

MINUTES OF THE REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,
NAPLES, FLORIDA, ON WEDNESDAY, MARCH 18, 1981, AT 9:04 A.M.

Present: R. B. Anderson
Mayor

C. C. Holland (arrived 9:09 a.m.)
Harry Rothchild
Wade H. Schroeder
Randolph I. Thornton
Edward A. Twerdahl
Kenneth A. Wood
Councilmen

Also present: George M. Patterson, City Manager
David W. Rynders, City Attorney
John McCord, City Engineer
Roger Barry, Community Development Director
Reid Silverboard, Chief Planner
Franklin Jones, Finance Director
Mark Wiltsie, Purchasing Agent

Reverend Russell E. Mase
Charles Andrews
John Nagel
Sam Aronoff
Shirley Holland
Martha Kennedy
Robert E. Lee Hall
W. W. Fredericks
C. L. Hughes
Edwin Giles
Calvert Erickson
Harold Yegge
Florence Menzel
Ben Anderson
Scott Foster
William Shearston
Reverend Howard Hugus
Robert Russell
Edward Kant
Eleanor Steinman
Joseph Kingsley
Raymond Hafsten
Edward Hannam

News Media: Ned Warner, TV-9
Bob Barber, TV-9
Chad Houtmann, Naples Star
James Moses, Naples Daily News
Brian Blanchard, Miami Herald
Allen Bartlett, Fort Myers News Press

Other interested citizens and visitors.

AGENDA ITEM 4-c. Naples Planning Advisory Board recommendation to approve; Variance Petition No. 81-V2. Petitioner: Pelican Point West, Inc. Location: 250 Park Shore Drive Appeal from Section 6.8(b) of the Zoning Ordinance which prohibits chain link fences in the required front yard setback areas in residential zone districts; - in order to construct a 5 foot high chain link fence, approximately 32 feet in length, in the required front yard setback area.

City Attorney Rynders read the below referenced resolution by title for consideration by Council.

A RESOLUTION GRANTING A VARIANCE FROM THE PROVISIONS OF SECTION 6.8(b) OF APPENDIX "A" - ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES, TO PERMIT CONSTRUCTION OF A 5 FOOT HIGH CHAIN LINK FENCE IN THE REQUIRED FRONT YARD SETBACK AREA AT 250 PARK SHORE DRIVE, NAPLES, FLORIDA, SUBJECT TO THE CONDITIONS SET FORTH HEREIN; AND PROVIDING AN EFFECTIVE DATE.

Mayor Anderson asked Roger Barry, Community Development Director, to review the reasons for this request. Mr. Thornton noted his objections to allowing a chain link fence in a residential area. Mr. Schroeder noted his belief that the criteria for a variance had not been met with which Mr. Wood concurred. After further discussion, Mr. Twerdahl moved adoption of Resolution 3734, seconded by Mr. Holland and carried on roll call vote, 4-3 with Mr. Schroeder, Mr. Thornton and Mr. Wood voting no.

AGENDA ITEM 5. PUBLIC HEARING and second reading of ordinances,

AGENDA ITEM 5-a. An ordinance authorizing the City Manager to advertise and accept bids for Public Works vehicles and equipment; providing for payment therefor to be made from the budget for the fiscal year 1981-82, pursuant to Section 8.14 of the City Charter; and providing an effective date. Purpose: To authorize the advertisement and acceptance of bids for Public Works vehicles and equipment prior to adoption of the 1981-82 budget.

Mayor Anderson opened the Public Hearing at 9:25 a.m.; whereupon City Attorney Rynders read the above titled ordinance by title for consideration by Council on Second Reading. There being no one to speak for or against, the Mayor closed the Public Hearing at 9:26 a.m.; whereupon Mr. Twerdahl moved adoption of Ordinance 3735, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 5-b. An ordinance relating to the conduct of City Council members in their relationship with the Planning Advisory Board; amending Section 1A-63 of the Code of Ordinances of the City of Naples to provide that Council members shall be prohibited from attempting to influence or manipulate recommendations of the Planning Advisory Board before they are presented to the City Council; providing exceptions thereto; providing findings; providing a severability clause; providing a penalty and providing an effective date. Purpose: To prohibit manipulation of Planning Advisory Board recommendations by individual Council members.

MAYOR ANDERSON: Ah, the next item on the Agenda is Item No. 5-b. David.

CITY ATTORNEY RYNDERS: (read the proposed ordinance by title-above) The Council will notice that I sent around a memorandum explaining a couple of minor polishing-sort of changes that I made in the ordinance. (Attachment #1). If there's any questions about that I can respond.

MAYOR ANDERSON: I would -- I would like to note that last meeting Mr. Rothchild referred to meeting with Mr. Bigg as a 'chance encounter' or 'chance meeting' or words of that-- of that nature. He further stated that he categorically denied that he had urged Mr. Bigg to alter his position on the Planning Advisory Board recommendation. Ah, we have since obtained a sworn affidavit from Mr. Bigg and I think for purposes of the record that I'd like to ask the City Attorney to read that into the record.

CITY ATTORNEY: Yes, Mr. Mayor. (City Attorney Rynders read the affidavit - following)

A F F I D A V I T

STATE OF FLORIDA,

COUNTY OF COLLIER:

BEFORE ME, a Notary Public in and for the County and State aforesaid, appeared Clayton E. Bigg, who being first duly sworn, deposes and says, to his best recollection, knowledge and belief:

1. That I am a member of the City of Naples Planning Advisory Board.

2. That a day or two prior to the February 18, 1981, meeting of the City Council relative to the Park Shore Resort matter, I was driving down to the City Shuffleboard Courts. I stopped my car on 7th Avenue at the intersection of 8th Street South and heard someone yell, "Clayt". I looked around and saw Harry Rothchild waiving his arm at me. I stuck my head out the window of the car and he said, "Clayton, I want to talk to you." I parked my car near the shuffleboard courts and got out of my car. Mr. Rothchild said, "I want to talk to you about the Park Shore Development." We walked to the north side of the Shuffleboard Courts where Mr. Rothchild produced some 17 pages of documents, including a proposed legislative Bill which he showed to me. He went on at great length relative to his position in connection with the Park Shore Development. He said he was very much concerned with the way the vote had gone at the Planning Advisory Board. He said, "Clayton, I am surprised at the way you voted, because I don't think you had all the facts or understood what interval ownership meant." I responded by saying that I did have all the facts that I needed when I voted. He referred to the minutes of the meeting where I turned to the City Attorney and asked his opinion. Mr. Rothchild said the City Attorney had not given me the complete coverage of the situation and had given me a "snowball". He said that the City Attorney had not gone into the negative aspects of the matter. I was somewhat concerned and when we got ready to leave, Mr. Rothchild reminded me of an earlier instance in which I had told the Council that if I had had all the facts, I would have voted

differently. Mr. Rothchild said, "You have done that before and you can do it again on February 18 if you feel you did not have all the facts." I was sorely tried by Mr. Rothchild's approach. I am very proud of my integrity and confident in my decisions; otherwise, I would not make them. It bothered me that he would question the propriety or logic of what I did and suggest that I could stand up and change my vote since I had done it before. In my entire experience on the Planning Advisory Board for almost seventeen years, I have never had any Councilman approach me about my vote.

Clayton E. Bigg
Clayton E. Bigg

Subscribed and sworn to before me, a Notary Public,
this 13 day of March, 1981.

David W. Reynolds
Notary Public

Notary Public, State of Florida at Large
My Commission Expires Nov. 2, 1984
Bonds of American and Casualty Companies

Notary Public, State of Florida at Large
My Commission Expires Nov. 2, 1984
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MAYOR ANDERSON: This is a Public Hearing (9:30 a.m.), ladies and gentlemen and...

MR. ROTHCHILD: Mr. Mayor...

MAYOR ANDERSON: Excuse me, just one second. Ah, we're going to ask anyone who here wishes to speak to it. Since this is a Public Hearing, I... (inaudible)

MR. ROTHCHILD: Mr. Mayor, before you open the Public Hearing, may I respond to what was just said. I hadn't heard or seen that (inaudible)...

MAYOR ANDERSON: Ah, in just one minute, yes.

MR. ROTHCHILD: Thank you.

MAYOR ANDERSON: Ah, I think it would be appropriate if the City Attorney also read his memorandum, which has not been generally distributed, to the members of the Council concerning his thoughts and views on the legality and so forth of this situation. David, I wonder if you could please do that.

CITY ATTORNEY: Mr. Mayor, I don't even have a copy down here with me.

MAYOR ANDERSON: ...have a copy?..

MR. SCHROEDER: No, I don't.

MR. ROTHCHILD: Oh, I have a copy. I would be glad to lend you a copy. I like to hear a fairy story again.

MR. SCHROEDER: I don't have it.

MR. ROTHCHILD: Would you let me know when I may respond to the Alice in Wonderland that we heard before?

CITY ATTORNEY: I guess that's what he's talking about, yeah.

MR. ROTHCHILD: General, are there any more surprises?

MAYOR ANDERSON: I don't -- I don't know whether there are or not. Go ahead, David.

CITY ATTORNEY: I have here a copy of my February 24, 1981 memorandum to the Mayor and members of Council. (read the memorandum - following)



City of Naples

735 EIGHTH STREET, SOUTH · NAPLES, FLORIDA 33940

OFFICE OF THE CITY ATTORNEY

February 24, 1981

M E M O

TO: Hon. Mayor and Members of Council
 FROM: David W. Rynders, City Attorney
 RE: Planning Advisory Board

The intention of this memorandum is to point out certain problems arising when members of Council attempt to affect the decisions of the Planning Advisory Board. Because I expect that these matters may be controversial, I have set forth my views at some length.

The Planning Advisory Board was created pursuant to Sec. 14.2 of the Naples City Charter for the purpose of carrying out the aims of council in an advisory capacity. One should conclude from this that the PAB was intended to give advice to the Council, not the reverse. Its specific duties in regard to zoning are set forth in Sec. 11(F) of Appendix "A" - Zoning, of the City Code: i.e., to "submit its recommendation... to the city council." The Council is required to consider the "recommendation of the Planning Advisory Board" and may thereafter take whatever action it may deem appropriate. Sec. 11(G) et seq.

Several comments are appropriate here about the value of advice from the PAB. It seems clear that the value of advice has a direct relationship to its originality. One gains little who merely hears the echos of his own thoughts. For example, top executives and good managers are said to disdain "yes-men" for reasons clear to all of us. Professionals little value that advice which merely repeats back their own earlier expressions.

To the extent that a council member is successful in persuading the PAB of the correctness of his own views, the value of the PAB's recommendations to the Council deteriorates. The Council member who has completely persuaded the PAB will hear nothing new; while the other council members will simply hear their fellow council member's views twice (once from the PAB and again, to be sure, from that council member.) A true vindication of a council member's views can

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only occur if the PAB agrees independently. I therefore believe that the PAB's independence was an unstated assumption underlying the Charter and City Code provisions cited above.

There is hardly any need for Councilmen to express their views to the PAB in any case since they are privileged not only to discuss, but to decide all of these matters at Council meetings.

The actions of the PAB and Council have broader implications, however. The City exercises zoning authority as a portion of its police power to promote the health, safety and welfare of the public. The restrictions imposed by zoning are lawful but must not "deprive any person of his property without due process of law." U.S. Constitution, Amendment XIV, Section 1.

The key to this statement is the concept of "due process". The term essentially requires that a property owner be given a right to be heard "at a meaningful time and in a meaningful manner." See Armstrong v. Manzo, 380 U.S. 545, 14 L Ed 2d 62, 85 S.Ct. 1187 (1965). The following are some general comments that the U. S. Supreme Court has issued recently about due process:

"The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision-making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to ... minimize substantially unfair... deprivations of property..." Fuentes v. Shevin, 407 U.S. 67, 32 L Ed 2d 556, 92 S. Ct. 1983 (1972) (Emphasis added)

In another case it is stated that due process was:

"... designed to protect the fragile values of a vulnerable citizenry from the overbearing concern for efficiency and efficacy..." Stanley v Illinois, 405 U.S. 645, 31 L Ed 2d 551, 561, 92 S. Ct. 1208 (1972)

The reason I have set forth these provisions is to demonstrate that the decision-making process which the City establishes in rezoning property must be a fair process. Whether it is fair - or fairly carried out - can be measured in some degree by the

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extent to which efforts to pre-order or manipulate the results are discouraged. I can say without any hesitation that seeking independent advice from the PAB and consideration of that advice meets the highest standards of fairness that could be asked by any petitioner. When that independence is lost, however, the possibility of manipulation, and in turn, injustice multiplies.

Several of you have already expressed concern about the recent appearance of Councilman Rothchild before the PAB. (1) I believe that concern is well founded, and that we should be even more concerned about other actions connected with this which will be related below. Before relating those matters, however, let me make it clear that it is not intended here to impugn anyone's motives in connection with these actions. In particular, I am not suggesting that Councilman Rothchild did not always feel that he was acting in the public's best interests. The problem is simply that the end does not always justify the means.

Also, I want to point out that I had advised Mr. Rothchild against appearing before the PAB at least five or six months ago, at which time I indicated to him that such testimony could create "due process" problems and would ultimately operate to the disadvantage of the City as well as the property owner. Mr. Rothchild quickly responded with the statement that he understood those things and certainly would not involve himself in that way. His subsequent appearance would be inexplicable, except perhaps for the following:

During the PAB meeting, Park Shore Resort Club's representative stated for the record that he doubted the propriety of Mr. Rothchild's appearance and statements before the Board. Mr. Rothchild responded that he had seen on television the fact that U.S. Senators testified before the Senate Foreign Relations Committee

(1) At the February 5th meeting of the PAB, Councilman Rothchild appeared and gave approximately fifteen minutes of negative comments about the Park Shore Resort Complex. Although those comments were preceded by a statement that Mr. Rothchild did not know whether he was for or against the project, the negative comments (as well as the history of his outspoken opposition to the project) could leave no doubt in anyone's mind about his position. In fact, one week later, on the evening of February 12th on WNOG's Page Two program, Mr. Rothchild stated that he had "indicated before the Planning Advisory Board that I intend to oppose it."

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on behalf of Alexander Haig. He concluded from this that if senators could testify before their own committees, so could he testify to the PAB. While I might gently suggest that difficulties invariably seem to arise when politicians contemplate the perquisites of higher office, there are concrete reasons for distinguishing between the two situations:

- (1) The Senate owes Alexander Haig no duty of due process in giving advice and consent to the President on his appointment. In fact, the Senate owes due process to no one when it votes except to the President when tried after impeachment. The City, as we have seen, owes a strict duty of due process to land-owners when it acts on their zoning petitions.
- (2) The decisions of the Senate are completely political. In consenting to political appointments no standards of reasonableness are required to be met (with occasional unfortunate results). The City, on the other hand, is bound by standards of reasonableness which will be enforced by the courts on the basis of whether its decisions bear a substantial relation to the health, safety, morals or general welfare. Euclid v. Ambler Realty Co. 272 U.S. 365, 71 LEd 303, 47 S.Ct. 114 (1926) See also 7 Fla. Jur. 2nd, Building, Zoning and Land Controls, Section 103. The Council is simply not free to zone exclusively based on political considerations.

In any event, a somewhat more sinister distortion of the recommendation of the PAB was attempted subsequent to the February 5th meeting. As related by Mr. Clayton Bigg of the PAB, who approached me immediately prior to the February 18th Council meeting, Mr. Rothchild had contacted him before and after the PAB meeting and urged him to change his vote on the Park Shore matter from "for" to "against" and to so advise the Council. (2) At the time of these contacts, it is clear

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(2) Mr. Rothchild even pursued Mr. Bigg to the shuffleboard courts at Cambier Park. Essentially, Mr. Bigg related that Mr. Rothchild told him that the City Attorney had given Mr. Bigg a "snowball" and since that formed the basis of Mr. Bigg's opinion, that he should revise his views and so address the City Council. Since the PAB's recommendation was based on a 3-2 vote, the fact of Mr. Bigg's changing his vote would have the effect of reversing the recommendation, thus apparently giving the City Council a basis on which to deny the Park Shore Resort development.

that the public hearing by the PAB had closed. Mr. Bigg was, as you can imagine, deeply troubled at Mr. Rothchild's actions. Quite rightly so, since these subsequent urgings of Mr. Rothchild, if successful, would have resulted in the property owner being suddenly surprised with a negative recommendation without having been given an opportunity to refute or dispute the matter. Anyone familiar with the emotionally charged atmosphere of public hearings before City Council on controversial zoning items can easily see how overwhelming this could be. Moreover, if Mr. Rothchild had been successful, discussion of these incidents would have been even more delicate since Park Shore Resort Club's loss would have given rise to a claim against the City under Title 42, 1983 of the Civil Rights Act for a deprivation of civil rights.⁽³⁾ However, aside from any threatened liability, we must ask ourselves is this conduct acceptable? I think not. A council member's manipulation of the PAB to get a desired recommendation does not comport with a "fair process of decision-making." Nor does it "protect the fragile values of a vulnerable citizenry from overbearing concern" of government officials. Quite the opposite.

It therefore behooves the City to insure that its officials refrain from activities tending to deprive persons of their constitutional rights. In discussing the problem of city liability in the very recent and important case of Owen v. City of Independence, Mo., 100 S. Ct. 1398, ___ U.S. ___, 63 L Ed 2d 674 (1980) Justice Brennan, speaking for the majority, said:

"The threat that damages might be levied against the city may encourage those in a policymaking position to institute internal rules and programs designed to minimize the likelihood of unintentional infringements on constitutional rights. Such procedures are particularly beneficial in preventing those 'systemic' injuries that result not so much from the conduct of any single individual, but from the interactive behavior of several government officials, each of whom may be acting in good faith."

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(3) Ironically, individual councilmen under recent Supreme Court decisions enjoy absolute immunity under the Civil Rights Act for their actions. The courts have found that such immunity is warranted for the reason, among others, that the City can pay any damages resulting from such activities, thereby guaranteeing or insuring a means of relief to the property owner. The City on the other hand, is absolutely liable for any damages resulting from activities of even a single Council member which result in unlawful deprivation of property under the color of City action. Owen v. City of Independence, Mo., 100 S.Ct.1398, ___ U.S. ___, 63 L Ed 2d 673 (1980)

As a footnote to that statement, the Court said:

"...The need to institute system-wide measures in order to increase the vigilance with which otherwise indifferent municipal officials protect citizens' constitutional rights is, of course, particularly acute where the front-line officers are judgment-proof in their individual capacities." (4)

The present case is a classic example of this problem. While Mr. Rothchild's actions alone do not determine anyone's constitutional rights, his interaction with the PAB at the public meeting and his subsequent efforts with Mr. Bigg, if successful, could have diverted the course of events and caused a violation of constitutional rights. Since these efforts were clearly intended to succeed, it is apparent that only Mr. Bigg's strong sense of personal justice prevented this problem.

From this we can see that it is important to be as thorough as we can be in attempting to protect the due process rights of our citizens. In the words of Justice Brennan:

"The knowledge that a municipality will be liable for all of its injurious conduct, whether committed in good faith or not, should create an incentive for officials who may harbor doubts about the lawfulness of their intended actions to err on the side of protecting citizens' constitutional rights." Owen v. City of Independence, Mo., supra.

Consequently, I recommend to the City Council that it consider adopting a body of rules directing that no City Council member should present testimony to the PAB unless that Council member has sufficient interest in the subject of its deliberations as to constitute a conflict of interest under the Florida Public Ethics Law, Florida Statutes Chapter 112, and further, that Council members be prohibited from any attempt to persuade PAB members to change their votes at any time before, during or after the PAB considers its agenda. In this way both the independence of the PAB and the due process of our citizens are protected.

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(4) The Owen v. City of Independence, Mo. case, supra, decided last spring, enormously expanded municipal liability for civil rights violations. Almost as important, the court found there that a single councilman's statement or actions could in some cases impose liability on the entire city government.

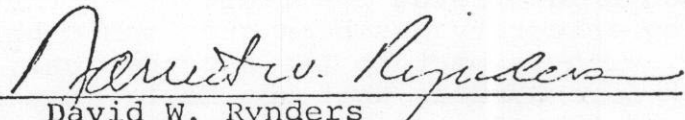
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While it is arguable that a City Council member should have as much right to speak to the PAB as anyone else, the City Council can easily justify its restriction based on the overriding need for the independent conclusions of the PAB and the danger of a deprivation of due process to our citizens. Moreover, the Council members will have the right to speak - and vote - on the matter when it comes before Council. Clearly, the alternative is for the present decision-making process to become a farce.

In preference to that end, I have attached an ordinance embodying such rules for your consideration. By this means, the City might more closely resemble a government which is:

"the social organ to which all in our society look for the promotion of liberty, justice, fair and equal treatment, and the setting of worthy norms and goals for social conduct."
Owen v. City of Independence, Mo., supra.

Should any member of Council wish to take action on this matter, he should request that it be placed on the agenda for either consideration or for first reading of the ordinance.



David W. Rynders
City Attorney

DWR:bh

MAYOR ANDERSON: You will note that the City Attorney made reference to the fact that he met with Mr. Rothchild some five months ago and advised him that he should not indulge in these activities. Ahm, (inaudible) his observation. At some months ago before this affair ever came to the attention of the PAB or anyone else, that I was aware of the fact that one of the councilmen had in fact asked the City Attorney about the propriety of this type of action and suggested he might want to speak to Mr. Rothchild. I was subsequently informed, just by way of conversation, that this meeting did take place and that this advice was given to Mr. Rothchild. Ahm, I'm satisfied, based upon what I know of it, that this took place some time ago -- that this meeting did, in fact, take place and I presume that the advice said to have been given was in fact given. Ah, so that concludes my observation on that -- on that point. Ahm, I have nothing further to add at this time. Mr. Rothchild, would you like to...

MR. ROTHCHILD: Yes, I think it's rather odd, someone lies and another one swears to it. And, therefore, the lie becomes the truth. Now, I want to talk about Mr. Bigg for a moment. Mr. Bigg and I have been friends ever since I have become interested in City affairs, which goes back many years. I found him to be an honest gentleman, advanced in years. I would not have said the things about him that were said two weeks ago, but questions was raised about his memory. But in any event, we are told, by the City Attorney, of an alleged conversation that took place between him and Mr. Bigg. Mr. Bigg's affidavit contradicts the statement he made to Brian Blanchard, a reporter from the Miami Herald, who I believe is in the audience, in which Mr. Bigg clearly told Mr. Blanchard that I did not urge him to change his vote. I believe -- prefer to believe Brian Blanchard, who is an uninterested reporter, other than -- rather than Dave Rynders, whose integrity has been questioned before in the auction ordinance. Now, with respect to the hypothetical, created meeting, I just -- with Dave Rynders that the Mayor just referred to -- I just want to repeat that I gave the lie to Dave Rynders at the last meeting with regard to his dreamed-up conversation, allegedly taken place in his office some five or six months ago. I categorically repeat my denial that any such conversation took place and that Dave Rynders' allegation is made up of whole cloth and is a lie. Therefore, Dave Rynders is a liar. Now, I have other things that I will want to say about this and really, I should not be saying anything. I should let this charade and travesty go on unhindered. It will be something to read in later years and wonder how a thing like this can happen in a democracy, but I will hold my further comment, which I had not intended to make, until we get to the discussion among the Council, after the Public Hearing.

MR. SCHROEDER: Ah-Mr. Mayor...

MAYOR ANDERSON: Yeah.

MR. SCHROEDER: May I make a comment at this point?

MAYOR ANDERSON: Yeah, go ahead.

MR. SCHROEDER: Some years ago -- and this is pertinent although the beginning may not sound so. Some years ago, five or six, when I was a member of the Coastal Area Planning Commission, two of the County Commissioners began to make visits to the meetings of the CAPC. The County Attorney, not the present one, but the Collier County Attorney advised those two commissioners that it was improper for them to even attend, much less participate, in the Coastal Area Planning Commission's

meeting. It was because of that experience some six or seven months ago, I approached Dave and suggested that he look into the matter of Harry Rothchild's attendance at various advisory bodies of the City. That is only a matter of corroboration of circumstances. I don't know of my own knowledge whether or not David and Councilman Rothchild did meet. But I do affirm that I did talk to David about the problem.

MR. ROTHCHILD: While we're on the subject, just in response to Mr. Schroeder, I'd like to put things into its proper perspective. What are we talking about? We're talking about the Park Shore Resort Club. I don't live in Park Shore. I have no property in Park Shore. I have no interest in Park Shore, except the fact that it is part of the community of Naples and, as I have said before and it's rather trite, I love the City of Naples. I have read the Comprehensive Plan and I believe that the action that was taken with respect to Park Shore Resort Club was contradictory to the high aims of the Comprehensive Plan. Now, there -- there is perhaps a moral and ethical question involved. At what point do you stop advancing a thought or an idea or a principle when you think you are right? Now, I could have stopped a long time ago and realized that the cards were stacked against me; but somehow or other I was motivated to say what I thought was right. Now, just sticking to that, and to that only, and referring to Wade Schroeder, I would like to say that it has been my practice through the years to stand up when I think -- or thought that something was wrong or that something was right. And I spoke out on it. The files of the newspapers in Naples will reveal countless articles and letters that I have written. In 1977, Wade Schroeder was called a communist by Doc Brown, Commissioner Doc Brown. I knew Wade Schroeder. He was the -- I believe he was the treasurer of the Moorings Presbyterian Church and I used to teach a class on religion there. And I resented that. I was satisfied whatever Wade Schroeder might have been and might have subsequently become, he was not a communist. And so, I got up and I spoke out and Wade Schroeder came over to my house and gave me the material I have in my hand, which is a verbatim transcript of the Board of County Commissioners' meeting and a photostatic copy of an article in the newspaper in which Wade Schroeder was called a communist. And I called Page Two when Commissioner Tom Archer was the guest. And the conversation went something like this. 'Hello, Tom.' 'Hello, Harry, how are you?' 'Fine, fine. Tom, were you aware of the fact that Doc Brown called Wade Schroeder a communist?' He said, 'Yes.' I said, 'Tell me, do you think that Wade Schroeder is a communist?' He said, 'No.' I said, 'Then why didn't you say something then?' 'Well,' he said, 'you know - ah - I don't think he meant that he was a communist in that sense.' And I said, 'Will you please tell me, Tom, in what sense did he mean that Wade Schroeder was a communist?' And Tom Archer couldn't answer. The conversation ended. Two weeks later I met Tom at a cocktail party. He came over to me and said, 'Harry, you sure as hell put me on the spot then.' I said, 'That was precisely my purpose.' The reason I'm mentioning this is that it has been my practice throughout the years to stand up when I think that something is right or something is wrong and speak for it and speak toward it. And that's precisely what I did under the -- in connection with the Park Shore Resort Club. Now, that -- my speaking out didn't satisfy certain people on the Council and on the dias. I'm just wondering what would have happened if, on February the 5th, when I did speak before the Planning Board in the Sunshine, if instead of speaking as I did, I had had a complete change of mind and on that day,

suppose I had supported what the Mayor and the City Attorney were doing and directing. Suppose I had approved that and directed my remarks in approval of that. Question. Would the -- would the City Attorney -- would the Mayor have then directed the City Attorney to write this ordinance and to write this six and a half-page dissertation? No. No one in his right mind would agree with that. The idea is that the Mayor and the City Attorney believe in freedom of speech but only if you speak in support of what they want. And that's my comment with regard to Wade Schroeder.

CITY ATTORNEY: That's absolutely...

MAYOR ANDERSON: Well, someone mentioned that this (inaudible)

CITY ATTORNEY: ...incorrect.

MAYOR ANDERSON: ...had no bearing on the Park Shore thing at all.

MR. ROTHCHILD: Nothing has any bearing on it except truth.

MAYOR ANDERSON: ...and, ah -- and, ah -- and I think that that's has some merit (inaudible) particular discussion. But, the discussion that has taken place in the last several minutes has a bearing upon your credibility. And, ah, I choose to think that it -- that it has had a bad effect upon...

MR. ROTHCHILD: My credibility?

MAYOR ANDERSON: ...your credibility. And, ah, it is brought out for the purpose of -- of the record, so that all the information bearing on this thing is in the record. And that's the only -- only purpose, I suppose, that, ah -- that, ah, it has is to make sure all the information is there and people can draw their own conclusions.

MR. ROTHCHILD: I'll await -- I'll await the final decision when I approach the pearly gates.

MAYOR ANDERSON: And, ah -- that's -- well, I guess we can't influence that. But, in any event, I think the record will show, thus far, what the facts and the opinions are relating to this case. And that was the purpose of getting the record complete. O.K. I have no more comments.

CITY ATTORNEY: Mr. Mayor.

MAYOR ANDERSON: I would like to...

CITY ATTORNEY: Mr. Mayor, I have a comment and I don't think it is wise to just let it lay here. Mr. Rothchild's indicated that my integrity has been questioned before in connection with the auction ordinance. I'd like -- now there's people in the audience who probably think that my integrity has been questioned. And, in fact, it never has. Now, does any member of this Council recall my integrity ever being questioned in connection with...

MR. ROTHCHILD: I do.

CITY ATTORNEY: Well, good government requires that charges of impropriety or misconduct of government people be quickly investigated and acted upon. And I think that this Council has a right to know the basis of any statements regarding my misconduct and any facts that any one may be aware of relating to my integrity at all and I would request that this...

MR. ROTHCHILD: They will be made in the proper time at the proper place by the proper people.

CITY ATTORNEY: Well, this has been brought up now today. There was some reference to some employee's, ah, termination of job or employment last -- two weeks ago, and there was a mention two weeks ago of a memorandum of December 29th that Mr. Rothchild is conducting an inquiry. The inquiry has gone on for almost three months now. There must be some fact or some person or some statement or some -- something that we can relate to reality to show the basis of this question about my integrity. The problem is -- I don't think it's a good idea that we revert to the McCarthy era at this point and start talking about investigations...

MR. ROTHCHILD: Amen.

CITY ATTORNEY: ...and, ah, I mean I think that's a fairly clear problem and we ought to get to the root of this right now. If there's a single fact relating to this, I think you want to know it and, believe me, I want to know it, too. So, I would ask that we inquire about what those facts are right now. I don't want anyone sitting here today thinking...

MR. ROTHCHILD: Your request has been noted...

CITY ATTORNEY: ...my integrity has ever been questioned.

MR. ROTHCHILD: ...duly received and noted.

MAYOR ANDERSON: Well, let -- let me, ah, let me pick it up at this point. Ah, this inquiry did (inaudible) a matter of record whenever -- some three months ago, I guess. Three and a half months ago. Subsequently said you were conducting an investigation of this same sort of thing and, ah, that's been two weeks ago. And, ah, I certainly would have to subscribe to David's extemporaneous remarks that allegation involving the honesty and the integrity of a trusted member of our -- of our City government should be brought to the public's attention and to the Council attention forthwith. Now...

MR. HOLLAND: Mr. Mayor, I think that this thing is pertaining to, possibly, a vote that I cast in regards to the auction ordinance when I asked at the First Reading if ordinance were as stringent and as strict as the previous ordinance that we had. And I believe the record will show that Mr. Rynders told me, yes that it was. Well, when I got in to it and re-read the ordinance -- I think that I made the motion to approve the ordinance on First Reading. But on the Second Reading, I opposed it because I had found that there were some differences in the restriction. Now, whether this is what he's referring to or not, I'm not sure...

MAYOR ANDERSON: I don't -- I don't know. But I would like

to ask the -- I would like to ask Mr. Rothchild, with the consensus of Council in my support, if I -- if you have -- if I have your support to ask Mr. Rothchild at this time to give us whatever information he has bearing on his allegation about Mr. Rynders. Would I have that support of the Council?

UNKNOWN: Yeah.

UNKNOWN: Yes.

MR. HOLLAND: I still don't feel this is the time and place...

MAYOR ANDERSON: I don't -- I don't...

CITY ATTORNEY: The statement has been raised here.

MAYOR ANDERSON: ...either, Red, but it has -- it has...

CITY ATTORNEY: It's been raised here and it's got to be settled here.

MR. THORNTON: (inaudible) than that though.

MR. HOLLAND: (inaudible) brought the other out for that purpose.

MAYOR ANDERSON: I understand. Well, I -- ...

MR. HOLLAND: (inaudible) put on this table.

MAYOR ANDERSON: ...I would have to ask, just for the record then, with the consensus of Council, I would like to ask Mr. Rothchild if he would bring to this Council's attention at this time any information you have...

MR. ROTHCHILD: Well....

MAYOR ANDERSON: ...in support of your charges.

MR. ROTHCHILD: ...if I had known -- if I had known that you were going to ask for...

MAYOR ANDERSON: Well, I didn't know that I was, so..

MR. ROTHCHILD: Well...

MAYOR ANDERSON: ...that makes two of us.

MR. ROTHCHILD: ...well, may I finish my statement?

MAYOR ANDERSON: Uhmhm.

MR. ROTHCHILD: If I had known you were going to ask that today, I still might not have brought it with me, because it is a matter of law. We have to -- this thing has to be decided by a proper body. And I don't believe that this is the proper body at

this time. Eventually, this may be the final body.

MAYOR ANDERSON: Do you -- do you...

MR. ROTHCHILD: Now...

MAYOR ANDERSON: Do you have any -- in response to my -- my -- my question, Harry?

MR. ROTHCHILD: Do I have any (inaudible)...

MAYOR ANDERSON: Do you have any information to bring to the attention of the Council at this time?

MR. ROTHCHILD: Not at this time, except the recollection of Red Holland. When Red Holland asked the question of the...

MAYOR ANDERSON: All right.

MR. ROTHCHILD: ...City Attorney. And immediately upon the negative answer given by the City Attorney, Mr. Holland then said 'I move the adoption of the ordinance on First Reading'.

MAYOR ANDERSON: That hasn't...

MR. ROTHCHILD: That answer -- that answer was untrue.

MAYOR ANDERSON: Well, I...

MR. ROTHCHILD: The answer that Red Holland received was untrue.

CITY ATTORNEY: Mr. Mayor. This is so simple.

MAYOR ANDERSON: Well, I don't -- I don't...

CITY ATTORNEY: This is so...

MAYOR ANDERSON: ...I have asked you to give us any information you have bearing on it and you have chosen not to do so.

MR. ROTHCHILD: No, I haven't chosen not to do. I don't have it with me. I have it all in my head.

MAYOR ANDERSON: All right, then I...

MR. ROTHCHILD: I can give it to you if I want to.

MAYOR ANDERSON: I would...

CITY ATTORNEY: Well, I think I would like to hear it today.

MR. ROTHCHILD: You can like what you wish. I just (inaudible)...

CITY ATTORNEY: I don't want this to go any farther at all.

MAYOR ANDERSON: Well, now I -- I have done what I think is appropriate here and have asked Mr. Rothchild to divulge to this Council whatever information he has in support of this allegation.

MR. ROTHCHILD: I would love to have the facts to reveal.

MAYOR ANDERSON: He has -- he has declined to do so.

CITY ATTORNEY: Well, I have asked Mr. Rothchild to please reveal those facts that he knows. And everyone (inaudible)

MAYOR ANDERSON: I understand and he has declined to do so.

MR. ROTHCHILD: They will be found...

CITY ATTORNEY: O.K.

MR. ROTHCHILD: ...they will be found in the transcript of the October 1st, 1980 meeting. Now, wait...

CITY ATTORNEY: What will be found in that transcript?

MR. ROTHCHILD: ...and on October the 15th, 1980, and they will be found; the basis for the allegation will be found in the drafting of the first ordinance which I referred to as a pussy-cat ordinance.

MAYOR ANDERSON: All right.

MR. ROTHCHILD: O.K.? Now, I am not alone in this. There are a number of other people who called me and raised questions.

MAYOR ANDERSON: You still haven't been specific, Harry...

MR. ROTHCHILD: All right...

MAYOR ANDERSON: ...if you decline not to do so, that's all right.

MR. ROTHCHILD: All I have to (inaudible)...

CITY ATTORNEY: The only specific statement of fact was Mr. Holland's statement and if the Council will recall back to that meeting, the auction ordinance that was introduced consisted of a few words which permitted -- which was, it permitted full-time auctions to do business in the City. A matter which was not permitted previously. At the meeting, when the First Reading of that ordinance took place, I explained to the Council our ordinance does not now permit full-time auction businesses to come into the City; only temporary, ten days or less. I explained that the total function of the ordinance I was presenting would simply allow them to come in under the same terms and conditions that the temporary ordinance or temporary auctions could come in. Mr. Holland asked me if this ordinance would be as strict in the future. I said to him that it would be for the simple reason that no other change in that ordinance was made at all except to permit full-time auctions to come in.

MAYOR ANDERSON: O.K. all right. Ah, this...

MR. HOLLAND: Mr. Mayor, I'd like to make a suggestion.

MAYOR ANDERSON: Yes, Red.

MR. HOLLAND: If you want to pursue this thing further...

MAYOR ANDERSON: No, I don't wish to pursue it at this time.

MR. HOLLAND: ...you want to pursue it further, I'd suggest we have a special meeting which you can call at your --um-- pleasure, for this to be brought out.

MAYOR ANDERSON: I will -- that's not a bad idea, but at this time I would like to move on to the rest of our business.

MR. SCHROEDER: Mr. Mayor, I'd suggest that you pursue the Agenda and open the Public Hearing.

MAYOR ANDERSON: That's what I was about to do.

MR. SCHROEDER: (inaudible) done.

MR. WOOD: Meanwhile, Mr. Mayor...

MAYOR ANDERSON: Yes, Ken.

MR. WOOD: ...in view of the fact that Mr. Rothchild is not in the mood to present his accusation, I move for a vote of confidence in our City Attorney by this City Council.

MR. TWERDAHL: Good for you.

MR. SCHROEDER: Hear, hear.

MAYOR ANDERSON: What -- what do I do? Is that -- is that in the form of a motion?

MR. HOLLAND: How are you going to do that when it's not on this agenda?

MAYOR ANDERSON: That's -- I think that...

MR. WOOD: Accusation has been made, Red.

MAYOR ANDERSON: I ...

MR. HOLLAND: If you're going to have a hearing, have it.

MAYOR ANDERSON: I -- I think that -- that it would not be appropriate. David, do you have a...

CITY ATTORNEY: I don't want to participate in an analysis of that.

MAYOR ANDERSON: I -- Ken, I think that it's not on the

Agenda and that is an action -- a positive action by the -- by the City Council and perhaps is not appropriate because it's not on the Agenda. I do not think it would meet the test of an emergency action.

MR. WOOD: Mayor, how long are we going to permit innuendos, accusations not forthcoming to be presented to this Council and make this Council...

MAYOR ANDERSON: Ken, I would -- I would hope...

MR. WOOD: (inaudible) a real (inaudible) body of authority (inaudible) has become?

MAYOR ANDERSON: I..I would hope, Ken, to bring this to some conclusion as quickly as I can. So just be patient with me. I understand your feelings, and I might add that I share your feelings, but I believe in a procedural point of view and (inaudible) of conducting the -- our affairs, I'd better go ahead with (inaudible)

MR. THORNTON: I think the most serious thing that was said was that Mr. Rothchild called the City Attorney a liar and...

MAYOR ANDERSON: Well, we're going to -- we'll have an opportunity to discuss that. David may have something more to add.

MR. THORNTON: This is not -- this is not something you just pass over.

MAYOR ANDERSON: Well, o.k. This is a Public Hearing now, ladies and gentlemen (10:06 a.m.). Who in the audience would like to speak to this. Would you please hold your hands up so we can have some idea of the time element here involved. One, anyone else wish to speak to this? You may, but I mean I am just wondering. Do you wish to speak to it, sir?

MR. HAFSTEN: Yes.

MAYOR ANDERSON: Would you please - please come forward then.

MR. HAFSTEN: My name is Raymond J. Hafsten, 355 15th Avenue South. I'm a taxpayer, of course, and a voter and a citizen. Recently I have become a concerned citizen, very recently. I'd let other people do this, like Harry Rothchild used to. And I find it a very difficult thing. And I certainly respect all your offices and the job that you people have. I wouldn't have it for a \$100,000 a year or \$200,000. Well, maybe that's stretching it, but I certainly--I certainly wouldn't. And since I've become a concerned citizen and I don't intend to be very long because it's taken a lot of work and anguish and frustration. Just the little bit that I've gotten into. But, so I jot -- I didn't come -- I don't know Harry Rothchild. I've never met him. I do know that I've disagreed with him a lot. And the last time I saw Harry Rothchild was when we were discussing the hiring of the City Attorney on an emergency basis. Now, I couldn't get in to talk because Harry had a lot of facts and I respect those. But I finally did get in. All right, so I -- I don't know Harry Rothchild. I never came here to speak about Harry Rothchild. But I think I should. I'm amazed -- I'm amazed how intricate -- how regulatory we get on what appears to me as a item

that's trivia. This -- I'm not going into the law and all this wording that was used. And we talk about credibility -- gosh, I -- there I suppose you have to go to the law and who is called a liar, and, as I sat here, I thought -- I thought Harry was called a liar a couple times. And we talk about the McCarthy era, someone thinks that they're being persecuted. Looked to me like it was -- I don't mean persecuted, I mean charges against--against Harry. And when I say trivia--a member talked to an advisory board that has a inherent degree of independence. They don't have a \$100,000 job that they have to bow to someone. They're just as you gentlemen, and the other -- the Council, I'm very impressed with your credentials. But of all people -- these boards are independent. How can a councilman like Harry or someone else manipulate them? How? What have they got to lose? They are high quality people. And if I talked to them or Harry talks to them, maybe it's for the good. Or you? Yeah, you get into some legal aspects, but you -- someone brought out a democracy. A democracy means the people, a true democracy. Talking to each other. But now with regulations, we get farther and farther and farther away from the people. And where will it stop, if you have this regulation, won't you have to have a score of many more regulations to prevent me from talking to someone and you from talking to someone else? That's the way it looks to me. Now, Reagan wants to get rid of a lot of regulations. We're adding them. And I again say, where will it stop? If you add this one, shouldn't you have a lot more? I, as a layman, not a politician by any means, although I've dealt with a lot of them in my position in the -- with the corporation. I just don't--ah--see where it can stop. Now, how does this differ, again. How does this differ from five council members appearing before the County Commissioners when a vote is coming up and voicing disapproval, not as citizens, not as individuals, but with the impression that this is the Council and all the people they represent. Now, wouldn't that be unethical? It is in my eyes. I don't know if it is in the law. So, again, these are notes. I didn't come here to -- prepared to pro -- to speak in his defense. But, my goodness, the independence of this advisory board, how could they ever be swayed? There's no reason. They're intelligent people. Very responsible. There could be no manipulation -- there's -- any body of individuals that could be manipulated, I'm sure it would be closed, at least by council members. And, maybe -- maybe Harry at the time had something good. That's what we want -- the hell -- it's informal. He might've had something good. If it wasn't, they'd throw it out because that's the kind of people they are. So, this is the way I feel and, ah, I just can't see all this regulation, all this formality, getting away from the true type of government we started by the Greeks where we all get together, pass our laws, talk to each other and it's for the good of everyone. O.K. that's what I have to say...

MAYOR ANDERSON: Thank you.

MR. HAFSTEN: And as I say again, I was not prepared, but I came here to the meeting and I...

MAYOR ANDERSON: Thank you very much, sir. Yes, sir?

MR. HANNAM: Mr. Mayor and gentlemen of this City Council, my name is Edward Hannam. I live at 616 Broad Avenue South. I've been a cit -- voting member of the City of Naples for over ten years, permanent resident. I feel that certain of you gentlemen were sworn in and each one took the oath of adhering to the laws of the

Constitution of the City of Naples. I feel that if anybody feels that a law on the Constitution has been violated, they should vote accordingly. You should uphold the laws; if not, you should at least work to have such laws negated. I think it should be -- it's the duty of the seven of you gentlemen to make a decision on this. Thank you.

MAYOR ANDERSON: Thank you, sir. Would anyone else like to speak to this? There being no one to speak to it, the Public Hearing is hereby closed. (10:14 a.m.) Any further comments by members of the Council?

MR. ROTHCHILD: Yes, Mr....

MAYOR ANDERSON: Yes, Mr. Rothchild.

MR. ROTHCHILD: I want to thank the first gentleman. I don't know his name. I'd like to meet him after the meeting; and with respect to the second gentleman, who talks about the laws being enforced, I couldn't agree with him more. But I think that all of us ought to know the history preceding this ordinance. For many, many years, long before I came to Naples which was (inaudible) there were joint Planning Advisory Board and City Council meetings at which special exceptions and various other things were discussed at a joint meeting of the Planning Advisory Board and the City Council, where the City Council could listen to the discussions of the Planning Advisory Board, hear their witnesses, inject when they wished questions and comments and all of that was done right out in the open. Remarks were solicited. Comments were solicited. It was nothing wrong for a member of the City Council to talk to a Planning Advisory Board meeting or a Planning Advisory Board member, rather, to speak to a member of the City Council. That was all done under the law. And that held true until March the 9th 1979, when, according to articles in the Naples Daily News, in order to speed up the hearings and pass through the various requests for special exceptions and other things, the joint public hearing was terminated and there was a public hearing held by the Planning Advisory Board Meeting and they reached their decision and came to the -- their decision was given to us in minute-form and the Council then discussed it. I opposed that and the newspapers is very clear about that and the tape record is very clear that I opposed it. I opposed it because I thought that we were giving up a very valuable right that people who own property have. I'm accused of mal-treating the owners of property by my concern was and still is, I'm concerned about the rights of the people and their property rights. And if they wanted a special exception or a variance of any sort, I felt they should be heard. And I did not believe that we should separate these two functions in the --for the expediency of speed. I felt that it would be much better for us to arrive at the right answer even though it may have taken a little longer time, than to arrive at a quick answer which may be right or wrong. And so, in 1979, we separated the Planning Advisory Board and the City Council. But there was, and there is today, no law which prevents a member of the City Council from addressing the Planning Advisory Board which I did on February the 5th right in the open, in the Sunshine. If I had anything to hide, why would I speak when the

Mayor was there, Randy Thornton was there and Ken Wood was there. I wasn't ashamed of what I was doing. I was doing what I thought was right. I believed, and I still believe, that some of the things that were advanced by the Park Shore Resort Club were wrong -- were wrong for the residents of Park Shore and were wrong for the City of Naples. I thank heaven -- I believe that we have eliminated the interval ownership in that -- in that complex. But, the fact of the matter is that what was done in the past was all right when people met and that was suggested by the first gentleman who spoke. Then the law was changed, but the law did not prevent members of the City Council from talking to the Planning Advisory Board meeting -- members or vica versa. And that's where we are today. Now, by some peculiar form of transference, I am guilty of a crime. That's what has been alleged. I am guilty of a crime. Of what? Of a crime that might be put on the books today? Well, any simple minded attorney knows that under the Constitution of the United States, you can not have an ex post facto law. Who -- everyone knows that. So, therefore, if I am guilty the day after tomorrow, that may be true. But I am not guilty today based upon anything that I may have done. The City Attorney, if he hadn't missed that correspondence course on that subject, might be aware of the fact. And so, I agree -- I agree without question. We should obey the law and this ordinance is going to bring in -- and I'll read it now to you -- this ordinance, which incidentally it's sort of a strange thing, and I hope that the members of the City Council realize that I am on trial. Now this ordinance was written at the request of General Anderson and this six and a half-page dissertation was written by the attorney to rationalize and justify the ordinance requested by General Anderson. Now, anyone knows that rationalization is not truth. Now this ordinance and the six and a half-page dissertation read very poorly by our City Attorney constitute a bill of attainder and a bill of attainder is prohibited by Article I of the Constitution of the United States. The ordinance that was drafted says, 'The provisions of the Florida State Sunshine Law, Chapter so & so, as they apply to Naples City public officials are hereby extended and ordained to apply to meetings between Naples City members -- City Council members and members of the Naples Planning Advisory Board.' I was a little bit interested in that and so I called the Attorney General in Tallahassee and I spoke to one of the lawyers there and asked whether or not that was proper under the law and I was told that the Florida Sunshine Law has been used for many things but this is not the proper use of it. We might use the Florida Sunshine law instead of the policeman on the corner, or the traffic cop, but that isn't what it was designed for. Well, having read the reference to the Sunshine Law, I have just a little comment to make and the thought of having this Council vote to extend the provisions of the Florida Sunshine Law is both arrogant and ludicrous. The Sunshine Law is one law which has been more honored in the breach of the law than in the observance of the law by the members of this Council. The chances are that the Sunshine law is broken more often than any other of our laws; but it must give the members of this Council a sense of decency to think that they are striking a blow for law and order. I doubt that even they can fool themselves by their cloak -- by this cloak of purity. The unkindest cut of all, however, is the fact that this -- that this ordinance or this holier-than-thou ordinance was drafted by, of all people, David Rynders. Nothing more need be said. That is all that I intend to say on this, and so, General, why don't you go on with the charade.

CITY ATTORNEY: Mr. Mayor.

MAYOR ANDERSON: Yes, Mr. Rynders.

CITY ATTORNEY: Ah, there is some possibility here that people may conclude that Mr. Rothchild has drawn his conclusions about myself and my legal ability as a result of something other than his very angry response to what we have had to do. I'd like to read to the Council a portion of the minutes of the Council meeting held back in June 1979, after I had been to the Council -- worked for the Council one year. During that year I had worked with Mr. Rothchild on several different matters that came before the Council. When the Council agenda item on my raise -- my salary came up at that time, ah, these were Mr. Rothchild's comments. This was a resolution regarding the City Attorney's salary. Mr. Rothchild requested the opportunity to speak and he said (City Attorney read the following)

TRANSCRIPT OF AN EXCERPT FROM AGENDA ITEM 14, REGULAR MEETING OF THE NAPLES CITY COUNCIL HELD JUNE 6, 1979.

AGENDA ITEM 14. A resolution regarding City Attorney's salary. Requested by Mayor Anderson.

MR. ROTHCHILD: I'm sure that most of the members of Council and certainly many of the members of -- many of our family, City of Naples, is fully aware of the fact that I was probably, if not the foremost, among the foremost of those citizens who criticized our previous City Attorney. I know that comparisons are (inaudible) odious...

MR. SCHROEDER: To coin a phrase.

MR. ROTHCHILD: Pardon?

MR. TWERDAHL: To coin a phrase, he said.

MR. ROTHCHILD: No, I didn't attribute that. But I know that comparisons are odious. But after we had suffered for a year of being 'Fletchered', I would say that in my -- I've had the pleasure of working with Dave Rynders, as you all know, on the Firemen's pension plan, on the Police pension plan and several other things. And I can say, and I've had tremendous experience with lawyers through the years. I've dealt with lawyers and actuaries all of my life. I find that Dave to be one of the finest, most receptive and understanding attorney. And I believe that he can -- that we can hold our heads high because of Dave Rynders. I am not in a position to determine how much should be given to Dave Rynders, but I certainly agree that whatever is necessary in order to keep him, within the confines of your budget, should be given to him and I'm glad that no body has asked me what I meant by saying 'We have been "Fletchered",' but privately I'll tell each and everyone of you as to what I meant by that. (end of transcript of 06/06/79)

CITY ATTORNEY: I think you can conclude from this, Mr. Rothchild does not get along well with City Attorneys when they have to disagree with him. And I've had to disagree with Harry a number of times. When you disagree with Harry, what you get is what we hear today, insinuations about professionalism, integrity and education. When you can agree with him, you receive high praise. And I think that we should take that into consideration in listening and remarking on his insinuations today about me.

MAYOR ANDERSON: Any further comments by....

MR. ROTHCHILD: Yes, I'd like to make a comment in response to that. I'd like to refer to the fact that I was a member of the Firemen's Pension Board -- the Firemen's, ahm, yes Pension Board at that time -- I was a civilian member on that Firemen's Pension Board and I'm very proud of the fact...

MR. SCHROEDER: \$94,000 is coming up...

MR. ROTHCHILD: as, I'm very pr -- yes, \$94,000 and that was all honest, too. I saved the City \$94,000 while I was on the Firemen's Pension Board and I enjoyed my term on the Pension Board, but I resigned from that Board for precisely the reason that the City Attorney mentions. And that is, because of John Fletcher. Now, John Fletcher was hired under the most unusual circumstances and the -- the -- Red Holland -- Red Holland caused -- Red Holland caused the City Council....

MR. THORNTON: I don't think this (inaudible)

MR. ROTHCHILD: ...to be charged with violation of the Sunshine Law...

UNKNOWN: Point of order.

MAYOR ANDERSON: Wait a minute -- wait a minute -- wait a minute, Harry, would you maintain the relevancy.

MR. ROTHCHILD: O.K. The relevance is -- the relevance is the reference to John Fletcher. I was opposed to John Fletcher. So was Red Holland. Red Holland brought the Council before the -- before the -- the Circuit Court...

MAYOR ANDERSON: Harry, this is not...

MR. ROTHCHILD: ...on violation of the Sunshine Law.

MAYOR ANDERSON: Harry, this is not relevant to the...

MR. ROTHCHILD: Well...

MAYOR ANDERSON: ...particular discussion. I -- I

MR. ROTHCHILD: ...while it's true I made the statement that Dave Rynders made, but you see that only goes to prove that I am human. I can be wrong and I was wrong when I made those statements.

MR. SCHROEDER: Mr. Mayor.

MAYOR ANDERSON: Yes, Wade.

MR. SCHROEDER: Before we close this discussion of the matter before us, I would like to read into the record an editorial of the Naples Daily News of last Sunday, March 15th. Articles from the news have been introduced into these proceedings from time to time. I think this might be another. (Mr. Schroeder read the following.)

In Naples, A Case Of Needed Barrier

On Wednesday, the Naples City Council will hold a second public hearing on a proposed ordinance amendment that would prohibit council members from testifying at or addressing the Planning Advisory Board on matters which are to be referred to the City Council for final decision.

The same amendment would prohibit Council members from "contacting in person, by phone or otherwise, members of the Planning Advisory Board in regard to recommendations being formulated by the Planning Advisory Board."

We think it's unfortunate that such an ordinance is considered necessary. If the two government bodies are already separate — one advisory and one decision-making — why do we have to pass an ordinance amendment saying that they are indeed separate?

But there it is, ready for second hearing and probable final approval. Unfortunately, we think we need it.

There is no question how it came about. The reason is Councilman Harry Rothchild. Down the road it could be someone else, we suppose, but right now it's Rothchild.

Two years ago, when the Naples Council was considering a move to end the often tedious joint sessions of Planning Board and City Council and make them separate functions, Rothchild, then just an involved citizen, argued against the separation from the floor as an ultra-involved citizen. A year later, he was himself elected to City Council — with support from the Naples Daily News — and he still

feels the separation of the two functions was a mistake and prefers to act accordingly.

Rothchild is not only hawkishly unrelenting in pursuit of what he thinks is right, he thinks he has every right to address members of the Planning Advisory Board before its recommendations come before City Council — of which he is a decision-making member. What's more, Rothchild will argue that any abridgment of this privilege is a violation of his First Amendment rights to freedom of speech.

Well, we can't agree with Rothchild.

We think he should readily accept the fact that the two bodies — planning and council — were, in fact, made separate by official council action two years ago, as we think they should be. We think the separation of the two functions makes for better government and better due process for the applicants coming before the planners and council. Most local governments work this way for good reason — it makes good sense.

Rothchild will concede that sometimes he suffers from what he calls an "excess of zeal." If he would abide by his own judgment and act accordingly, he could become the kind of effective public official we saw latent in Rothchild, the aggressive candidate. If he insists in challenging what seems right and proper, then he should not be surprised to find the city constructing barriers to protect properly constituted functions of government.

- MAYOR ANDERSON: Any other discussion? There being no further discussion -- you read the ordinance, didn't you?
- CITY ATTORNEY: In fact, no. Oh, yes, I did read the title.
- MAYOR ANDERSON: Yes, you did. If there's no further discussion, would you please poll the Council?
- MR. HOLLAND: Mr. Mayor, may I ask the Attorney one question before we (inaudible) vote on it?
- MR. SCHROEDER: There's no motion.
- MAYOR ANDERSON: We've got a motion and second, haven't we?
- MR. SCHROEDER: No.
- MAYOR ANDERSON: Oh.
- MR. SCHROEDER: I move adoption of the Ordinance on Second Reading as amended.
- MR. WOOD: And I'll second the motion.
- MAYOR ANDERSON: Made and seconded. Now is there any further discussion? Yes, Red.
- MR. HOLLAND: Am I to understand now that no Planning Board member can appear before Council to give his or her views, whichever the case may be, (inaudible) anything?
- CITY ATTORNEY: No, the ordinance doesn't say that, Red. It said that Council members can't appear before the PAB. It's just the reverse.
- MR. HOLLAND: I would like to know how we can assume, and I have gone back through some of the records. We have had people that have appeared here that were on the Planning Board that were on the minority side and those that were on the majority. And I don't have any doubt in my mind that it hasn't had some influence on this Council.
- MR. SCHROEDER: And properly so, Red.
- MAYOR ANDERSON: You're talking about members of the Advisory Board...
- CITY ATTORNEY: Yeah, properly so.
- MAYOR ANDERSON: ...appearing before Council.
- MR. HOLLAND: Yes.
- CITY ATTORNEY: No question about that. They should have the right to appear.
- MR. HOLLAND: I think if we're going to...

MAYOR ANDERSON: No, we haven't -- that's not in here.
That's right.

MR. HOLLAND: That's what -- one of the things that causes me not to be able to go along with the ordinance, Mr. Mayor. Because I feel that if we are to take their recommendations and not let any of them be biased or swayed by one of Council's feelings -- I'm in a little bit different position than some of you gentlemen. I am not socially acquainted with members of the Planning Board. I don't play golf with them. I don't have that problem. Now, you are going to be thrown in a position where you have got people that have been recommended by several of you that are on this Board that you are with on frequent occasions. And is it going to cause...

MAYOR ANDERSON: Excuse me -- excuse me, Red. I -- for myself, that is not true.

MR. HOLLAND: I don't believe all of them can say that.

MR. THORNTON: I can.

MAYOR ANDERSON: Whatever. That's -- I'm just...

MR. HOLLAND: I just think it's going to put some of the Council in a bad position. Now, we've sat here and I'm told that we've got a totally different situation with the Airport Authority that I brought up at the last meeting. But this Council passed a motion that one member of the Council would attend all of the Airport Authority meetings.

MAYOR ANDERSON: That's...

MR. SCHROEDER: Quite right..

MAYOR ANDERSON: That's -- that's all right. There's nothing. That's unrelated to this present ordinance, Red.

MR. HOLLAND: I don't see the idea, Mr. Mayor. Because I asked last week -- week before last if this would not be better to cover all boards and I was told that it would be taken under consideration..

CITY ATTORNEY: It's easy to respond to that. These other boards, particularly the Airport Authority, do not make recommendations to the City Council involving the property rights of citizens of this City. And, unless you can show a terribly strong possibility of an infringement of a person's due process rights when we are regulating that, you can not lightly interfere with a Council member's free speech. In other words, the only way you can justify an infringement of a Council member's free speech in connection with this is to show a very, very strong -- a compelling need, as the courts describe it -- on the other side to balance out that free speech right. The compelling need that we can demonstrate with the Planning Advisory Board is the zoning of the individual property owners in the City. And the restriction of their rights to use their property and the process we go through has to be a fair and equitable one. These other advisory boards don't participate or get involved with those sort of things at all and consequently you don't have that overriding, that compelling need to

balance out the restriction on the free speech. And so, I just don't think that...

MR. HOLLAND: The very reason that I brought it up was because I noticed this past week that the Planning Board postponed action on a piece of property that is directly affected with the airport that the airport has made requests and recommendations to the City and I feel that the two are tied closely together.

CITY ATTORNEY: Well, in fact they are tied closely together, but the airport does not make recommendations to the City Council on which the City Council acts in the same way that we do with the PAB.

MR. HOLLAND: But they are involved with our Planning Board.

CITY ATTORNEY: Just as any other property owner out there could make those same recommendations to the City. Anybody can come to the City Council, Red, and ask the City Council to change zoning in the City. Not just their own property. The City Council can make a decision to either do that or not do that. Just like we did make a decision with -- when the Airport Authority requested that, we did make a decision. And, in fact, that didn't come up specifically on account of the Airport Authority's initiation. It came up because Mr. Gilman was requesting some approval of the site plan for his property. When that matter came up, the Airport Authority injected itself at that point. They have just, ah, providing the PAB and the City Council with the best information they know, just as every other citizen of this City can come before the City Council and do that.

MAYOR ANDERSON: Red, let me add one more thing. We're in a few minutes, I think, going to vote on this ordinance. Just this ordinance. Other -- other boards need to have it -- that can be discussed even at greater length, if you wish, at some other time. But we're talking about this ordinance. I -- I compare it so to speak with a City Manager's budget, where he has a good budget over-all and the Council has (inaudible) some changes approved it. But to vote against a budget or -- as an illustration because it doesn't have a road in there that some person may like, is not giving due consideration to the budget itself.

MR. HOLLAND: I don't agree with that, because I think you can be...

MAYOR ANDERSON: Now, well I'm just trying to explain.

MR. HOLLAND: ...in tune -- I remember the situation. I'm the only one that voted against the budget. It wasn't with anything as far as Mr. Patterson's budget because I didn't question that part of it...

MAYOR ANDERSON: No, that's not the point. Well, I'm just saying, Red, just consider this ordinance. Not whether or not some other Board might be involved. If they are, we can -- we can pick that up at some later date. That's all I have to say on that.

MR. THORNTON: David, I wonder if I could suggest a slight change or amendment to -- just to make the meaning perfectly clear in view of what Mr. Holland has said. In Section 1A-63, 'Further, Council members are hereby prohibited from testifying before or addressing the Planning Advisory Board or its individual members at public meetings of the Planning Advisory Board, 'I would put in, ' on matters which will be referred to the City Council.' Because obviously if they're here testifying before us for any reason or other, we would want the privilege of addressing them.

CITY ATTORNEY: Certainly. Yeah, that can be inserted. Also, when the motion -- the motion should include these amendments that I've suggested. You can see, you might want to....

MR. SCHROEDER: I did include those in the motion.

CITY ATTORNEY: O.K.

MAYOR ANDERSON: He did. But (inaudible) did you get Randy's change? Exactly where it goes?

CITY ATTORNEY: If that's amenable to the maker of the motion and the second, I'll include it here.

MR. SCHROEDER: Is this what you wanted inserted?

MAYOR ANDERSON: Yeah, would you, Randy?

MR. THORNTON: Yeah, 'Further Council members are hereby prohibited from testifying before or addressing the Planning Advisory Board or it's individual members at public meetings of the Planning Advisory Board', that's the insert, 'meetings of the Planning Advisory Board on matters which will be referred to the City Council.'

MAYOR ANDERSON: That -- I see what you mean.

CITY ATTORNEY: O.K., Yes.

MAYOR ANDERSON: That's what was intended, I suppose.

CITY ATTORNEY: Right. It certainly was, yeah.

MAYOR ANDERSON: That's O.K. with the...

MR. SCHROEDER: It's been accepted.

MAYOR ANDERSON: Yeah, O.K. Ah, if there's no further discussion then by members of Council, would you please poll the Council.

Mr. Holland	No
Mr. Rothchild	No
Mr. Schroeder	Yes
Mr. Thornton	Yes
Mr. Twerdahl	Yes
Mr. Wood	Yes
Mayor Anderson	Yes

AGENDA ITEM 6. Consideration/acceptance of utility easements for Coach House Lane Water Assessment District. Requested by Engineering Department,

City Attorney Rynders read the below referenced resolution by title for Council's consideration.

A RESOLUTION ACCEPTING EASEMENTS FOR THE PURPOSE OF INSTALLATION AND MAINTENANCE OF A PORTION OF THE WATER MAIN TO BE CONSTRUCTED ON COACH HOUSE LANE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Twerdahl moved adoption of Resolution 3737, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 7. A resolution ratifying and endorsing the position of the Southwest Florida Regional Planning Council as outlined in the attached Statement and Resolution, opposing Rule 41 as proposed by the Coordinating Council on the Transportation Disadvantaged for implementation of the provisions of Chapter 427, Florida Statutes; and providing an effective date. Requested by Councilman Schroeder.

City Attorney Rynders read the above titled resolution by title for consideration by Council. Mr. Schroeder reviewed the Southwest Florida Regional Planning Council's Statement of Concerns. Mr. Rothchild indicated his concern about fully understanding both points of view in this matter and expressed his wish to have a representative from the Agency on Aging in Ft. Myers come and speak to Council regarding this. Mr. Thornton moved adoption of Resolution 3738, seconded by Mr. Schroeder. Mr. Raymond Hafsten, citizen, expressed his belief that this was part of the City's opposition to the County's proposed transit system to which Mr. Schroeder responded that County Commissioners Wenzel and Pistor were present at the meeting of the Southwest Florida Regional Planning Council and they respectively made the motion and second to this resolution. Mr. Hafsten then voiced his support of the Council's opposition to this item. Mr. Holland noted his objections to having a law written for the whole state of Florida without consideration for particular area problems; however, he restated his support of a public transit system. Roll call on the motion carried it, 5-2 with Mr. Holland and Mr. Rothchild voting no.

AGENDA ITEM 8. A resolution regarding annual salary and fringe benefit adjustment for non-bargaining unit personnel. Requested by City Manager,

City Attorney Rynders read the below captioned resolution by title for consideration by Council.

A RESOLUTION RELATING TO SALARY INCREASES, HEALTH INSURANCE AND LIFE INSURANCE BENEFITS FOR CERTAIN EMPLOYEES OF THE CITY OF NAPLES; RESCINDING ALL RESOLUTIONS OR PROVISIONS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3739, seconded by Mr. Schroeder. Mr. Schroeder then offered an amendment, "term life insurance coverage for said employees shall be in an amount equal to two-thirds (2/3) of the employee's salary, rounded up to the nearest \$1,000". Roll call on the motion carried it, 7-0. City Manager Patterson noted that the insurance portion in Section 2 of the resolution did include the City Manager, the City Attorney and Council members.

AGENDA ITEM 9. PurchasingAGENDA ITEM 9-a. Bid award - All-purpose equipment trailer - Public Works Department

City Attorney Rynders read the below referenced resolution by title for Council's consideration.

A RESOLUTION AWARDED BID FOR AN ALL-PURPOSE EQUIPMENT TRAILER; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Twerdahl moved adoption of Resolution 3740, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 9-b. Bid award - Two utility trailers - Public Works Department

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

A RESOLUTION AWARDED BID FOR TWO UTILITY TRAILERS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3741, seconded by Mr. Twerdahl and carried on roll call vote, 7-0.

AGENDA ITEM 9-c. Bid Award - Installation of concrete signal poles - Traffic Control Div. - Engineering Department

City Attorney Rynders read the below captioned resolution by title for Council's consideration.

A RESOLUTION AWARDED BID FOR THE INSTALLATION OF CONCRETE SIGNAL POLES AT GULFSHORE BLVD. AND 5TH AVENUE SOUTH; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Thornton moved adoption of Resolution 3742, seconded by Mr. Twerdahl and carried on roll call vote, 7-0.

AGENDA ITEM 9-d. Two submersible sewage pumps - Wastewater Division - Public Works Dept.

City Attorney Rynders read the below referenced resolution by title for Council's consideration.

A RESOLUTION AWARDED BID FOR TWO SUBMERSIBLE SEWAGE PUMPS; AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

Mr. Twerdahl moved adoption of Resolution 3743, seconded by Mr. Schroeder and carried on roll call vote, 7-0.

AGENDA ITEM 10. Information on Goodlette Road improvements between U.S. 41 and 22nd Avenue North (oral report)

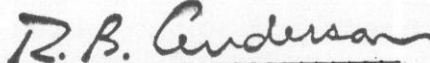
City Manager Patterson stated that he brought this item to Council's attention at this time because the staff had believed Goodlette Road was to be four-laned up until recently, when they received information to the contrary. He pointed out that it was the County's prerogative to put in six lanes and referred Council to City Engineer John McCord for further discussion. Mr. McCord noted his feeling that the County's estimate that six lanes would be needed in the near future was incorrect. It was the consensus of Council that four lanes should be put in now, with designs for the extra lanes as they are needed and it was suggested that Cliff Barksdale, Collier County Engineer, or someone be asked to come to a Council meeting to discuss this with the City. Mayor Anderson said he would do what he could in this respect. Mr. McCord suggested that an interconnected progressive signalization system be considered at this time.

CORRESPONDENCE AND COMMUNICATIONS


Mr. Twerdahl asked City Attorney Rynders to explain the difference between impact fee and impact license or tax to which the City Attorney replied that an impact tax was another name for an excise tax. He further added that the impact tax or excise tax had to be imposed state-wide by the state legislature; but in his estimation the County could impose a charge of some sort on new construction to help pay for growth.

Mr. Holland expressed his concern at the proposed locations for housing ambulances under the County's proposed program and asked that the matter be placed on an up-coming Agenda for discussion and possible City action regarding the City's input on these locations. Mayor Anderson noted that he had written a letter to the Chairman of the County Commission regarding this matter.

There being no further business to come before this Regular Meeting of the Naples City Council, Mayor Anderson adjourned the meeting at 12 noon.


R. B. Anderson, Mayor

Janet Cason
City Clerk


Ellen P. Marshall
Deputy Clerk

These minutes of the Naples City Council were approved on 09-01-81



City of Naples

735 EIGHTH STREET, SOUTH - NAPLES, FLORIDA 33940

M E M O

TO: Honorable Mayor and Members of City Council
FROM: David W. Rynders, City Attorney
RE: Proposed Ordinance Relating to City Council Members
and Planning Advisory Board Members
DATE: March 13, 1981

Having had additional time to research the proposed ordinance, I would like to request that several minor amendments be approved:

1. As indicated on the attached copy, the words "shall constitute malfeasance in office" have been added to the provisions of Section 3 relating to recall. I believe this would be appropriate and well advised. Florida Statutes, Chapter 100, indicates that recall must be based on malfeasance (or other grounds not appropriate here). Adding this language to the ordinance would clarify Council's intention in this regard.
2. I have made minor word changes on Page 1 of the ordinance, also indicated by underlining, which merely clarify the wording and intention of the Council.

I, therefore, recommend approval of the ordinance as amended on second reading.

David W. Rynders
City Attorney

DWR:nm

Enc.

AN ORDINANCE RELATING TO THE CONDUCT OF CITY COUNCIL MEMBERS IN THEIR RELATIONSHIP WITH THE PLANNING ADVISORY BOARD; AMENDING SECTION 1A-63 OF THE CODE OF ORDINANCES OF THE CITY OF NAPLES TO PROVIDE THAT COUNCIL MEMBERS SHALL BE PROHIBITED FROM ATTEMPTING TO INFLUENCE OR MANIPULATE RECOMMENDATIONS OF THE PLANNING ADVISORY BOARD BEFORE THEY ARE PRESENTED TO THE CITY COUNCIL; PROVIDING EXCEPTIONS THERETO; PROVIDING FINDINGS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY AND PROVIDING AN EFFECTIVE DATE.
 PURPOSE: TO PROHIBIT MANIPULATION OF PLANNING ADVISORY BOARD RECOMMENDATIONS BY INDIVIDUAL COUNCIL MEMBERS.

WHEREAS, the Council finds a compelling state interest in preventing manipulation of the recommendations of the Planning Advisory Board and protecting the due process rights of persons interested in land use decisions of the City Council; and

WHEREAS, the Council therefore finds it necessary to extend the provisions of the Florida Sunshine Law to apply to meetings between City Council members and members of the Planning Advisory Board and to prohibit Council members from testifying before the Planning Advisory Board except as provided herein; and

WHEREAS, the Council finds only a slight interest in the right of a Council member to testify before or influence members of the Planning Advisory Board since Council members are ultimately privileged to decide all matters brought from the Planning Advisory Board to the Council;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

SECTION 1. Section 1A-63 of the Code of Ordinances of the City of Naples is hereby amended to read as follows:

Sec. 1A-63. Powers, Duties and Relationship with City Council Members.

The Planning Advisory Board shall have the powers and duties set forth herein and any other duties assigned to it by the City Council. The provisions of the Florida State Sunshine Law, Chapter 286.011, F.S., as they apply to Naples City public officials are hereby extended and ordained to apply to meetings between Naples City Council members and members of the Naples Planning Advisory Board. Further, Council members are hereby prohibited from testifying before or addressing the Planning Advisory Board or its individual members at public meetings on matters which will be referred to the City Council. It is intended by these provisions to specifically prohibit Council members from manipulating or influencing the recommendations of the Planning Advisory Board to the Council prior to Council consideration. It is also intended by this section to prohibit Council members from contacting in person, by phone or otherwise, members of the Planning Advisory Board in regard to recommendations being formulated by the Planning Advisory Board. Excepted from this provision are Council members having a conflict of interest as defined by Sections 112.311, 112.313 or 112.3143, F.S. In such cases, said members shall comply with the disclosure requirements of Section 112.3143, F.S.

ORDINANCE NO. _____

PAGE TWO

SECTION 2. If any paragraph, sentence, phrase or other provision of this ordinance, or its application to any person or circumstance, shall be held invalid or unconstitutional, such holding shall not affect the validity of any other paragraph, sentence, phrase or other provision or its application to other persons or circumstances.

SECTION 3. Any person who shall violate the provisions of this ordinance shall be subject to a fine and/or imprisonment as provided in Sec. 1-8 of the Code of Ordinances of the City of Naples. Violation of the provisions of this ordinance by any council member shall constitute malfeasance in office and shall therefore subject said council member to recall as provided by law.

SECTION 4. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS _____ DAY OF _____, 1981.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS _____ DAY OF _____, 1981.

R. B. Anderson Mayor
R. B. Anderson

ATTEST:

Janet Cason
Janet Cason
City Clerk

APPROVED AS TO FORM AND LEGALITY BY _____

David W. Rynders
David W. Rynders, City Attorney