



CITY OF ANNA MARIA

P.O. Box 779, 10005 Gulf Drive, Anna Maria, FL 34216 Phone (941) 708-6130 Fax (941) 708-6134

MINUTES CITY COMMISSION SPECIAL MEETING/WORKSESSION JUNE 11, 2015 – 6:00 P.M.

Pledge of Conduct: We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

CALL TO ORDER

Chair Webb called the meeting to order at 6:00 p.m.

PLEDGE TO THE FLAG

ROLL CALL

Present: Mayor Dan Murphy, Vice-Chair Nancy Yetter, Commissioner Dale Woodland, Chair Chuck Webb, Commissioner Doug Copeland, and Commissioner Carol Carter.

Also Present: City Clerk Diane Percycoe, City Attorney Becky Vose, City Planner Alan Garrett, and City Engineer Lynn Burnett.

Press: Sun and Islander.

General Public Comment regarding non-agenda items and items not scheduled for future agendas will be taken at the beginning of the meeting with a limitation of three minutes. The Commission's intent is that General Public comment is to be used for the public to inform the Commission of new issues within the City. Public Comment regarding agenda items will be taken with each agenda item with a limitation of three minutes.

SPECIAL MEETING

General Public Comment – None.

A. Introduction of Engineer Lynn Burnett as Capital Improvement Program Manager – *Mayor Murphy*

Mayor Murphy said after meeting with Bradenton Beach Mayor Clark, and Holmes Beach Mayor Johnson, they had agreed on a strategy for combining ways to address stormwater management, dredging, and paving to avoid having to compete for resources. As a result, they agreed upon having Engineer Lynn Burnett address their Capital Improvement Programs Island-wide. Engineer Burnett will be responsible for the Capital Improvement program management, prioritize and schedule projects, pursue required funding, RFP's, coordinating with Manatee County, West Coast Navigational District, and SWFWMD, and the budgeting for the functions for all three of the Cities.

Public Works Director McKay's role going forward for all projects will be providing the required technical work and project management to ensure completion of the projects once Engineer Burnett has managed the projects.

Mayor Murphy then introduced Engineer Burnett.

Commissioner Woodland asked if there were plans to coordinate the SWFWMD projects between the three Island Cities.

Engineer Lynn Burnett addressed the Commission and announced efforts were combined when coordinating the Geographical Information System (GIS) grant request through SWFWMD. She further mentioned the ITPO Interlocal agreement and noted she was now serving as the TAC Committee Representative.

Public Comment – None.

1. Ordinance 15-795 – First Reading - Changing Sec. 2-21 – Planning & Zoning Members – City Attorney Vose
Planner Garrett read the Ordinance title.

City Attorney Vose informed the City's current Ordinance requires seven members on the Planning & Zoning Board. However, there are currently only four Planning & Zoning Board members, and it's often difficult to have a quorum for holding a meeting. Ordinance 15-795 allows for the P&Z Board to consist of "between five and seven members", and establishing that "a quorum shall consist of one half of the then existing membership plus one."

City Attorney Vose noted the Commission had adopted the Vacation Rental Ordinance and will be considering Ordinance changes that evening. She recommended those changes go before the P&Z Board and Public Hearings are held once an additional member has been appointed to their Board.

Commissioner Yetter asked if a two-year residency requirement was required for P&Z Board appointments.

Mayor Murphy informed he was unaware of that provision but had made it a personal requirement to only appoint individuals who are residents.

Discussion followed. It was agreed an individual can be appointed so long as they are a registered voter and resident of Anna Maria.

Public Comment – None.

2. Ordinance 15-794 – Emergency Amendment to Vacation Rental Ordinance 15-788 – City Attorney Vose
Planner Garrett read the Ordinance title.

City Attorney Vose informed on June 1, 2015 there was a challenge to the Flagler County Vacation Rental Ordinance upon its adoption. As a result, the Court validated virtually the entire Ordinance except for the provisions that would have caused prohibiting an existing rental agreement in existence at the time of the enactment of the Ordinance. Pre-existing contracts could therefore not be affected by the Vacation Rental Ordinance.

City Attorney Vose stated she agreed with the Court action and was recommending the Commission adopt an Emergency Ordinance that would include the provisions. She noted the City is currently under litigation over its Vacation Rental Ordinance and did not want that provision to hamper the litigation – or for any people who own vacation rentals to go ahead and cancel old contracts and then come back and sue the City. The proposed Ordinance has been sent to the Attorney's representing clients who currently have a claim against Anna Maria.

City Attorney Vose referred to the City's Charter noting an Emergency Ordinance is only valid for 61 days. It is hoped that within that time-period, the Commission will readopt the Ordinance with the other changes.

According to City Attorney Vose, the vacation rental owners will provide whatever evidence they have such as a written contract, proof of reservation, etc. no later than July 15, 2015. The City's Special Magistrate will then review documents provided to determine if they are indeed a true and correct document, and then notify the owner. If there is not enough information to determine the agreements are real, the Special Magistrate will notify the owner they can come in for a hearing to present whatever additional information they have. Agreements provided will only be valid for people on the agreement and for the exact time. Anyone wishing to come in later to change an agreement would not be exempted from the Ordinance.

Penalties have been included in the Ordinance language in the event of any fraudulent or misleading information as part of a person's application. In order to be valid, the applications must have been made prior to the enactment of the City's Ordinance. Anyone submitting fraudulent information would be disqualified from serving as a

Vacation Rental Agent for a period of one year. In addition, the particular Vacation Rental agency shall not be eligible for a Vacation Rental License for a period of one year beginning January 2016.

Commissioner Woodland felt there will be a lot of pending contracts since many people will reserve one year in advance. He asked how the information would be provided to the Rental Agents and Vacation Rental owners prior to the July 15, 2015 deadline.

City Attorney Vose said her hope is that the newspapers would assist in getting the information out to the public. She noted the minimum legal standard was the adoption of the Ordinance. She felt families will be the ones making reservations a year in advance – versus parties or groups of eight.

Mayor Murphy noted the City also has a database that includes email and mailing addresses, and could do a direct mail by the end of June.

Further discussion and clarification followed. City Attorney Vose pointed out the proposed Ordinance addresses contracts between the renters and owners - and does not apply to contracts between owners and Rental Agents.

Public Comment

James Rossi, 807 North Shore, said his concern relating to the proposed Ordinance is that property values will drop. He noted many are buying real estate to use as future homes, and want to rent the property in the interim in order to cover the taxes and expenses.

Chair Webb clarified the Ordinance will not prohibit any rentals – only regulate them.

Jennifer Cowan, representing Lewis, Blackman law firm, addressed the Commission representing clients as a result of the Vacation Rental Ordinance. She presented the following objections to the proposed Ordinance:

- 1) Stated Anna Maria's Ordinance provides for Emergency Ordinances in times of public emergency effecting the health, life, and public peace. She did not feel an Ordinance addressing the exemption with regards to short-term rental issues would fall under being an emergency. She questioned the appropriateness of bringing the Ordinance forward as an Emergency Ordinance.
- 2) Referring to the proposed Emergency Ordinance, Ms. Cowan stated the quiet hours and pool hours had changed. Also, the swimming pool, spa and hot tub hours were not the same in the two different sections of the Ordinance.

Chair Webb confirmed there had been no changes and the Ordinance language would be corrected as needed.

Ms. Cowan said it was her understanding, the rationale for the Emergency Ordinance was based on the Flagler County Court Order. However, Flagler County had an Ordinance that was similar to the Anna Maria Ordinance, but also provided a vesting period. To take advantage of that vesting period, any contracts entered into prior to the Ordinance effective date were vested - so long as the owner submitted an application for a short-term rental certificate. Ms. Cowan then read from the court order and commented on its meaning. She commented on how Anna Maria would treat someone who did not come in for an exemption, feeling it was not legal. She felt it was clear that restrictions cannot be put into an Ordinance that would impair the contract.

Sherry Kuehn informed she owns property in Holmes Beach and had invested over \$1 million into the property. Ms. Kuehn lost her husband two years ago, and her plan was to bring her family to the Island. She needs to rent her property in order to afford it. She stated her home has six bedrooms and has been rented to 14 on a regular basis. She said there have been no neighbor complaints.

Ms. Kuehn expressed her disapproval of the Vacation Rental License requirements. She said if the Commission decides she will only be allowed eight renters versus the 14 which it was built for, her revenues will be reduced by half, and she will be unable to afford her home. She questioned how the Commission came up with the

maximum number of 'eight' renters. Her concern was whatever is adopted in Anna Maria may also be adopted in Holmes Beach.

Renee Bertoluzzi, owner of 724 N. Shore, informed her property is a four-bedroom weekly rental. Ms. Bertoluzzi noted she recently sold a property at Pine and N. Shore.

Ms. Bertoluzzi voiced concern she might be facing having to move renters out as a result of the regulations.

Margaret Jenkins, Chilson Avenue, encouraged enforcement of the current codes. She felt the City was making so many regulations people would be unable to rent their property.

Motion: Move that Ordinance 15-788 be approved for adoption.

Action: Approved. Moved by Commissioner Carol Carter, Seconded by Vice-Chair Nancy Yetter.

On Roll Call Vote, the motion carried unanimously.

3. Ordinance 15-793 – First Reading - Temporary Moratorium Ordinance – City Attorney Vose

Planner Garrett read the Ordinance title.

City Attorney Vose informed there are exceptions for Demolition Permits when there's no structure. There's another exception for lot coverage not to exceed 40% having three or less bedrooms.

Commissioner Copeland reminded at the last meeting he had recommended a maximum of four bedrooms and still felt that way.

***Chair Webb* asked for a consensus on changing the number of maximum bedrooms from three to four. There was no consensus to make the change.**

Chair Webb pointed out that Ordinance 15-793 corrects the original Ordinance.

Commissioner Woodland stated he was opposed to implementing an additional moratorium.

Public Comment

Jim Glass, 517 Magnolia, announced he purchased a four-bedroom/three bath home approximately one year ago. He planned to remodel his kitchen and bathrooms and said he is now unable to get a permit. He said though he has no intent to rent his home, he would be unable to get a permit having four bedrooms or more.

Planner Garrett had met with Mr. Glass. He pointed out the Ordinance also refers to remodeling and questioned if the short-term moratorium could have a provision allowing an exemption.

Mr. Glass stated he needs a new roof and cannot get insurance since it is in such bad shape.

City Attorney Vose read language from the new Ordinance, advising if the number of bedrooms is not being increased, Mr. Glass would have no problem to re-roof under the new Ordinance.

Planner Garrett noted after the first moratorium is sunset, then the new Ordinance becomes effective. It was his understanding Mr. Glass would be unable to remodel the home.

Mr. Glass will meet again with Planner Garrett.

Greg Ross, 526 74 Street, felt moratoriums were only for emergency action. He noted the first moratorium was in 2013, second one in 2014, and before the second moratorium expired a third moratorium was put in place in 2015.

He stated Anna Maria had continuously been operating under a moratorium for the past two years. He felt there had been a misuse of the moratorium power.

When looking at the reasons for the moratorium, Mr. Ross did not feel the reasons actually warrant a moratorium – except for the LAR and lot coverage. He felt though the other issues need discussed and fixed, they would not warrant an emergency moratorium.

Mr. Ross mentioned the City may be in direct violation with the Fair Housing Act by limiting the number of bedrooms. He said families are a protected class under the Act and by limiting the number of bedrooms, the City would be excluding families from being able to build a house. An example followed relating to a European family having three children and wanting to build a five bedroom home. After holding a lot for the past six months, they have now found they cannot build.

Mr. Ross stated the moratoriums have been very damaging to those who work hard trying to make a living. He pointed out that Anna Maria represents approximately 50% of his business, so therefore 50% of his business is being shut down for the next year. In addition, many land owners are losing money for every month they have to wait to finish their homes. He asked that the moratorium not be enacted.

Jennifer Cowan, Lewis, Blackman, said she objected to a moratorium relating to anything that will prevent the property owners who have short-term vacation rentals. Combined with the short-term Vacation Rental Ordinance in place requiring certain improvements – and to the extent of the building moratorium, it limits them from making those improvements.

Commission discussion

Commissioner Woodland suggested the Commission all review the 11 items outlined in Section 1. Moratorium. of the proposed Ordinance to determine which ones are felt to be necessary for the moratorium. It was his opinion many of the listed items were not necessary, but he would like to hear the opinions of the other Commissioners. Once the items have been outlined, the Commission can then address them as soon as possible.

Chair Webb reminded the Ordinance will be placed on Second Reading at the next meeting and can be amended at any point until its adoption. He said personally, he felt all 11 items should be included and would not support changing any of them.

Chair Webb discussed the LAR Ordinance and how he believes it did not work. The intent was that measurements would be in the interior of the home. However, an interpretation was made that the square footage would include the walls. In addition, the Commission hoped to see porches, etc. which has not occurred.

Commissioner Woodland felt the measurement issue was not a mistake in the Ordinance – and should have been corrected administratively.

4. Variance Request for City Pier Park Restrooms – Mayor Murphy

Mayor Murphy said he was going to ask for a variance for the City Pier Park restrooms. However, pursuing the variance request could impact the City's FEMA ratings. Instead, that afternoon, there was an agreement that the City Pier Park restrooms could be constructed by using a holding tank that will be buried under the restrooms and requires periodically needing to be pumped out. The City will not have to hook up to the Manatee County sewage system. Plans for construction will be brought back to the Commission for their review. Further explanation and alternatives followed.

Chair Webb suggested tabling action to allow additional time to obtain further information from FEMA.

Commissioner Woodland provided a past example involving FEMA and exceptions.

5. Authorization for Mayor to Sign Memorandum of Understanding with State College of Florida for Assistance for Business Continuity during Disaster Recovery.

Mayor Murphy informed the agreement with State College of Florida will provide administrative headquarters in the event of having to leave the Island during a storm.

Commissioner Woodland asked if the EOC would be an option for the City to use as a backup. He suggested the possibility of having two different locations in the event of a disaster.

Mayor Murphy noted State College of Florida also has property in Lakewood Ranch and Venice that can be utilized.

Public Comment – None.

Motion: Move to authorize the Mayor to sign the Memorandum of Understanding between the City of Anna Maria and the State College of Florida for assistance for business continuity during disaster recovery.

Action: Approved. Moved by Commissioner Doug Copeland, Seconded by Commissioner Carol Carter.

Motion carried – All Aye.

Chair Webb closed the Special Meeting at 7:08 p.m.

WORKSESSION

Worksessions provide the Commission with an opportunity to informally discuss topics of common concern and interest and to exchange ideas with staff. In order to make efficient use of time, public comments and questions generally are not entertained during worksessions. Public Comment is taken at meetings such as Regular Meetings and Special Meetings where action items are officially voted on.

Chair Webb opened the Work Session at 7:08 p.m.

6. Code Enforcement/Parking Enforcement Update – *Mayor Murphy*

Mayor Murphy announced training was provided to 12 Parking Specialists who will begin working the upcoming weekend. All Parking Specialists have been certified and are currently being trained. Ten of the Parking Specialists are current City employees. The other two are residents. The goal is for all to be fully trained by the July 4 weekend.

Commissioner Copeland sat in on the training. The instructor was the person in charge of parking enforcement for the City of Tampa who said Tampa has an Interlocal agreement with the DMV to attach tickets to registrations. The City will be provided with that information.

Mayor Murphy stated he wants to get each of the Parking Specialists FACE (Florida Association of Code Enforcement) Phase I certified. The City currently has three who are certified. At that point, the employees can address both parking and code violations.

7. Discussion: LAR Ordinance Changes – *Planner Garrett*

Planner Garrett referred to his staff report and explained the suggested changes in the LAR provisions to better address the goal of regulating how the Living Area Ratio is measured. He suggested deleting the term air-condition, and look at redefining it for habitable area.

Commissioner Yetter provided the example of her home having two decks.

Discussion of the LAR Ordinance changes will be continued to the next meeting.

8. Ordinance 15-791 – Amend Vacation Rental Ordinance 15-788 – City Attorney Vose

- Occupancy - *City Attorney Vose* said it was her understanding the Commission wanted to adopt two persons per bedroom, with a maximum occupancy of eight. Discussion followed. It was agreed for a maximum of eight persons per lot.
- Parking standards - Discussion continued relating to parking standards for the vacation rentals. It was suggested there be a maximum of four vehicles for vacation rentals.

Commissioner Woodland disagreed noting not all vacation rentals will be rented 12 months out the year. An example followed relating to a property that's rented part of the year - and available for family at other times. The Commission were asked to consider the situation and discuss at the next meeting.

- Definition of Bedroom – *City Attorney Vose* noted she added back “No room shall be considered to be a bedroom unless it was so designated on the plans submitted to the City for the construction of the building”. She has added “or subsequently a revised certificate of occupancy was issued recognizing a particular room as a bedroom” as part of the “Bedroom” definition. Also added to the definition was the wording “and complies with the Florida Fire Code and Florida Life Safety Code as a bedroom.”
- Sound Barrier – *Chair Webb* suggested the City obtain samples of the sound barrier materials and have it tested. There was discussion relating to whether or not the vegetation and landscaping actually serves as a good sound barrier. *Mayor Murphy* will research the specifications on the sound barrier materials and report back to the Commission.

Commissioner Woodland said the Commission is responsible for defining the problem - but he did not feel it needs to be the City's responsibility to come up with a solution to the problem. He felt the responsibility should fall on the property owner.

Commissioner Woodland further noted that someone living near the water may not want to be required to put up fencing that would hinder their ability to see the water.

- *Mayor Murphy* announced that within two weeks he should have candidates to serve on the Planning & Zoning Board. It was agreed that Ordinance 15-791 will be placed on the next Commission Meeting Agenda for further Commission review. Once new members have been appointed to the P&Z Board, Ordinance 15-791 will be sent to them for their review and consideration.
- *Commissioner Woodland* questioned if the Commission was interested in discussing as part of the Vacation Rental License, placing a limitation on the number of bedrooms. He referred to the bedrooms as part of the moratoriums.

Chair Webb reminded that discussion about the moratoriums was not on the Work Session Agenda, so would need to be discussed at a future meeting.

Adjournment

The meeting was adjourned at 7:49 p.m. on motion made by Commissioner Carol Carter and Seconded by Commissioner Doug Copeland. All Aye.


Diana L. Percycoe, City Clerk

Minutes approved: June 25, 2015