

# COUNCIL MEMORANDUM

Council Meeting Date: August 20, 2015



## LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council Member Charles Bare

**SUBJECT:** Inquiry Into Conduct of Planning Board Member

### **RECOMMENDATION:**

That City Council conduct an inquiry into the conduct of Planning Board Member Scott Sallis in recently voting upon a matter involving a client of his firm being represented before the Planning Board by his partner, Dean Dalrymple, in apparent violation of the Florida ethics statute, and making subsequent statements related to the incident which call into question the integrity of the City's position on conforming to the requirements of law. In the event the Council's inquiry discloses improper conduct on the part of the Planning Board member, the Council should take whatever action appears to be warranted, including commencing a process of removal of the board member.

**AGENDA:**          X   Regular                           Consent

Hearing Required: Public        Quasi-Judicial        No Hearing Required   X  

### **SUMMARY:**

The local media have recently been reporting on an event in which the architect member of the Planning Board, Mr. Scott Sallis, refused to recuse himself from making a motion, and discussing and voting upon a measure involving a client of his firm, as represented by his partner, Dean Dalrymple, and subsequently stating publicly that the City's position had been to approve or condone that conduct, and further that he had been so informed and instructed by the City staff to do so. Even after being informed by the City Attorney and representatives of the Florida Commission on Ethics that such voting constituted a voting conflict in violation of law, Mr. Sallis continues to publicly state that the City had previously condoned such conduct and that he was so advised by the City staff.

These very public events have called into question the knowledge and behavior of the public officials sitting on and staffing the Planning Board, and have brought the issue of the City's public officers' awareness of the requirements of law in disrepute. These circumstances fully warrant an inquiry by Council and the employment of appropriate action by Council if the inquiry establishes unlawful or inappropriate conduct on the part of persons involved in this incident.

**PRIOR ACTION:**            None

**FUNDING:**                None

**FINANCIAL IMPACT:**    None

**STAFF CONTACT:**

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**ATTACHMENTS:**

- 1) Scott Sallis' Conflict of Interest Form
- 2) Draft Minutes—July 14, 2015 Planning Board Meeting
- 3) Ricksblog.biz article August 6, 2015
- 4) Bare/Olson Email Exchange August 3, 2015

**PRESENTATION:**           None

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>GALLIS, JOHN "SCOTT"</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>PLANNING BOARD</b>
MAILING ADDRESS <b>213 S BAYLEN ST</b>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY      COUNTY <b>PENSACOLA      ESCAMBIA</b>	NAME OF POLITICAL SUBDIVISION: _____
DATE ON WHICH VOTE OCCURRED <b>July 14, 2015</b>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, J. Scott Gallie, hereby disclose that on July 19., 20 15:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or

inured to the special gain or loss of PAUL & LAURA AUSTIN, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

NOTE: UP UNTIL THIS MATTER I WAS ACTING PER THE DIRECTION OF CITY STAFF WHO HAD EXPLAINED I COULD VOTE ON WORK PERFORMED BY MY FIRM.

\_\_\_\_\_  
Date Filed

J. Scott Gallie  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

## PLANNING SERVICES

### MINUTES OF THE PLANNING BOARD

July 14, 2015

**MEMBERS PRESENT:** Paul Ritz-Chairman, Nina Campbell, Chips Kirschenfeld, Kurt Larson, Scott Sallis, Nathan Monk

**MEMBERS ABSENT:** Kyle Owens

**STAFF PRESENT:** Brandi Deese, City Planner, Karen Lefebvre

**OTHERS PRESENT:** Scott Evans, Ellen Evans, Karen Lessard, Beverly Pica, Michael Pica, Pat Selkirk, Joe Kirkwood, Deborah Blanchard, Michael Allen, Dean Dalrymple, Sally Sullivan, Robert Hurst, Dottie Dubuisson, Jim Jones, Teri Levin, Michael Carro, Councilman Brian Spencer, Eric Olson, City Administrator

### AGENDA:

- 1) Quorum/Call to Order
- 2) Meeting Minutes from June 9<sup>th</sup>, 2015
- 3) Request for Vacation of a Portion of Bay Boulevard Right-of-Way
- 4) Proposed LDC Amendment – Section 12-2-66 (Mobile Food Vending Ordinance)
- 5) Proposed LDC Amendment – Section 12-6-10 (C) (Tree Planting Trust Fund)
- 6) Request for Consideration of Community Maritime Park Proposed Signage
- 7) Request for Approval of Comprehensive Plan Rezonings
- 8) Follow-Up Items
- 9) Open Forum
- 10) Adjournment

### **ITEM 1: CALL TO ORDER / QUORUM PRESENT**

Chairman Ritz called the meeting to order at 2:03 pm with a quorum present.

### **ITEM 2: MEETING MINUTES**

Mr. Larson made a motion to approve the June 9, 2015 minutes, Mr. Kirschenfeld seconded the motion, and it was approved unanimously.

### **ITEM 3: Request for Vacation of a Portion of Bay Boulevard Right-of-Way**

Michael & Beverly Pica together with Paul & Laura Austin, as owners of lots 3 through 8 of Block 12 (514 Bay Boulevard), are requesting to vacate a portion of the Bay Boulevard Right-of-Way. The portion being requested is that portion lying southeasterly and contiguous to Lots 3,4,5 and 6 of Block 12.

Chairman Ritz stressed that vacation of right-of-way is freely given; it is awarded and deeded to an individual versus being sold. The City as trustee of the right-of-way cannot sell it for monetary exchange. Mr. Monk clarified that the owner could forbid individuals from accessing this property.

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Mr. Dalrymple represented the clients and stated there are 52 properties abutting the right-of-way. Of these 52, 45 of them have acquired possession of half or more of the vacated right-of-way for Bay Boulevard. Three of the remaining parcels require half of the right-of-way for egress and have not applied for vacation. He stated the public works and fire departments have no objections to this vacation.

Mr. Monk indicated that the consensus of some of the neighbors was that the vacation would change the character of the neighborhood. Mr. Dalrymple indicated there was no intention to fence off the property which would obstruct the views for the clients and the neighbors. The intent was to obtain the same rights as the other owners and using their right of ownership to make the property more secure from public access. Mr. Sallis clarified that a portion of the Pica/Austin properties had already been vacated, approximately 51 feet of the 152 feet length (lots 7 & 8). He indicated that the understanding was Mr. Evans' property would remain open to the public as right-of-way (adjacent to lots 1 & 2). Chairman Ritz stressed that because the CSX railroad right-of-way runs the entire length of the area, it cannot be legally crossed to access the water. Chairman Ritz also stated since the City staff from various departments is okay with the abandonment of the right-of-way, a garbage truck/city maintenance truck does not need access to this right-of-way for their purposes.

Michael Allen questioned the access and turn radius for fire department equipment. He also questioned the clients' application not showing the subdivision. He stated this was a very old neighborhood, plotted in the 1800's. He provided a real estate brochure issued in 1910 for East Pensacola Heights, noting none of these lots were plotted. As each piece was given away, it chipped away at the benefit of the inland owners. He stressed it was one of the nicest views left in Pensacola, and giving away this land is taking away the free access the neighbors have had to this parcel.

Joe Kirkwood, a 30-year resident, furnished pictures of the water views, along with a survey of the property. He stated the same technical issues remain with regard to the fire department/emergency access. He emphasized the City Council voted in 1994 and 1997 to keep this right-of-way in the community. The Council suggested that the vehicular access be blocked with wood bollards, leaving a passive public park in the unvacated right-of-way. Mr. Sallis questioned the approval of the various departments. Ms. Deese stated that there are some improvements necessary which would need to be made for the fire trucks, but access was not an issue. She explained that the applicants were aware and agreed to the necessary improvements.

Deborah Blanchard stated this property was the last green space in East Pensacola Heights, and the residents have used this park with respect both to the residents of the adjoining property and for the property itself. She requested the City not give away this property for two families but leave for the community to enjoy.

Patricia Selkirk appeared before the Board and explained that she has asked to have Bay Boulevard vacated and was awarded that vacation. She experienced problems with the public accessing her property at all hours, using drugs and displaying ill behavior. She has installed lighting to shine on her property for safety reasons. She stated the City does not maintain the property in question. She said vacating the property would also increase the tax base. She supported vacation of the right-of-way to give the owners privacy and security. Ms. Campbell asked if there was knowledge of any police reports filed for this parcel in the last three years; there was no confirmation.

Karen Lessard questioned Board member Sallis being able to question his business partner and to vote on an issue where his business partner is the applicants' representative. Chairman Ritz clarified that Mr. Sallis is the appointed architect on the Board, and his position allows him to vote on items his own office brings to the Board. Ms. Lessard took issue with the park being classified as "abandoned." She indicated that in the 1997 minutes, there are five instances where it is treated as a public park. She emphasized that Bay Boulevard is the only frontage that the Picas and the Austins have, and if the right-

of-way is vacated, they are no longer in compliance with the City Ordinance Section 12.1.4, which creates a non-conforming use.

Scott Evans, who owns the property adjacent to the applicants, stated he had not experienced any problems with the public access. He said the City does not maintain the right-of-way, but vacating the right-of-way would be taking the park from the community. He said he had met with the new owners and explained there would be opposition to losing the right-of-way. In his opinion, the owners want to build outside of the property line setbacks, closer to the bluff, which would block a sizable portion of his view and take much of the park away. They would be increasing their lot size and increasing the property value. They also do not want people in front of their home. He indicated the application submitted for a single parcel and simultaneously split, the out-of-date survey and fire access questions resulting from the split lot, misrepresent and veil their true intentions and point toward an interest in skirting this process. He respectfully asked the Board to deny this request.

At this point, Mr. Monk, left on an emergency. He did, however, express his lack of support for the vacation because it would have a negative emotional impact on the community. He emphasized that anything we could do to preserve or edify the culture of Pensacola was the responsibility of the Board.

Ms. Dubuisson stated this park is a unique feature of the city, and she hoped as much public access to it could be preserved. In the hearts of the residents of that neighborhood, it is a public access area. While she heard the concerns of some individuals who have had the privileges of public land added to their assets, she reminded the Board their job is to preserve the assets of the city and to preserve for all investors in this community the best value for their property – not to transfer from city to private.

Ms. Pica, the applicant, advised the Board she had received clearance from the fire department and had complied with their requirements. She indicated in regard to the inaccurate survey, they were not required to present a survey. They were, however, required to submit an accurate site plan of the property to be vacated, not the building site. She stated a precedent has been set with 45 of the 52 requests for vacation being granted. She also indicated this property was a piece of her family history. In researching the records of the City of Pensacola, she could not find any reference or legal description to any type of park, passive or public. She stated they had no intention of blocking the view of the water, and if they moved the house forward, they would preserve the trees. She stated the previous owner was also in favor of vacating this property.

Robert Hurst appeared before the Board and explained he was granted vacation of the right-of-way adjacent to his property. After reviewing the information provided, he stated the only negative outcome would be blocking the view of the water if the house was moved closer to the bluff line. Since the piece they want to vacate is directly in front of their property, the only change would be that the public would not be able sit in front of their house. He expressed his support of this vacation and believes the neighborhood would still have this view. And just like his property, the fire department would use the fire hoses to reach the home in an emergency. He indicated he had problems with people on his property at all hours and had to explain to them it was now private property. The new owners would maintain the property, and his hope was for the neighbors to work together to maintain the community.

Chairman Ritz stated in regard to stewards of the law, the City Council is able to make an illegal decision which then has to be vetted in court. This Board acts as an advisor to the City Council, so any decision made by the Board for or against an item moves to the City Council for final decision as the legislative body. He stressed that whatever was heard at this meeting of the Planning Board for or against could be changed by the City Council.

Laura Austin wanted to clarify that part of the legal description of the property they cannot give away abuts on the public street of Chipley which satisfies the legal requirement.

Mr. Sallis indicated the Parks and Recreation Department does not consider this property a park but an abandoned right-of-way, and the city does not make any investment for upkeep. This Board was

considering approximately 30 feet of property. He stated all of the wedding events have occurred on private property. The Picas and Austins could legally construct a brick wall around the property with no variances required. He stressed the end of Gadsden Street, the bench, and the view from the property behind Mr. Evans would remain for public use. He did, however, consider it unsafe for the owners if the public had access to their private property.

**A motion to approve as submitted was made by Mr. Sallis and seconded by Mr. Larson.**

Mr. Larson questioned the approval by the Fire Department. Ms. Deese stated all requirements were explained to the applicants with the knowledge they would have to meet those requirements before a Certificate of Occupancy is granted. Chairman Ritz stated as long as the applicants are fully aware that in order to take possession, this other issue must be resolved; if the vacation is approved, it is up to the city to inspect and verify. Mr. Kirschenfeld stated if the vacation was approved today, he was concerned all of the stipulations have not been resolved at this time. Chairman Ritz clarified that the stipulations come into play in order for the applicants to take possession. Mr. Kirschenfeld took issue with the abandoned park, stating it is not abandoned until the City Council decides it is abandoned. Besides legal issues, the Board is a steward of the community, not voting for the benefit for one or two people to the detriment of the whole community. In a letter from the City Attorney, it was noted that... "the practice of granting licenses to use street rights-of-way should be used very sparingly. It should only be granted when the City Council determines that there is no current use by other citizens." He stressed there had been a clear demonstration by the citizens of this community that they use this area. Other attempts to vacate this right-of-way had been denied by the former City Council. Ms. Campbell also stated she was not comfortable with this vacation.

Mr. Sallis indicated a precedent was illustrated in the drawing of the properties. He found it odd that anyone could come down this street behind Mr. Evans' home and go behind the Picas' residence and into a portion of the Austin's back yard just because it is legal. If the vacation was granted, it would not take away the public's right to enjoy the bluff view.

**The vote was 2 supporting (Chairman Ritz and Mr. Sallis) with Mr. Kirschenfeld, Ms. Campbell and Mr. Larson dissenting. The motion was denied. (Mr. Monk left the meeting early on an emergency – he was not supportive of the motion.)**

**ITEM 4: Proposed LDC Amendment – Section 12-2-66 (Mobile Food Vending Ordinance)**

During the June 9<sup>th</sup> meeting, Planning Board instructed staff to make modifications to the proposed Mobile Food Vending Ordinance and present it during the July meeting for possible approval and recommendation to City Council.

The Board considered the changes regarding hours of operation in the Palafox Place area, distance of separation from special events, transferability of ownership, restroom facilities, and additional fees identified in the permit application for DIB locations.

Mr. Butlin of the Downtown Improvement Board questioned the loading zones. Mr. Sallis clarified that the mobile vehicle would need permission of the owner of the establishment. He also encouraged the Board to amend the loading zone operating hours to 9pm to 4am. He approved the additional fee of \$250.00 for operating in the DIB which would be used toward the maintenance of the downtown area. Councilman Spencer also supported the separate DIB fees identified in the application permit.

Ms. Dubuisson cautioned the Board on the additional fees, possibly doing at a later date because of the push back from the public. It was not clear that everyone who benefits from the DIB cleanup actually



pays the fees. She suggested a more stringent litter-bug code and nighttime code enforcement for those actually causing the problem.

Michael Carro supported the additional fees for the DIB. He questioned the display of permits. Chairman Ritz stated they would need to meet state and local business regulations, and a decal would identify the DIB location.

Ms. Morris stated from a functional standpoint based on how business licenses are handled, this would be handled like taxis, which are issued a sticker which is displayed on the windshield and easily viewed by law enforcement. It was decided that the location of this identification would be approved by the Planning Services staff on a case-by-case basis.

Mr. Carro was informed that the enforcing agency would be the Pensacola Police Department. Also, the Board clarified that a food truck within 200 feet (property line) of any or more than one restaurant would need a letter of permission from each establishment.

**Mr. Larson made a motion to submit the Mobile Food Vending Ordinance with the noted corrections to City Council. It was seconded by Ms. Campbell, and it carried unanimously.**

**ITEM 5: Proposed LDC Amendment – Section 12-6-10 (C) (Tree Planting Trust Fund)**

At their June 18<sup>th</sup>, 2015 meeting, City Council referred the proposed revision of the City's tree planting trust fund, Code Sec. 12-6-10 (C) to this Board for review and recommendation.

Mr. Eric Olson, City Administrator, clarified that all requests to amend the LDC comes to the Planning Department. Mr. Olson did not see the necessity to change the LDC, but possibly add value to something which already exists. He stated the focus of canopy coverage is too narrow. The object is to focus on what we want to accomplish with the funds coming into the tree fund. A tree canopy study was requested by the City Council in 2013 through an inter-local agreement with the County. It was an assessment of the urban forest. The idea was how to enhance the city's green infrastructure, with the bulk of coverages lying in private properties. By changing the ordinance, we are further restricting the city's ability to plant vegetation. He stressed there are not a lot of places to continue to plant trees in the city. The important objective is to maintain the existing tree canopy. He stated the way the ordinance is written now actually works for the city. However, there is a need for flexibility to use that money without adding another layer of review. He stated none of the money in the tree fund is used to employ personnel dedicated solely to the care and maintenance of the city's urban tree canopy. The money is used for purchase of new plants, irrigation, and the equipment to maintain them. The proposed changes to the ordinance do not enhance the city's ability, and adding the extra layer of approval through the EAB, actually restricts the city's ability. It was not evident what added value would be given to this by moving this forward. If the goal is to improve the green infrastructure, how does this change make the job easier?

Mr. Kirschenfeld asked about using the funds for planting on private property. Mr. Olson stated public funds were not used for private property, and these changes would not address that. Mr. Olson said monies could not be given to neighborhood associations to plant trees on private properties. They could do this through a neighborhood challenge grant for green infrastructure or apply directly for money through the tree fund which would also require a grant match.

Mr. Sallis also disagreed with the first priority for expenditure of funds be used for restoration of the tree canopy. Without the EAB being present to defend the proposal, he was not in favor of moving forward. Mr. Kirschenfeld wanted to know if the first two bullets dealing with maximum grants and matches could be modified. Mr. Olson stated the real issue was flexibility of the staff to identify areas of tree placement, to purchase the necessary equipment for maintenance, and not to be tied to the tree canopy priority which could prohibit anything being accomplished.

Mr. Kirschenfeld suggested the matter be tabled, stating that there are proposed changes the Board liked, but there were others which seemed problematic, and they want more input.

**Mr. Sallis made a motion to table this request to the next Planning Board meeting to hear from the applicant. It was seconded by Mr. Larson and carried unanimously.**

**ITEM 6: Request for Consideration of Community Maritime Park Proposed Signage**

Staff received a request from the Community Maritime Park Board for proposed signage at two locations (Main & DeVilliers / Main & Spring). This property is located in the Waterfront Redevelopment District which permits one sign per property per street frontage up to 50 square feet. The proposed signage is 264 square feet per sign for a total of 528 square feet. Although billboards are not permitted in this district, billboards are permitted a total of 100 square feet along two-lane roadways and 378 square feet along Interstate highways and four-lane roadways. This request would exceed both those regulations if it was applicable to this district.

Dr. Jimmy Jones of the CMPA addressed the Board for this request. Mr. Sallis stated that because of this jurisdiction in the Waterfront District, the Board is acting as the ARB in this matter. He was comfortable with the location, but was concerned about the lack of information provided for aesthetics of the signs. He stressed that if this was submitted to the ARB as is, it would be rejected because of an incomplete proposal. He did not have a problem supporting a variance, but needed more details regarding the brick, the colors, lighting, etc. Chairman Ritz stated the signs would be five times larger than what was allowed.

Councilman Spencer pointed out that it was unusual for the Planning Board to hear this proposal, but it is the Waterfront Redevelopment District, and normally such a variance would require notification. He emphasized the fact that the process does not allow for many of the affected stakeholders to be notified, as the fundamental reason this Board should consider pausing before making a decision. He distributed copies of the variance request and stressed the need to be careful regarding the signage size, the lighting, and the purpose of the signage.

Chairman Ritz stated as a reference point, the sign was over 20' or equivalent to a two-story building, and the Board needed to be careful in setting a precedent.

**Mr. Sallis made a motion to table this request for a more detailed presentation. It was seconded by Mr. Kirschenfeld, and carried unanimously.**

**ITEM 7: Request for Approval of Comprehensive Plan Rezoning**

During the comprehensive plan update, several areas were assigned a Future Land Use Designation that conflicts with the present zoning. This request contained several of those areas. Until this Comprehensive Plan Rezoning has been approved, the Planning Services Department is utilizing the future land use designation in all land use evaluations and approvals.

**Mr. Kirschenfeld made a motion to approve as submitted, seconded by Mr. Larson, and it carried unanimously.**

**ITEM 8: Follow-Up Items Follow-Up Items**

Maritime Dumpsters – Mr. Larson noted the dumpsters at Community Maritime Park, which are not permitted, have been relocated to Main and DeVilliers Streets. Staff will follow up.

**ITEM 9: Open Forum** – Ms. Dottie Dubuisson encouraged the Board to ask staff to expand notifications of impending items to those persons affected. She stated at least one member of the CMPA was not notified of this meeting. She stressed courtesy notifications to neighborhoods in order to get the dialogue needed for the agenda items.

**ITEM 10: Adjournment** – With no further discussion, Chairman Ritz adjourned the meeting at 5:25 pm.

Respectfully Submitted,



Brandi C. Deese  
City Planner  
Secretary to the Board

APPROVED: \_\_\_\_\_

## I'm That Guy

*Collected Interviews  
of a Southern Journalist*



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### Sallis says city to change ethics policy on board voting, no comment from Olson

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by Jeremy Morrison

According to a planning board member who triggered ethical questions with his participation and vote on a matter his business partner brought before the board on behalf of a client, the city of Pensacola is reversing its policy of allowing such participation. The city itself has remained mum on the issue.

“They’re now deciding they’re changing their policy,” said Scott Sallis on Wednesday.

Sallis is a partner in the Dalrymple Sallis Architecture firm and also serves as the city planning board’s designated architect. During the board’s July meeting, Sallis debated and voted on a request being made by his clients, and presented by partner Dean Dalrymple, to vacate a right of way. Both Sallis and Chairman Paul Ritz maintained at the time that the participation was allowed — and exempted from normal conflict of interest rules — because the member was the board’s designated architect; city staff did not intervene to stop Sallis from voting.

In subsequent interviews both men maintained that they were basing their assertion on previous city legal decisions.

“That’s recollection from eight years ago and the opinion of the attorney at that time,” Ritz reiterated Wednesday.

City staff refused to comment on the matter, but a spokesperson for the Florida Commission on Ethics said a 2004 opinion did clear the way for designated architects on the city’s Architecture Review Board to continue serving, but did not exempt the members from recusing themselves during votes.

On Wednesday, Sallis said he had been invited to city hall earlier in the day to sit in on a conference call with the Ethics Commission and the city attorney. The planning board member described the call as “quite pleasant and informative.”

Sallis said that he was told that the previous legal decision had been made in a “gray area” and that the city was changing its position on allowing a designated board member to vote on matters they are involved in. He said the policy change would be announced at the next planning board meeting.

“They regretted that I’d been in that situation,” Sallis said. “They’ve all acknowledged that I was following their direction.”

The architect has said previously that he was told of the designated architect's special status (apparently the only such board member on any city board to have such a status) by Planning Administrator Sherry Morris, as well as other planning staff members and previous city attorneys.

"That was their interpretation of the law," Sallis said.

Jim Messer, who recently ended his three-year tenure as city attorney, has said he is unfamiliar with any exemption for a designated architect on the planning board. He had never been asked to give any interpretation of the ethics law on whether such a board member could vote on his firm's projects.

While the city has not responded to repeated requests for comment on this matter, Sallis said Wednesday that the inquiries had apparently sent staff searching for answers.

"Your questions put them in great research mode," Sallis said.

The architect also said that, following the conference call with the Ethics Commission and an explanation of the pertinent laws, the issue seems easy enough to understand.

"It seemed pretty clear to me," Sallis said. "It says 'cannot vote.' I don't know how they misconstrued that."

The city of Pensacola has not responded to questions pertaining to this issue and has not corroborated Sallis's assertions about a policy or any possible change of policy.

However, Pensacola City Councilman Charles Bare did talk about the ethics issue on News Talk 1370 WCOA's "Pensacola Speaks" on Monday. His statements contradict what Sallis told Inweekly. Bare said that City Administrator Eric Olson told him that city staff never told Sallis that he could vote.

"I sent an email, and I received a response back from Eric Olson actually who's the administrator who is in charge of planning," Bare said. "He told me that there were no staff that told those members of the Planning Board that they were exempt in any way from the Florida Ethics laws."

When I asked the councilman why didn't city staff speak up during the planning board meeting to stop the ethics violation, he said, "I don't think that the staff are always experts in the law. What we need is legal representation there. I know in my discussions with the Chief Operations Officer (Tamara Fountain) that she has indicated that Lysia Bowling, our city attorney, may start to attend those meetings."

Bare also said the city attorney is recommending ethics training for board members.

"I don't know if you've seen this, but that Lysia Bowling, our city attorney is recommending that all the boards get ethics training," he said. "We're required to have four hours a year. I think that you're going to see a push. The reaction to this particular incident is going to be we need to train our board members better in what they're supposed to do."

Two weeks ago, when Inweekly first learned of the possible ethics violation during the planning board meeting, we emailed Bowling, provided her with a transcript of the discussion, and asked her to review it and let us know her findings. The city attorney never replied.

Councilman Bare did share the memo from Bowling: [BowlingEthics](#).

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Summary: Planning Board member Scott Sallis violated the ethics law by voting on a project presented by his firm, but says he did it because city staff told him he could do so. The City Administrator Eric Olson tells a councilman that the city staff never told Sallis he could vote. However, we cannot get Olson to tell us why city staff did not stop Sallis from voting.

Sallis says that city staff, after talking with the Florida Ethics Commission, has reversed its policy on him voting and will tell the planning board at its next meeting that members can not vote on their firms' projects. Olson will neither confirm nor deny this conversation occurred.

City Attorney Lysia Bowling now wants to implement ethics training.

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My observation: The core tenet of Florida ethics law is a board member can not vote on items that benefit himself, his family, his business associates or his clients. An experienced city attorney, city administrator or chief operations officer would have known that and fought to make sure that law was never violated, because such a violation undermines public trust.

Instead we have city staff spending weeks to debate the issue and cover it up.

Post Published: 06 August 2015

Author: Rick Outzen

Found in section: [News, Pensacola](#)

**Tags:** [City of Pensacola](#), [Eric Olson](#), [Florida Ethics Commission](#)

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## Reader Feedback

### 10 Responses to “Sallis says city to change ethics policy on board voting, no comment from Olson”

1. *Moose* says:

[August 6, 2015 at 12:34 pm](#)

He's a good, professional guy who just made a mistake...should have recused himself from it completely. There are other occasions where a matter came before a city board during that same timeframe 6-7 years ago and Susan Wolf made sure any individual with a conflict didn't get themselves into trouble. The policy shouldn't be changed to prevent a violation..it's there for good reason to prevent someone with the bad motives from gaining directly or indirectly from their positions.

2. *NotaGOB* says:

[August 6, 2015 at 10:39 am](#)

Thinking ethics is something your supposed to learn at a young age by your parents, church and school. If your an adult and in need of ethics training what the heck are you doing in a public position or on a planning board in the first place? If your in need of ethics classes your NOT QUALIFIED to be a leader in the community.

Of course this is Pensacola where a flunky underwear model with no experience running anything successfully and getting by thanks to his nice smile and the help from his many social friends is Mayor.

3. *Ames* says:

[August 6, 2015 at 10:08 am](#)

Just beginning to follow the rules isn't enough. There needs to be consequences for those who violate the rules, and it is their individual responsibility to know the rules.

4. *Granite* says:

[August 6, 2015 at 9:40 am](#)

This is a joke. Well why didn't all these buddies of the mayor go to the First Amendment Foundation sunshine seminar that the mayor had and that he didn't even stay for. Every person put on a board should get a copy of the Sunshine Law it's very short and easy read. They all just want to play dumb when they do something like this.

5. *Pappy Van Winkle* says:

[August 6, 2015 at 9:23 am](#)

Seems like Sallis got put in a bad position by City staff. Probably shouldn't have voted on the project anyway, like Bill said the "sniff test." But the fact that he's open and honest about what's happening since the vote makes me feel better.

Bare makes a great point about ethics training. Volunteers on boards and commissions should never be put in a position to fracture ethics or sunshine laws.

6. *George Hawthorne* says:

August 6, 2015 at 8:58 am

So what the city is now saying is that they are changing their ethics policy to follow the law?

So in essence they are saying that they haven't been following the state law and now they will.

The reality is that the mayor's staff isn't qualified for the responsibility of governance and put citizens like mr Sallis in harms way for legal consequences.

7. *Bill* says:

August 6, 2015 at 8:49 am

In dealing with local government ethics issues or questions quite often we refer to what's informally known as the "sniff test." To me, an appointed member of any type of local government board being able to argue for or against and vote for or against any issue in which he or she has an interest does not pass the "sniff test." There may very well be gray areas of the law that require a nuanced interpretation, but this was not one of them.

8. *Flyonthewall* says:

August 6, 2015 at 8:33 am

And Mr. Olson is point-blank lying to claim that staff, current and/or prior, was not forced to support and also direct the Planning Board to abide by this wrong/illegal interpretation. Check meeting minutes for the past couple of years.

Councilman Bare, this is the tip of the iceberg in regards to how the current administration is operating. Just like they see no harm in 'restructuring' employees to cover their mistakes, they see no harm in lying, even to you, to cover their own intentionally illegal activities.

9. *Flyonthewall* says:

August 6, 2015 at 7:52 am

Mr. Sallis speaks the truth. The decision was made many, many years ago by a former city attorney and it was never questioned by the staff running the meetings because they all wanted to keep their jobs.

Questioning the Mayor's interpretation of the law, even issues where the Mayor/administration is obviously wrong and in direct opposition to state law, results in automatic restructuring.

There is no regard for the law or for the employees being directed to break the law (and then being threatened with being 'restructured' if they did not agree to break such laws).

Mr. Sallis, keep speaking the truth. And Mr. Outzen, thank you for publishing the truth from Mr. Sallis.

10. *jeeperman* says:

August 6, 2015 at 7:05 am

What tangled webs we do weave when conspired to deceive.

## Leave a Reply

Name (required)

Mail (will not be published) (required)

Website

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**From:** Charles Bare  
**Sent:** Thursday, August 06, 2015 8:35 PM  
**To:** Rusty Wells; Elaine Mager  
**Subject:** Fw: Planning Board

Please find the attached email chain between Mr. Olson and myself. I would like to include my questions as well as his answers in his reply in my agenda item. I don't know the best way to do this. Do you have a suggestion?

Charles Bare  
Pensacola City Council, At-Large B

Notice: Florida has a very broad public records law. Most written communications to or from state and local officials regarding government business are public records available to the public and media upon request. Your email communications may be subject to public disclosure.

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**From:** Charles Bare  
**Sent:** Monday, August 3, 2015 2:43 PM  
**To:** Eric Olson  
**Cc:** Sherry Morris; Brandi Deese; Tamara Fountain; Lysia Bowling; Rusty Wells  
**Subject:** Re: Planning Board

Oops. I knew I had one. Sorry. Thanks Mr. Olson.

Charles Bare  
Pensacola City Council, At-Large B

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**From:** Eric Olson  
**Sent:** Monday, August 3, 2015 2:40 PM  
**To:** Charles Bare  
**Cc:** Sherry Morris; Brandi Deese; Tamara Fountain; Lysia Bowling; Rusty Wells  
**Subject:** RE: Planning Board

Councilman Bare,

The answers to your questions are:

- 1) No.
- 2) The recording of the July 14<sup>th</sup> meeting is the one that was previously provided to you. If you need an additional recording please let me know.

Respectfully,

Eric Olson



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**From:** Charles Bare

**Sent:** Monday, August 03, 2015 11:23 AM

**To:** Tamara Fountain <TFountain@cityofpensacola.com>; Eric Olson <EOlson@cityofpensacola.com>

**Cc:** Sherry Morris <SMorris@cityofpensacola.com>; Brandi Deese <bdeese@cityofpensacola.com>

**Subject:** Planning Board

1) Did any staff member tell Mr. Ritz or Mr. Sallis that it was okay for him to vote on the issue at the July 14th meeting where he appears to have a conflict of interest?

2) Please provide me with a copy of the recording of that meeting.

Thanks.

Charles Bare

Pensacola City Council, At-Large B

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