors for materials furnished or services performed on

15 his job. In my own mind, I believe he is guilty of some

16 indescretion.

17 Yes, we are not in a position to revoke his

18 certificate -- his license because he is state certified. So

19 there's only one course of action that's open to us. And

20 that is -- I'm sorry. There's only one course of action, if

21 you agree with me, that is the suspension of his certificate

22 of competency or his permitting privileges here in the City

23 of Naples.

24 Since basically I'm not in a position to -- to make

25 a motion, I am going to ask one of the members to come up

1 with a motion of some sort that he feels as though he can
2 honestly live with it.
3 I think his guilt is magnified by the numbers of
4 complaints that have -- have justifiable complaints. I mean,
5 in my way of thinking, I see approximately six or seven
6 counts of failure to comply with the Naples Code, if I take
7 them one each one individually. And I think that he should
8 be -- his permitting privileges should be suspended.
9 I would like to, just for the sake of discussion
10 purposes, okay? I'm looking for a suspension of approximately
11 18 months and less the five months that have already been
12 served. Okay. He has been served I think since December
13 which would leave a remaining suspension period of
14 approximately one year, whatever it works out to.
15 I offer that as just a suggestion at this point.
16 Hopefully, it will lead to a discussion and a final
17 conclusion of this matter.
18 Anybody wish to elaborate on my suggestion?
19 If there is no --
20 MR. CURLEW: I'll make the motion that we
21 permanently suspend his permit privileges with the City of
22 Naples, Florida as of this date.
23 MR. CARSELLO: You're looking for a permanent
24 suspension?
25 MR. CURLEW: Yes, sir.

I feel we owe that to the people of Naples.

MR. KIDD: I second.

MR. CARSELLO: Motion has been made and seconded to permanently revoke his permitting privileges here in the City of Naples.

MR. RYNDERS: In other words, that's item C, revocation of certificate of competency. Is that what you're saying, Jerry?

MR. CURLEW: He has no competency because he's state certified. Privileges of pulling permits should be permanently suspended.

MR. KIDD: I will second that motion.

MR. CARSELLO: Motion has been seconded. I think it was seconded by -- I'm sorry. Motion has been made by Mr. Curlew, seconded by Mr. Kidd; is that correct?

MR. KIDD: Correct.

MR. CARSELLO: Any further discussion on it?

I think -- well, Board members, I think judging from the actions of the Department of the Regulation, I think maybe we're a little bit too strenuous. But if there's no further discussions, put it up for a vote.

* * * * * * * * * * * *

1 STATE OF FLORIDA)

2 COUNTY OF COLLIER)

3 I, Patti L. Taylor, RPR, Notary Public in and for the

4 State of Florida at Large, do hereby certify that I was

5 authorized to, and did report the hereinbefore-styled

6 hearing; and that this record is a true and correct

7 transcript of my Stenograph notes of the proceedings had at

8 said session.

9 I further certify that I am not employed by or related to

10 the parties to this matter nor interested in the outcome of

11 this action.

12 IN WITNESS WHEREOF, I have hereunto set my hand and seal

13 in the City of Naples, County of Collier, State of Florida,

14 this 4th day of May, 1987.

15

16

17

18

19 Patti L. Taylor, RPR
Notary Public

20 State of Florida at Large.
My commission expires: 3/6/90

21

22

23

24

25

Page Blank
Janet Cason