



CITY OF ANNA MARIA

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MINUTES CITY COMMISSION WORKSESSION FEBRUARY 19, 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

Vice-Chair Yetter 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, Commissioner Doug Copeland, and Commissioner Carol Carter.

Absent: Chair Chuck Webb.

Also present: Finance Director/Deputy Clerk Maggie Martinez, City Planner Alan Garrett, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander.

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.

Vice-Chair Yetter opened the Worksession for Public Comment – None.

1. Continued discussion - Ordinance No. 15-788 - Draft Vacation Rental Ordinance

Mayor Murphy suggested the process the Commission had taken during the Work Session of voting to seek a declaratory judgment as to whether or not vacation rentals are legal or not in Anna Maria be revisited. He pointed out the issue was not advertised. Also, the action taken will result in monetary costs to the City and had been voted on during a Work Session - and not during a Regular Meeting. Mayor Murphy asked the Commission to reconsider the action taken and readdress it at the February 26th Commission meeting where public input will be accepted.

Mayor Murphy stated it has been past practice in Anna Maria that no official voting takes place during a Commission Work Session. There was only one time a vote was taken during a Work Session, and the legality of it was later questioned. Former City Attorney Dye had stated as long as there was Commission consensus to take a vote, it could be done. However, there was no Commission consensus taken prior to the vote taken at the last Work Session.

Neighboring communities – as far as Marco Island – were contacted, and none of them take official action in a Work Session unless there is a consensus. Though he has no official legal opinion, Mayor Murphy stated he would like the issue placed on the February 26th Commission Agenda in order to eliminate any question as far as legality. He made reference to Attorney Scott Rudacille's letter of opinion that the vote was taken outside of the statute.

Commissioner Copeland stated he did not feel postponing official action for a week would hurt. He said numerous times he had heard that the Commission does not vote during a Work Session. He did not want to see any conflict down the line.

Action: It was the consensus of the Commission to place the issue of requesting a declaratory judgment request relating to whether or not vacation rentals are illegal in Anna Maria on the February 26, 2015 Commission Meeting Agenda.

Commissioner Woodland recommended the Commission ask Chair Webb to provide a legal opinion on the vacation rental legality for the February 26th meeting. Chair Webb had disagreed with all the opinions and court cases referenced by Attorney Trevarthen, so Commissioner Woodland would like Chair Webb's statutory opinion on the issue.

Commissioner Woodland stated regardless of a judge's decision, Chair Webb had indicated the decision would be appealed. As a result, Commissioner Woodland felt a reasonable timeframe and total cost for litigation should be obtained for seeking a declaratory judgment action.

Action: There was Commission consensus that both of Commissioner Woodland's recommendations be obtained. Vice-Chair Yetter agreed to send a one-way email to Chair Webb relating to the requested information.

Commissioner Copeland reminded Attorney Levin had estimated it would cost the City \$100,000 to \$200,000 to pursue a declaratory judgment action.

Commissioner Woodland further noted that Real Estate agent Larry Chatt had mentioned the Realtor's organization has a \$100,000 pool to fight the City if needed.

Review of Ordinance No. 15-788

Planner Garrett reviewed the proposed Ordinance 15-788 - Revised Vacation Rental Unit Certification:

- Planner Garrett informed he had found an acoustical type material that can be utilized on an existing fence that will absorb noise from a pool and the surrounding property. Explanation followed.
- The main revision is the language will no longer be part of the Zoning Ordinance. It will be placed in the Building and Building Regulations portion of the City's code – Article 11, Sec. 74-272 – Vacation Rental Unit Certification. As a result, only one published advertised hearing will be required.
- All recommended comments, as discussed at the last Work Session, have been incorporated into the proposed Ordinance.
- Planner Garrett noted if the Ordinance goes forward, the City would be saying short-term rentals are legal.

Commissioner Woodland asked if language could be added that indicates it would not be validated if it is found rentals are illegal.

Planner Garrett felt adding that type language would weaken the Ordinance.

Commissioner Woodland questioned if the Commission were to approve the Ordinance, would it make the declaratory judgment irrelevant.

Planner Garrett felt it would, because the City would be putting an Ordinance in place that regulates something.

Commissioner Carter pointed out that was a concern of hers at the last Work Session when seeking the declaratory judgment. Also, the City may not have time for a declaratory judgment based on the proposed legislation in place.

Planner Garrett reminded that Chair Webb had felt the City could get the declaratory judgment in a timely manner - and the Ordinance would be ready upon receipt of the decision. Both Attorney Levin and Chair Webb had indicated the process would take approximately one year.

Planner Garrett informed if the Ordinance language is placed in the Zoning Code versus the Building Regulations, it would codify it as a permitted use.

Pool Hours

Discussion followed relating to pool hours. *Vice-Chair Yetter* informed after contacting Tallahassee, she found the Statute requires commercial pools are only open between 10:00 a.m. – 10:00 p.m.

Action: After discussion, it was agreed the pool hours would be changed to 9:00 a.m. to 10:00 p.m. Language relating to the quiet time, with the exception of the swimming pool, will also be updated.

Suspension of Short-Term Vacation Rental Certificates

Action: After discussion, it was the consensus that reference to a fourth and fifth violation as referenced in the proposed Ordinance would be removed. Upon a third violation within a 12-month period, the Short-Term Vacation Rental Certificate will be suspended.

Licensing of Agents

Commissioner Copeland questioned if the City would want to license the rental agents. He suggested if there's a way to certificate the rental agents, they can be prevented from being a rental agent in Anna Maria if violating the requirements.

Mayor Murphy stated it may be a question as to it being a business license and would take an attorney to weigh in.

Commissioner Carter suggested language could be added addressing what occurs in the event of any rental agent failing to fulfill the requirements or receives violations. She agreed a legal opinion should be sought. She felt owner, agent, and agency all needs to be defined. Discussion followed.

Planner Garrett noted the proposed Ordinance requires designating a rental agent per unit, with its own individual certificate.

Commissioner Copeland felt violations need to be a fallback on the rental agency itself.

Action: Planner Garrett will review.

Inspections

Discussion followed relating to agent inspection of the units on a weekly basis. Also discussed was the fact the Ordinance requires an inspection of the vacation rental unit for compliance prior to the issuance of the initial Vacation Rental Unit Certificate. However, there was no required inspection upon Certificate renewals.

Action: Planner Garrett will add.

Parking

Commissioner Carter referenced the Ordinance language of parking spaces shall not be tandem. Noting most rental properties do not use the garages, she suggested if garage parking is available, it shall be used.

Commissioner Woodland agreed feeling language in Section 8.f.b. Exterior site sketch - may need to be more specific. Discussion followed.

Action: Planner Garrett will review.

Planner Garrett noted he did not want to see front yards becoming a parking lot.

Commissioner Copeland voiced concern about eliminating the garage as parking. He stated with the LAR at 50% coverage, if someone did not have parking outside their structure, it could be built larger.

Planner Garrett reminded parking counts as lot coverage. Also, a home must have at least one a garage or carport, and the Ordinance could be amended to require parking. Discussion continued relating to tandem parking.

Action: Planner Garrett will cross-reference the current code requirements.

Short-term vacation rental agent

Mayor Murphy stated he felt it would be very difficult for the City to enforce the monitoring of the agents. He did not feel the language was clear - and asked if the intent was for agents to physically visit each unit each week. He noted 'monitoring' as referenced in the Ordinance could be done by only driving by.

Planner Garrett suggested requiring a form to be signed off on. Discussion followed.

Commissioner Woodland presented the suggestion that the inspection form would be mounted on or near the front door. The rental agent would date and sign-off on the inspection form.

Commissioner Copeland pointed out that in reality the cleaning people monitor the rentals weekly. It was noted, however, the cleaning people are only in the units prior to and after the rentals.

Action: Commission consensus for Planner Garrett to add more specific language in Section G.2.c.

Maximum Occupancy

Commissioner Woodland referred to the maximum occupancy as established at 10 persons as referenced in the proposed Ordinance. He noted Anna Maria has very few homes with six persons – let along 10. He recommended limiting to a six occupant maximum.

Vice-Chair Yetter felt it would be unrealistic to think a five-bedroom home will be occupied with only six people. Also, she did not feel realtors would be willing to limit rentals to a six person maximum.

Commissioner Woodland felt allowing a 10 person maximum would actually encourage more five bedroom homes. He reminded the City did not choose what had happened with the increase and size of the vacation rentals.

Commissioner Copeland suggested an eight person maximum occupancy.

Action: It was agreed on five sleeping rooms with maximum occupancy of eight. Commissioner Carter suggested removing the language that two persons can sleep in the common area.

Inspection Appointments

Mayor Murphy referred to section F.4. relating to if the inspector is denied admittance by the rental agent, or if the inspector fails in at least three attempts to complete an initial or subsequent inspection, a notice of failure of inspection will be issued. He suggested that section be expanded to state if the agent fails the inspection, an additional fee will be charged for subsequent inspections.

Commissioner Woodland further suggested the no-show fee must be paid prior to any re-inspection being scheduled.

Action: Planner Garrett will add. He informed the Ordinance revisions could be ready for First Reading at the Commission's Thursday, February 26th Regular Meeting.

Public comment – None.

Commissioner Carter asked if Marco Island could review the proposed Ordinance and assist with a legal opinion.

Commissioner Copeland said he will contact and forward a copy of the City's proposed Ordinance to Marco Island's Attorney the following week.

Mayor Murphy announced Attorney Trevarthen had offered to review the Vacation Rental Ordinance for Anna Maria.

Action: It was the consensus there would be additional legal opinions on the proposed Ordinance.

Commissioner Woodland stated he was impressed with that evening's meeting, and the action taken by the Commission. He thanked Planner Garrett for all his work on the proposed Ordinance.

Adjournment

The meeting was adjourned by Vice-Chair Yetter at 7:07 p.m.



Diana L. Percycoe, CMC, City Clerk

Minutes approved: 2/26/15