

ELLEN SEIGEL COMMUNITY LEADER

SENSIBLE ETHICS NAPLES

by Ellen Seigel,
Member, Naples City Council

Who could be opposed to “Ethics for Naples”? So let me begin by stating what may be obvious: I am in favor of the highest ethical standards for members of Naples City Council. The City has a Code of Ethics which is contained in Chapter 2, Article IX of the City’s Code of Ordinances and covers: Conflicts of Interest; Standards of Conduct; Voting Conflicts; Contracts; Complaints; Disclosures in Applications; and Penalties and Enforcement. Recently, one of the City’s neighborhood associations asked an attorney member of its board to review the City’s code and here were her thoughts:



“This existing Ethics Policy is well crafted and comprehensive. A new policy is certainly not needed. Instead, care should be taken to enforce the one already on the books. Not only is it comprehensive, it has teeth. For a willful violation, there are criminal penalties and removal from office. For negligent

violations there are penalties and possible removal from office. It is bad policy to throw out a law just because in your personal opinion you lost when you should have won your particular case – as in this instance—where you are accusing another of being unethical.”

A citizens’ initiative, called “Ethics Naples,” is currently trying to amend the Naples City Charter, through referendum, to establish an Ethics Commission.

The idea for a local, Naples Ethics Commission was first proposed in 2016 by a member of Naples City Council at a time when City Council was reviewing and revising the City’s Ethics Code. No other member of Council supported this idea of a local commission preferring to rely on the Florida Commission on Ethics which has the authority to review and investigate complaints concerning violations against local elected public officers and employees.

“A citizens’ initiative called “Ethics Naples,” currently trying to amend the Naples City Charter through referendum to establish an Ethics Commission

My opposition to a local Naples ethics commission stems from the small size of our community and how interconnected we all are to each other. The Ethics Naples proposal would set up a completely separate body of unelected panelists, accountable to no one, including the Naples City Council or any other elected body or appointed official, with wide discretionary powers and an undefined budget.

The proposed Ethics Naples Inc. Charter Amendment proposes a locally formed commission to: appoint an executive director and “other staff”; hire consultants; and acquire office space, all under its own jurisdiction with “adequate funding” provided by City Council. These layers of bureaucracy (with no oversight by the City Manager or City Council) and the associated costs are out of proportion to the needs of a city the size of Naples.

From my point of view, Council members are elected by eligible Naples voters, their positions are public and they must stand for re-election periodically. A separate Ethics group of unelected people would be a distraction and unnecessary.

Supporters of a local commission have complained that the Florida Commission on Ethics took a long time to report its findings on a City Council Member who had been accused by another Council Member of wrongdoing. (The State Commission dismissed the complaint finding that there was no probable cause to move the case forward.) But these were serious charges against an elected official who was deserving of the Commission’s thorough investigation. It appears that one complaint to the State Ethics Commission was the basis for a new, permanent and redundant government agency. Had it not been for this single incident, I question whether this effort to establish a local commission would have ever originated.

When I read the wording of the Ethics Naples referendum, I have some additional concerns:

1 Section 17.1 describes how the Ethics Commission would be created. As our City Attorney Robert Pritt has written,

the process for appointing the Commission members is flawed and would be challenged the first time that an individual was called before the body.

2 Section 17.2(2) would provide the Ethics Commission with the authority to draft an amended Ethics Code which would become law at first reading unless a super majority of the members of City Council voted against it. Again, as Mr. Pritt has written:

"Nowhere in state law can there be found any authority for a regulation becoming law when "enacted" by an unelected Commission, and nowhere in state law can be found a procedure for a code becoming effective by Council default or lack of a double super-majority vote.

This Charter-proposed procedure applies not only to the original proposed amendment, but also to all future amendments. This is simply not how it can be done. For this reason alone, the petition is in conflict with the Constitution and statutes.

Lest it be argued that this provision can be severed from the rest of the Petition and the rest sent to referendum, there is no provision in the Petition for severability. Even if there were, the usurpation of Council's authority over ordinances permeates and thus invalidates the whole Petition. Further, the withdrawal from the elected officials of a significant portion of the legislative power now and in the future is not even mentioned in the Ballot Title or Summary proposed to go to the voters (see discussion above). This makes the Title and Summary misleading and deficient."

WHY I VOTED TO TABLE THE ETHICS NAPLES PETITION

On April 24, 2018, the City Clerk received certification from the Collier County Supervisor of Elections that Ethics Naples, Inc. had provided a petition with 1,481 valid signatures of registered electors of the City as required for placement of their Charter Amendment Referendum on the ballot. On May 2, 2018, Naples City Council was asked to authorize its submission to be placed on the ballot for the August 28, 2018 Primary Election.

Faced with a referendum that was believed to be both invalid and unlawful, City Council had three options: 1. to approve an illegal petition going before the voters; 2. to deny the petition from going before the voters and in all likelihood, being sued by Ethics Naples; or 3. to table the matter and ask the City Attorney to file a "Declaratory Judgement" (a lawsuit) against Ethics Naples which would result in a judge making a determination regarding its legality.

Council voted 4-3 (Barnett, Buxton, McLeod and Seigel in favor; Hutchison, Penniman and Price opposed) to table the resolution and to direct the City Attorney to file a declaratory judgment to determine the lawfulness of the proposal. This matter has now been referred to Judge Hugh D. Hayes of the 20th Judicial Circuit. The City offered to expedite the process in May, however, Ethics Naples did not agree. Judge Hayes is scheduled to hear the case on August 21.

eseigel@naplesgov.com | 239.207.0806

NEW LISTING



533 6th Ave S - Colonnade on Fifth
\$1,195,000

Rarely available 3 bedroom/2.5 bath top floor end unit with lots of light and a southern exposure. Enjoy quiet setting overlooking 6th Ave S. 1 block to 5th Ave S Restaurants, Cafes, and Boutiques. Walk to all of Old Naples and the Beach.

SOLD



203 8th Ave S #203B - Garden Manor
\$325,000

Your Beach Get-A-Way. Two blocks to the beach, restaurants, boutiques, cafes and all Old Naples has to offer.

SOLD



229 7th Ave S #103 - Villa Yvonne
\$1,000,000

Walk two blocks to the beach. Walk everywhere in Old Naples. 2 bedroom + Den 2 bath renovated condo. 4 sides of light. Courtyard pool. Carport and private storage.



DOUG SOLD

Olde Naples & The Beach

- 520 9th Ave S
- 334 8th Ave S Chatham Place
- 461 11th Ave S Spellbinder Villas I
- 229 7th Ave S #201 Villa Yvonne
- 317 7th Ave S Catelena on 3rd
- 211A 8th Ave S Garden Manor
- 291A 8th Ave S Garden Court
- 250 7th Ave S #107 Oldetowne
- 213A 8th S Garden Manor
- 275 8th Ave S Garden Court
- 421 12th Ave S A16 Algonquin Club
- 995 9th Ave S #105 Naples Marina Villas
- 221A 8th Ave S Garden Manor
- 634 Broad Ave S Jasmine Club
- 940 3rd St S #202 Chatelaine

Doug DeCaster
Realtor® & Naples Specialist
239.250.2985
DJDeCaster@gmail.com
www.DougDeCaster.com
787 5th Ave S • Naples FL 34102

"Ich spreche auch Deutsch"