



City Council Chamber
735 Eighth Street South
Naples, Florida 34102

Please Note:

Workshop series to review proposed charter amendments occurred on: 4/24/00, 4/27/00, 5/2/00, 5/4/00 and 5/5/00. Draft ordinances discussed are contained in the applicable files for these meetings in the City Clerk's Office. Charter amendment ordinances were heard on first reading 5/17/00, and second reading 5/31/00. Please refer to individual minutes for the above dates.

City Council Workshop Meeting – Reconvened Friday, May 5, 2000 - 5:00 p.m.

Mayor MacKenzie reconvened the meeting and presided.

ROLL CALLITEM 1

Present: Bonnie R. MacKenzie, Mayor
Joseph Herms, Vice Mayor (arrived at 5:05 p.m.)
Council Members:
Gary Galleberg
William MacIlvaine
Fred Tarrant
Penny Taylor
Tamela Wiseman (left at 8:04 p.m.)

Also Present:
Kevin Rambosk, City Manager
Beverly Grady, City Attorney
Tara Norman, City Clerk
Dr. Jon Staiger, Natural Resources Manager
Ron Lee, Planning Director
Brenda Blair, Recording Specialist
Kathy Lindabury
Dawn Jantsch
Martha Dykman

Peter Van Arsdale
Janice Ward
Matt Joyner
Moe Kent
Charles Kessler
Bill Boggess
Other interested citizens and visitors.
Media:
AnneElena Foster, Naples Daily News

.....ITEM 2
**DISCUSSION OF CHARTER AMENDMENT REFERENDUM LANGUAGE - CONSER-
VATION ZONING AND COMMERCIAL DENSITY/INTENSITY** (Continued from 5/4/00)

Council Member Wiseman stated for the record that she objected to the process being used to recess and reconvene meetings rather than adjournment and issuance of proper public notice. She noted that Cable Channel 54 is no longer broadcasting Council workshops, and due to the frequency of meetings, the Clerk's office is unable to provide members of the public with minutes of the meetings in a timely manner. Substantive public participation in this process has not been encouraged, she said, nor is it possible unless individuals have the time to appear in person each day. Evening forums were originally intended for public input rather than Council discussion, she said, and this sequence of meetings is a public hearing in name only. Those members of the public attending, she said, are being given 17 pages of complex legal documents with no time to review them; therefore, Council cannot expect meaningful results. Mrs. Wiseman said she felt Council was rushing the process without considering unanticipated consequences.

It is noted for the record that Council Member Herms arrived at 5:04 p.m.

Regardless of individual feelings about the merits of these proposals, Council Member Wiseman continued, Council should agree on fairness and decency and therefore object to this process. She apologized to City staff members who, she said, have borne the brunt of what she described as an artificial emergency; she also apologized to the public who, she said, will ultimately pay the price for recklessness. A motion to adjourn was proffered by Council Member Wiseman, seconded by Council Member Galleberg, and appears below following comments.

Council Member Galleberg observed that few members of the public were present. Mayor MacKenzie said that although she did not disagree with Council Member Wiseman's remarks, there were members of the public present who nevertheless should be heard. Council Member Tarrant, however, disagreed with Mrs. Wiseman, noting that the previous Council had not hesitated to move forward with legislation which, he said, had violated the City Code. Vice Mayor Herms said he felt Mrs. Wiseman's motion to be a delaying tactic. The charter amendments would in fact lock in zoning beneficial to all citizens, he added, and predicted that there would be no further disputes over density requirements on individual properties. Mayor MacKenzie said that no matter what is done with zoning, it will not correct infrastructure deficiencies and expressed the view that the same goals could have been easily accomplished through inviting the public and property owners to work with Council. Not only does this risk litigation and other costs, she said, but it damages trust in government. Council Member Taylor pointed out that in 1999, Mr. Herms had sought Council support for a charter amendment restricting building heights; however, after no response, he informed Council that a citizen committee would place the issue on the ballot in February 2000. Council was not making any new laws at that meeting, she said, nor in the next three weeks; there would be ample discussion time and residents could in fact reject the charter amendments via the ballot. Mayor MacKenzie, however, expressed the view that property rights were not being considered in this process.

***MOTION by Wiseman to ADJOURN; seconded by Galleberg and failed 3-4
(Taylor-no, Tarrant-no, Wiseman-yes, Galleberg-yes, MacIlvaine-no, Herms-no,
MacKenzie-yes).***

Green Space, Lot Coverage, Density and Parking Amendment

(A copy of this ordinance, embodying the most recent revisions is contained in the file for this date in the City Clerk's Office.) Council Member Galleberg objected to using the words "establishing standards" which, he said, conveyed the impression that there were no standards in place. Vice Mayor Herms contended, however, that a prohibition should be established against existing standards being relaxed by future Councils, since current standards have not been enforced. Council

Member Galleberg also took issue with the premise that Planned Developments (PD's) are detrimental to the community. Planning staff, he noted, found that of the 20 PD's approved in the 1990's; 11 had lower density, 6 had the same density, and only 3 had higher density. Council Member Tarrant pointed out that a proposed hotel project at the Wilderness subdivision had however contained space for only parking and hotel rooms and not amenities; that is why this charter amendment is necessary, he said. Mayor MacKenzie pointed out that the standards outlined in the charter amendment are, however, already contained in the Code of Ordinances.

During discussion of redevelopment, Planning Director Ron Lee suggested modifying the language as follows: (A) Definitions, Paragraph 3. - Redevelopment is defined as modification, improvement, or addition to an existing structure; and modify Paragraph (B) as follows: Redevelopment of an existing structure that increases the building square footage by 10% or more, or construction of a new structure shall provide a minimum of 15% of green space. Mr. Herms suggested defining redevelopment as any addition to an existing structure since it would require that parking lot coverage and landscaping requirements be met. Attorney Grady cautioned against using the words modification and improvement since they do not convey finite limitations. During further discussion, Planning Director Lee proposed the following modification: Redevelopment is defined as an addition to an existing structure that increases the building square footage.

MOTION by Herms to CHANGE the wording to reflect Planning Director Lee's proposed language above; seconded by Taylor and carried 4-3 (Wiseman-no, Herms-yes, MacIlvaine-yes, Taylor-yes, Tarrant-yes, Galleberg-no, MacKenzie-no).

Council then discussed issues involving redevelopment following a natural disaster. Attorney Grady suggested not transferring Code language to the charter amendment pertaining to the one year limitation for obtaining rebuilding permits for damaged or destroyed non-conformities, but merely transferring the right to rebuild. She said she would research whether this language would have to be included in the ballot question. Council Members noted that the title of the ballot must be modified; and scriveners errors were also noted. In response to Council Member Taylor, Attorney Grady stated that once the proposed ordinances have been advertised to the public, Council cannot make changes to either the ordinances, or charter amendments.

MOTION by Herms to TRANSFER the existing language from Section 86-204, Paragraph (A)4. from the Code of Ordinances, without the language pertaining to the one year time period for obtaining rebuilding permits, into Section 2 of the Charter Amendment, and renumbering subsequent sections; seconded by MacIlvaine and unanimously carried, all members present and voting (Wiseman-yes, Herms-yes, MacIlvaine-yes, Taylor-yes, Tarrant-yes, Galleberg-yes, MacKenzie-yes).

MOTION by Herms to SUBSTITUTE the language contained in Section 14.2.(B) of the proposed Ordinance to read as follows: "Redevelopment of an existing structure that increases the building square footage by 10 percent or more or construction of a new structure shall provide a minimum of 15 percent landscaped green space"; seconded by Taylor and carried 4-3 (Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-no, MacKenzie-no).

Planning Director Lee confirmed that Section 14.2(A)3. would read as follows: Redevelopment is defined as modification, improvement, or addition to an existing structure. With regard to lot coverage, Mr. Lee clarified that asphalt paving is not considered part of a structure.

Public Input: (6:14 to 6:47 p.m.) **Kathy Lindabury, 2125 Marina Drive**, said she strongly opposed government by referendum and that she is incredulous that the current City Council is exerting its authority over future Councils. She asked how the general public would be able to

understand the proposed charter amendments when Council itself seemed to be struggling with the language. Particularly as it pertains to the 41-10 area ("D" Downtown zoning district), she urged citizens to vote against the charter amendments. **Dawn Jantsch, 3260 Tamiami Trail North**, representing the Naples Area Chamber of Commerce, said she opposed government by charter amendment, terming the process of changing zoning by referendum dangerous to the community. The quaintness and charm of the community comes from its small businesses, she said, and the charter amendments will endanger the process, noting that it took six years to restructure the downtown area. She further stated that the City is 97% build out, which leaves little room for future Planned Developments. The Chamber of Commerce, she reported, is for good government and successful redevelopment, particularly in the 41-10 area, which will keep the community both strong and a quaint village. **Martha Dykman, 5040 Seashell Avenue**, President of the Naples Better Government Committee, said there was nothing more democratic than a Council elected to represent the people which, however, is foreclosed by charter amendment. She took issue with the Council position that asphalt parking lots with buildings in disrepair are better than the Bayfront Marketplace, and that all PD's were bad. She then referred to the Naples Cay project, wherein neighbors voiced their opinion that it was preferable to have one tall building with only 43 residential units than five shorter buildings with 124. Mrs. Dykman said that charter amendments would take away property rights, that Council is not listening to business owners, and is downgrading the City through ignorance. **Peter Van Arsdale, 3333 Rum Row**, former City Council Member, called charter amendments an insidious way of planning the community. In the early 1990s, he said, needs were recognized through adoption of the Fifth Avenue South Special Overlay District, a tremendous success. He took issue with locking in zoning through the charter amendment process, and asked Council Members whether they actually believed residents would spend sufficient time reviewing the texts before voting. He also asked that Council wait until the Bayfront Marketplace project had been completed prior to passing judgment. He cautioned that by asking the public to vote for charter amendments under the guise of managing growth will not manage anything, but keep things as they are. He urged Council to work together for better zoning. **Janice Ward, 800 5th Avenue South**, said that she is an architect and a 20 year resident. She took issue with the exclusion of architectural embellishments and features, which she said would promote the type of structures the Council was trying to prevent. She said she felt Council was rushing the process and suggested review of multi-family zoning in addition to commercial, multi-family having had an extreme impact on residential neighborhoods. **Matt Joyner, 2625 13th Street North**, said that he has been a resident for over 10 years, is an architect and property owner. He asked Vice Mayor Herms how he felt about the Fifth Avenue Special Overlay District. Mr. Herms said that he liked the architecture in some sections, but some building densities were too high. Mr. Joyner then questioned how, if the charter amendments passed, a property owner could obtain a variance. Vice Mayor Herms said that this individual could either wait for a future election or petition for a special election, the cost of which would be borne by the petitioner seeking a variance. Mr. Joyner took issue with this procedure and also questioned whether Council had considered the potential impact of the new FEMA maps which, he predicted, would significantly affect heights. He said he felt Council was moving too quickly and was attempting to tie the hands of residents and local professionals. **Moe Kent, 4160 Cutlass Lane**, asked which election day these charter amendments would be on the ballot; Mayor MacKenzie confirmed that the charter amendments would be on the November 7 presidential election ballot and not before.

Conservation Amendment

(A copy of this ordinance, embodying the most recent revisions, is contained in the file for this date in the City Clerk's Office.) Natural Resources Manager Jon Staiger reviewed the differences between conservation vital and conservation transitional lands; Council also discussed the prohibition of mitigation. Planning Director Ron Lee reviewed permitted and conditional uses. Vice

Mayor Herms suggested adding the words “in conservation vital lands” at the end of Section 14.3 (following the words prohibition of mitigation) in order to clarify where mitigation would be prohibited.

MOTION by Herms to ADD the following language at the end of Section 14.3: “in conservation vital lands”; seconded by MacIlvaine and carried 5-2 (Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-yes, MacKenzie-no).

Scriveners errors were also noted. Attorney Grady questioned whether the Natural Resources Map referred to in Section 14.3(1) and contained in the comprehensive plan should be referenced in the charter amendment. Mr. Lee concurred, and explained that the map provides the geographical boundaries for each subcategory. Dr. Staiger clarified that all of Naples Bay is recognized as Class II Waters by the Florida Administrative Code. Planning Director Lee confirmed that a commercial marina could be upgraded or a new one constructed within Class II Waters through the City’s Conditional Use and Development of Significant Environmental Impact (DSEI) processes; State and Federal permits would also be required. Council noted that references made to Section 102-775 of the Code of Ordinances would be stricken from the proposed ordinance.

Dr. Staiger also recommended striking Section 14.3(1)(D)c. in its entirety, since it was placed in the Code of Ordinances to deal with unforeseeable problems with the Keywadin Island development when the comprehensive plan was being drafted in 1989.

MOTION by Herms to DELETE Section 14.3(1)(D)c. in its entirety and renumber the remaining subparagraphs, and that all references to Section 102-775 will be deleted; seconded by MacIlvaine and carried 4-3 (Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-no, MacKenzie-no).

Council then discussed Section 14.3(1)(E)5. Attorney Grady clarified that any changes to this paragraph would alter the title of this ordinance, and suggested that at this point, Council should not introduce new restrictions. Mrs. Grady further stated that once these charter amendments are finalized, and if adopted, staff should commence a review of the comprehensive plan and the land development code to determine any inconsistencies.

It was the consensus of Council for Section 14.3.(1)(E)5 to remain as written.

During discussion of size and type of the Official Ballot, it was learned that the Supervisor of Elections normally uses all capital letters. Attorney Grady also clarified that the ballot question should fairly and adequately inform the voters; if terms are used that are not defined in the charter, comprehensive plan, nor in the land development code, someone could allege that it was confusing to the voters. During this discussion, the following action was taken.

MOTION by Herms to ADD at the end of the sentence of the Official Ballot question the following words: “including mangroves”; seconded by Tarrant and carried 4-3 (Galleberg-no, Herms-yes, MacIlvaine-yes, Tarrant-yes, Taylor-yes, Wiseman-no, MacKenzie-no).

During discussion of the election date and the effective date of the charter amendments, Attorney Grady clarified that, if adopted, the charter amendments would not be in effect until received by the Secretary of State. Although the second reading of the charter amendment ordinances is scheduled for May 31, the land use regulations contained therein would not take effect on May 31; if the electorate does not pass one or more of the charter amendments, these related ordinances would die with the vote. She further noted that the charter amendment(s) would immediately be filed with the Secretary of State via overnight mail, and would take effect once the Secretary of State is in receipt of them.

Public Input: (7:19 p.m.) **Peter Van Arsdale**, (previous speaker), stated that two years prior, the City electorate by a margin of 2:1 endorsed building a second Gordon River crossing south of the Naples Airport and Central Avenue. The conservation charter amendment ignores that wish of the

public, he said, and suggested that since the electorate clearly made its wishes known on the bridge, Council consider language to provide at least a corridor. He said he did not understand why Council would go against the will of the people. Even though this would depend upon State permits and possible mitigation, a second bridge is more necessary now since the widening of the existing bridge had increased traffic capacity from Goodlette Road to Davis Boulevard, capacity was lost west of Goodlette with the closing of the 11th Street turnoff. Mr. Herms noted that he had lived in a community where a freestanding bridge had been constructed over an environmentally sensitive area. Planning Director Lee said that if a bridge did not require removal of mangroves, had no adverse impacts to the ecosystem, and did not require mitigation, he believed it could be constructed. However, there are two agencies holding environmental easements: South Florida Water Management District (SFWMD) and the Conservancy of SW Florida which must approve any bridge configuration, he added.

During further discussion, Mr. Lee said he believed that a fueling facility in the southern part of Naples Bay could be built on conservation transitional land, so long as it did not involve conservation vital or require a rezone. Natural Resources Manager Jon Staiger said that if the bridge spanned all the mangroves, State permitting may still not be possible due to shading, therefore requiring mangrove mitigation. Mr. Herms said that he hoped that this charter amendment would not preclude the building of a second Gordon River bridge. Mr. Tarrant however noted that the exhaust fumes from vehicles would have an impact on plant life beneath.

Parking Garage Amendment

(A copy of this ordinance, embodying the most recent revisions, is contained in the file for this date in the City Clerk's Office.) Council noted scriveners errors, and minor word changes. Council Member Galleberg suggested the term mixed-use would not be understood by the average voter, but Council Member Tarrant said that, for consistency, the term mixed-use should remain.

MOTION by Galleberg to AMEND the text by replacing the words "mixed-use" with "approved for commercial development or a combination of commercial and residential development." This motion was seconded by Wiseman and failed 3-4 (Galleberg-yes, Herms-no, MacIlvaine-no, Tarrant-no, Taylor-no, Wiseman-yes, MacKenzie-yes).

Public Input: (7:43 p.m.) **Peter Van Arsdale**, (previous speaker), stated that parking garages are necessary to maintain quality development, such as the parking garage at the Naples Community Hospital which eliminates the need to purchase land for surface parking. Elimination of parking garages will create more surface parking, which is contrary to a pedestrian atmosphere, he said, noting cities such as Ft. Lauderdale, where there is a great deal of asphalt surface parking. He urged Council to reconsider prohibiting parking garages.

City Manager Kevin Rambosk confirmed that the changes suggested during this meeting would be incorporated into the charter amendments, and forwarded to the Planning Advisory Board for a special meeting on May 15; first and second reading by Council would occur on May 17 and May 31 respectively. He confirmed that City Attorney Grady would review the text once staff had incorporated Council's suggested modifications. Attorney Grady confirmed that Council's direction had been clear.

Council Member Taylor then asked that each member review a one-hour segment edited from the April 24 Workshop Meeting (a video tape had been provided to each Council Member) where public input had been held, and suggested that it be repeatedly aired on Cable Channel 54 in order to stimulate public interest in the proposed charter amendments. During this discussion, Council

cautioned against setting a precedent by showing only a selected excerpt of a meeting, there being sufficient opportunity before the November election for voters to discuss the charter amendments.

OPEN PUBLIC INPUT

Peter Van Arsdale, 3333 Rum Row, suggested that verbatim transcripts be made of Council meetings and placed on the Internet. He then read into the record a memorandum distributed to Council (Attachment 1). He urged Council to place on the ballot the proposed charter amendment contained in his memo.

CORRESPONDENCE / COMMUNICATIONS

None.

ADJOURN

8:14 p.m.

Bonnie R. MacKenzie, Mayor

Minutes prepared by:

Brenda A. Blair, Recording Specialist

Minutes approved: August 2, 2000

Van O Gram

735 Eighth Street South
Naples, Florida 34102

RECEIVED

MAY - 5 2000

CITY OF NAPLES
CITY CLERK

I am concerned that the proposed charter amendments are being fast tracked to place the questions on the November ballot without proper thought and consideration. Were the four members who are railroading these measures through interested in asking the voters to adopt zoning that is known, i.e. that which exists, the questions could be considered reasonable. To ask the voters to approve complex changes to our existing code is simply a dereliction of the Council's responsibility to manage important City issues. Handling such important planning issues in such a way is a shame.

The fundamental flaw of the majority's efforts is targeting commercial activity in the City as being a problem, when it is in fact the element that makes the place unique and vital. Why anyone would want to suburbanize Naples is hard to understand.

The outcome of these efforts, if successful, is quite clear.

1. There will be no quality commercial redevelopment in the areas that need it. 5th Avenue South, 41-10, and the waterfront. Simply, the replacement of old rundown buildings is not economically viable and property values will decline dramatically. The small landowner will be hurt the most and be forced to sell his small parcel to a developer who will only be able to build low quality strip commercial centers.
2. What redevelopment happens elsewhere will be in the form of suburban strip centers such as those developed by Mr. Herms.

It has been made very clear that the majority is only interested in adopting proposals brought forward by Mr. Herms. Little consideration has been given to input from the three members of council who, I might add, represent a majority of members elected on February 1, 2000, the staff, or members of the public so the concern for public input is a charade. Putting on the "no growth" mask and selling suburban development standards to the public is easy no matter how disingenuous it is.

Mayor and Members of Council
May 5, 2000
Page Two

In that the voters are being asked to make important planning decisions for the City's future through the referendum process, I would like to suggest that you add one more charter amendment that provides a choice. The language follows:

**AMENDMENT TO THE NAPLES CITY CHARTER
TO LIMIT COMMERCIAL BUILDING STANDARDS.**

Shall all commercial zoning districts in the City of Naples be limited to less than or equal to the standards established by the Fifth Avenue South Overlay District, (excluding issues of color and materials), as in effect April 1, 2000. This amendment shall be effective upon its approval and supercede all previous charter amendments relating to the Comprehensive Development Code.

If the voters don't like what has happened on Fifth Avenue, here will be their chance to express their feelings. If they do like it, they can adopt the standards as maximums. This does not mean that all commercial districts will have the Fifth Avenue standards, but these will be the maximum allowable.

Thank you for your consideration in this matter.