



City of Anna Maria

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MINUTES CITY OF ANNA MARIA CITY COMMISSION WORKSESSION THURSDAY, JANUARY 12, 2012 – 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

PLEDGE TO THE FLAG

ROLL CALL

Present: Mayor Michael Selby, Commissioner Jo Ann Mattick, Vice-Chair Dale Woodland, Chair Chuck Webb, Commissioner John Quam, and Commissioner SueLynn.

Staff Present: City Clerk Alice Baird, Building Official Bob Welch, City Planner Alan Garrett, City Attorney Jim Dye, Public Works Director George McKay, Code Enforcement Officer Gerry Rathvon, Code Enforcement, Building, and Public Works Diane Sacca, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander

1. Continued Public Hearing 503/507 Pine Ave – Site Plan Amendment

Historic Green Village

Planner Garrett informed that the Applicant of record was requesting:

- A Special Exception utilizing a combination of Chapters 90 and 91 for parking.
- A reduction in the overall square footage by 657 square feet.
- The Applicant has withdrawn their original request for an additional upper-story residential unit over Building F, and
- The Voltaic Panels over an additional portion of the parking area adjacent to the southern landscape buffer and fence was approved by the Commission at a previous meeting.

City Clerk Baird administered the oath to all persons wishing to speak.

Applicant Presentation

Engineer Lynn Townsend-Burnett confirmed that the Applicant had withdrawn the request for the additional upper-story residential unit over Building F. They were requesting approval of the Special Exception to utilize a combination of Chapter 90 and 91 for parking, and requesting the reduction of the overall square footage.

Responding to Commissioner Woodland, Engineer Burnett explained the implication of the Unified Site Plan noting it is encouraged in the ROR District. She stated that the application, as presented, was consistent with the LDR's and Comp Plan.

Commissioner Woodland did not feel that utilizing a Unified Site Plan should allow the City to ignore the Codes.

Commissioner SueLynn noted that persons were parking in private homeowner's driveways during a recent event. Noting that the Applicant had requested 14 additional parking spaces at the Roser Church, she asked how the Applicant would insure their customers will know to park at the Roser Church.

Engineer Burnett informed that the concern would be a private property and Code Enforcement issue but she will pass the concern along to the developer.

Chair Webb opened the Public Comments portion of the Hearing.

Public Comment 

Carol Ann Magill, 403 Spring Ave, asked why the Planning & Zoning Board approved a building application with commercial downstairs and the upstairs as residential. She felt it was inappropriate.

Chair Webb reminded that portion of the application had been withdrawn.

Ms. Magill felt that the parking overflow into the residential district was an intrusion. She further noted there has been non-stop construction and a lot of activity, and that the customers have no place to park.

Ms. Magill voiced concern that the parking at the Roser Church could be withdrawn at anytime; persons would be hesitant to cross the street if having to park at the Roser Church; the project will create additional parking problems for Pine Ave; and persons have been parking in neighbor's driveways. She encouraged the Commission to vote in opposition. She felt the Applicant had asked more of the City than what they had given back to the community.



City Clerk Baird administered the oath to Micheal Coleman who had arrived after the Public Hearing began.

Micheal Coleman, Pine Ave, stated that the Thrasher's (Applicants) had saved a historic home that would have otherwise been torn down, along with spending a lot of money saving another additional home. Mr. Coleman stated that the Applicant has requested far less than what the code allows.



Terry Schaefer, 307 Iris, asked for clarification if the project was in compliance with the Code and Comp Plan as presented that evening. He asked if the property were to be conveyed into a parcel at a later date, would it also remain in compliance at that time.



City Attorney Dye responded stating that if the project is approved, all four properties will be controlled by the Site Plan. Explanation followed.

Mr. Schaeffer asked if the developer had a contingency plan for parking if at some time the Roser partnership is dissolved.

City Attorney Dye advised that if the parking was no longer an option, then they would no longer be in compliance – therefore, then becoming a code enforcement issue if no other arrangements were made.

Hearing no further public comment, Chair Webb closed the Public Hearing.

Engineer Burnett announced that the required parking had been reduced from 41 down to 38, and reduced by 2 spaces due to the withdrawal of the upper residential unit.

Commissioner Woodland stated there was no easy solution to the construction disturbance issue. He then noted that the overflow parking in the residential area is a reality and felt the Commission should do everything possible to alleviate the situation.



Motion: Move to approve the Special Exception utilizing a combination of Chapter 90 & 91 for parking and approve a reduction of the overall square footage as submitted in the Amended Site Plan for property at 503/507 Pine Ave, and based on the following stipulations:

- 1) The parking spaces for the residential units shall be signed for residential use only.
- 2) The site shall be operated or managed as a unified site. If the site should cease to be operated or managed as a unified site, each lot will then be subject to additional review and amendment to ensure continued compliance with City Codes.

Action: Approve. Moved by Commissioner Jo Ann Mattick, Seconded by Commissioner John Quam. 

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Chair Chuck Webb, Commissioner Jo Ann Mattick, Commissioner John Quam, Commissioner SueLynn, Vice-Chair Dale Woodland.

Chair Webb suggested the developer speak to the contractors relating to the parking overflowing into the residential areas. Also have a dialog with the Applicant that during events, signs are placed requesting that the vehicles not park in the residential areas and that there is parking at the Roser Church.

Commissioner SueLynn asked to include not parking at Beach Bums.

Commissioner Mattick suggested the 50-ft x 100-ft area by Roser Church be utilized for public parking. *Mayor Selby* agreed to contact Roser towards that goal.

2. **First Reading Ordinance 12-732 – LDR Amendments to the R1/R2 Residential District**

Planner Garrett read the Ordinance by title. He informed that the Ordinance was the first of several Ordinances for amending the LDR as a result of meetings held with Tom Turner, Doug Copeland, Building Official Welch, and Planner Garrett. The Second Reading has been scheduled for the Commission's January 26 meeting.

Commissioner Woodland asked that in the future a copy of the current code language is provided for the Commission to use as a reference for determining the new language changes being made.

Discussion and amendment to the Ordinance were as follows:

- Planner Garrett will review the definitions for Lot Coverage and for Pervious Surface.
- **Section Two. Amendment to Section 114-222, Lot, yard, bulk and parking regulations, (3) Lot Coverage.**

The P&Z have recommended amendment whereas when building to 27-ft height allows for 35 percent maximum building coverage. When building higher, the maximum building coverage would be 30 percent.

Commissioner Woodland would like all extra space for green space or to split the differences for impervious.

Commissioner Woodland suggested reducing the maximum building coverage from 30 percent to 25 percent and the maximum impervious surface coverage from 10 percent to 5 percent. He also suggested the implementing the Daylight Plane rule.

- **Section Three. Amendment to Section 114-222, Lot, yard, bulk and parking regulations (4) Swimming Pools.**

Commissioner Quam questioned which section waterfalls should be addressed. *Building Official Welch* informed that waterfalls, if over 1-ft high, were considered structures and must remain in the setbacks.

Sound abatement as it relates to swimming pools is currently being looked into. Examples include certain types of fences and types of construction around the pool.

Commissioner SueLynn suggested addressing existing pools having noise issues with some type of citation. *City Attorney Dye* responded giving examples of the procedures involving billboards coming into compliance (amortization schedule). *City Attorney Dye* discussed the difficulty for enforcing noise issues. He noted there is no good answer relating to noise.



- **Section Four Amendment to Section 114-222, Lot, yard, bulk and parking regulations (6) Height of buildings and structures**

Planner Garrett explained the change for the code language noting that it will strengthen the language for times when someone tests the code.

- **Section Five. Amendment to Section 114-222, Lot, yard, bulk and parking regulations (10) Stormwater management**

Planner Garrett informed the new language allows for putting the developers on notice that there are stormwater issues they will need to address.

Also causing stormwater runoff issues are when pavers are put around pools. *Planner Garrett* recommended changing the first sentence in (10) Stormwater Management as follows: “~~Dwellings~~ Lots shall be ~~constructed~~ developed in such a manner.....”

Building Official Welch informed that Section 74 will include language reducing the height of pools and addressing some of the stormwater runoff issues.

- **Section Six. Amendment to Section 114-222, Lot, yard, bulk and parking regulations (11) Unity of title**

Chair Webb provided examples of what can occur when owning more than one lot. He asked *City Attorney Dye* to look into preventing resale.

Planner Garrett noted there may be some additional language in the Ordinance for review at the Second Reading. He pointed out that he and *Building Official Welch* have wanted to adopt the proposed Unity of Title. A revision will also be placed in the ROR.

- **Section Seven. Amendment to Section 114-432, Walls and fences (c) General regulations**

The proposed new language will allow for one pergola, trellis, or arbor no higher or wider than 8-ft.

Public Comment

Terry Schaeffer, 307 Iris, asked if all revisions apply to lots and parcels.

Planner Garrett to review.

Mr. Schaeffer spoke relating to the Unity of Title. He suggested clarifying the language to include or exclude the ability for owner to convey the improvements - and not the land.

City Attorney Dye advised that the land cannot legally be conveyed separate from the building.

3. Second Reading Ordinance 12-730 – Extension of Potable Water Franchise w/ Manatee County (Water Pressure Questions) 

City Clerk Baird read the Ordinance by title.

Mark Simpson, Water Manager, Manatee County Utilities Department, explained that the County had been flushing the lines often in order to maintain the water quality and to help resolve the low pressure issues that had occurred. He noted that the water travels 35 miles from the plant to Anna Maria.

Mr. Simpson informed that the low pressure issue in Anna Maria had improved since the Northwest Booster Station was installed in northwest Bradenton in 2001.

Explanation followed relating to the dead end line occurring at the south end of S. Bay Blvd. A proposed loop system will be installed to the water supply from Key Royale. The system is listed in the County’s current Capital Improvement program. Land owners are currently being worked with for obtaining the required easements. It is hoped the system will be completed by summer 2013.

There was no public comment.

Motion: Move that Ordinance 12-730 is approved for Second Reading and adoption.

Action: Approve. Moved by Commissioner SueLynn, Seconded by Vice-Chair Dale Woodland.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Chair Chuck Webb, Commissioner Jo Ann Mattick, Commissioner John Quam, Commissioner SueLynn, Vice-Chair Dale Woodland.

4. Second Reading Ordinance 12-731 – Extension of Sewer/Wastewater Franchise w/ Manatee County
City Clerk Baird read the Ordinance by title.

There was no public comment.



Motion: Move that Ordinance 12-731 is approved for Second Reading and adoption.

Action: Approve. Moved by Commissioner John Quam, Seconded by Vice-Chair Dale Woodland.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Chair Chuck Webb, Commissioner Jo Ann Mattick, Commissioner John Quam, Commissioner SueLynn, Vice-Chair Dale Woodland.



5. First Reading Ordinance 12-734 – Election Qualifying Period Change Due to Change in FSS.
City Clerk Baird read the Ordinance by title.


There was no Commission or public comment.

ACTION: Ordinance 12-734 will be considered for Second Reading and adoption at the January 26, 2012 meeting.

6. Code Enforcement Special Master Discussion

Mayor Selby recommended the Commission approve changing the Code Enforcement Board and implement a Special Master. He pointed out the various cities that utilize a Special Master. Mayor Selby noted that over the past year, Anna Maria has issued only \$100 in fines yet has to cover the various employee expenses, utilities, etc. to hold the meetings.

Mayor Selby reminded that the Code Enforcement Officer is proactive versus reactive. He would like to see the Code Enforcement Officer being proactive in the City's rights-of-way. Also, he would like to see Anna Maria have the ability to accept anonymous complaints, and to begin utilizing a citation system. Noting that the budget for the Sheriff's Department was \$640,000, Mayor Selby believed that both the Sheriff's Department and the Code Enforcement Officer should be required to enforce the Ordinances.

Commission responses were as follows: 

Commissioner Mattick – Felt that only under unusual circumstances should the name of the complainant not have to be revealed.

Commissioner Woodland said he had fought against the anonymous complaints for a long time. He questioned what the problem was that needed resolved.

Mayor Selby said he had served on the Code Enforcement Board for a number of years. The Code Enforcement Board members have to put neighbor against neighbor and friend against friend. There has only been one fine over the past six months. Also, changing to a Special Master would bring a tremendous cost savings to the City - and the respondent pays for the Special Master unless the City was to lose the case. All hearings heard by a Special Master would be heard Monday through Friday during regular working hours.

Commissioner Woodland was opposed to being proactive and he felt the Commission should be cautious on how they approached the issue.

Commissioner Quam - strongly in favor of being proactive in the right-of-ways. Examples followed. He felt the right-of-way requirements should be the responsibility of the Code Enforcement Officer and not the responsibility of the resident to have to report it. Commissioner Quam was also in favor of allowing for anonymous complaints.

Commissioner SueLynn - In favor of Special Master feeling it would save the City a lot of money. She pointed out it was difficult to get applicants to serve on the Code Enforcement Board. She is also in favor of being proactive in the right-of-ways – especially due to the safety issue. She would support allowing for the anonymous complaints.

Chair Webb has represented clients appearing before a Code Enforcement Board and before a Special Master. He felt that a better hearing occurs when heard before a Special Master that will be impartial. Chair Webb agrees that a citation system should be implemented.

Chair Webb is opposed to anonymous complaints.

Commissioner Mattick asked that the Code Enforcement Officer provide a list of fines that could be enforced in the right-of-way. She recommended that language providing for a warning prior to being fined be considered.

Public Comment

David Teitelbaum, 115 3 St. S, Bradenton Beach, has witnessed the effects of a Special Master versus a Code Enforcement Board in Bradenton Beach. He noted the number of complaints has dropped and the system works well. He stated that the Manatee County Sheriff does not have the authority in the City's Code to proceed with issuing some of the citations.



Terry Schaeffer, 307 Iris, felt anonymous versus non-anonymous complaints would cease if the Code Enforcement Officer is allowed to be proactive.

ACTION: On a unanimous consensus it was agreed that Mayor Selby proceed with having an Ordinance drafted implementing a Special Master.

7. Vacation Rental Discussion

Commissioner Woodland noted that Holmes Beach recently held a Work Session to discuss short-term vacation rentals. He felt all the Island Cities have the same concerns relating to vacation rental issues and the information should be shared between them.

Mayor Selby announced that he and City Attorney Dye attended the Holmes Beach Work Session relating to short-term rentals. He felt Anna Maria did not have as many issues as did Holmes Beach due to Anna Maria not having the large duplexes. Holmes Beach will also be addressing the trash issues which have already been addressed in Anna Maria.

Mayor Selby thanked the property management companies that have come to the forefront.

The following suggestions were presented by the Commission in an attempt to address the Vacation Rental issue in Anna Maria:

- Require acoustical fencing around swimming pools.
- Not allow swimming pool area to be level with the structure.
- Require 6-ft fencing instead of 4-ft fencing for properties with swimming pools.
- It was noted that many of the rules established by the Property Managers were not read by the renters.
- Suggestion that waterfalls not be allowed in the swimming pool area.
- To utilize the violations and fine procedures as set out in the noise Ordinance.
- Utilize the property managers and pursue uniformity with them by requiring the renter sign a form approved by the City. Renter must sign the lease that spells out the consequences in the event the requirements are violated.
- Should limit the number of cars and occupants per property based on the number of beds.
- Find a way to enforce the noise Ordinance.



City Attorney Dye informed that legislation was recently passed that the City cannot single out and solely regulate vacation rentals only. Vacation rentals have been defined as one or two bedroom homes for transient (short-term) rentals. Anything on the books as of July 1, 2011 is grandfathered. Any new regulations shall apply to all properties and not just to vacation rentals.



Public Comment

Sergeant Dave Turner, Manatee County Sheriff's Office, informed that the County does have a noise Ordinance. Anna Maria has received 26 noise complaints in the last six months. However, his Major has advised that they have gone back to utilizing a decimeter for commercial businesses. Sergeant Turner explained the procedure he asks of his Deputies in Anna Maria.

Sergeant Turner noted that noise is not disturbing the peace and that they and all other cities handle noise complaints through Code Enforcement. He gave only one example of a 2008 case in Bradenton that resulted in an individual serving jail time as a result of a noise complaint.

Sergeant Turner stated the Deputies do enforce the Code and do issue citations.

Commissioner Mattick asked how the Sheriff's Deputies responded during the evenings and weekends. Sergeant Turner informed that a report will be written up and then presented to the Code Enforcement Officer during her normal work hours. He noted, for example, that numerous complaints have been received from a home on Crescent Drive that will need to be addressed.

He informed that since December 5, 2011 the department has been short two employees. As a result, Anna Maria only has one Deputy on duty 24 / 7. One Deputy comes in from 6:00 a.m. to 6:00 p.m. and another from 6:00 p.m. to 6:00 a.m. Parties at the rentals are being held at night causing the deputies to respond to the party alone. However, during the weekend and July 4 there will be overtime Deputies.

Chair Webb asked that discussion relating to the manning of the Sheriff's Department be placed on a future Work Session agenda.

Discussion followed relating to the Sheriff's office response to swimming pool noise complaints. *Chair Webb* suggested a citation process be implemented for that purpose.

Commissioner Woodland said he had complaints due regarding the reaction from the Sheriff's Department. As a result, he was looking for solutions. Commissioner Woodland suggested that any person filing a complaint should contact the Sheriff's Office and not the rental agent. He felt if the Deputy goes out on a complaint there needs to be some type of immediate follow-up (example – immediately contact the rental agent). The property owner should also be informed. Commissioner Woodland did not feel that changes to the Ordinance and regulations would serve as a solution.

City Attorney Dye stated that the Anna Maria Ordinance had been modeled after the Manatee County Ordinance and decibels and the reasonable standards are included.

Sergeant Turner stated he does contact the property owner. He then provided his phone and email contacts. Sergeant Turner responded to Island Real Estate Property Manager Larry Chatt acknowledging he would contact the property manager if the various property managers supply with him a list of the properties that they manage.



Mike Brinson, Property Manager for AMI Accommodations, informed he has provided a list of the homes he manages to the Holmes Beach Police Dispatch and want to be contacted when a complaint is received. He informed that as the property manager he has the ability to evict and remove tenants.

A list of "Best Practices" prepared by a group of property managers was presented to the Commission and reviewed and explained by Mr. Brinson. Mr. Brinson said they were asking the City to back them with the "Best Practices" and encourage all rental companies and private owners to follow the guidelines in exchange for a seal of approval from the City.

Mr. Brinson discussed the example at 207 Sycamore where the material around the swimming pool causes for elevated noise concerns. As the property manager, he and the owner are helping to rectify the situation.

Penelope Naylor, 204 Elm, felt the rentals in the City operate similar to hotels where persons are required to sign contracts prior to their rental.

Ms. Naylor informed that she had filed a recent noise complaint regarding a home next to her that had a party for 3 days. She finally signed an affidavit with the Sheriff's Department. However, her attempts were totally ineffective - nothing was solved - and the party continued through the morning hours.

Ms. Naylor suggested addressing overcrowding such as following HUD standards, limiting the number of times a property can be rented annually, regulating the number of persons that are allowed in a pool, and look at Health and Fire Codes, and State Law.



Micheal Coleman, Pine Ave, suggested the Commission appoint a liaison to work with the property manager's for the goal of setting standards and 'Best Practices' to be followed. He provided the example

of a party held in one of his properties that he had to address and expressed how important it was for the rental agent to be notified immediately.

Mr. Coleman suggested the problem properties be listed in the newspaper on a weekly basis.

Richard Penn, N. Shore Dr, appreciated the City Commission addressing the issue. Mr. Penn informed that a neighboring property advertises a rental that will sleep ten people. The property has many noise issues and he's called the Sheriff several times. The rental property owner has now applied for construction of a swimming pool in the front.



Larry Chatt, Island Real Estate, asked to be called anytime and wants to be part of creating the solutions. Mr. Chatt said the property manager has all the power and his property owners want the noise issues addressed. He suggested Sergeant Turner also be made part of the solution.

James Elmore, Anna Maria, said he had a large party house next door to his home. Mr. Elmore said he had been ignored by the owner of the Green Village, and had called the Sheriff's Office numerous times. He said due to the noise issues, it is hard to put their 6-mo old baby to sleep. Mr. Elmore said he and his wife are considering moving - and due to the economy - placing their home as a vacation rental.

Penelope Naylor, 204 Elm, feels the issue is a big problem and many people are affected but are afraid to contact the Sheriff. She said many residents are considering moving.



Gerry Rathvon, Code Enforcement Officer, informed that many homes are privately rented and do not utilize property managers. Often notices sent Certified Mail from the City are not being picked up. She suggested that when properties are advertised they should not be advertised for wedding parties. Also, the Chamber should not advertise the wedding parties. Ms. Rathvon felt that Anna Maria should be advertised as a peaceful quiet vacation place having residential properties.

David Teitelbaum, owner of 4 hotels, stated all his renters sign an agreement and he is often thanked for enforcing the rules.

Micheal Coleman, Pine Ave. said the previous administration had indicated a person was not allowed to advertise a property as a wedding because it would be allowing a commercial venture in a residential area. He suggested anyone knowing of that type advertising should contact the City for it to be addressed.

Mr. Coleman suggested property managers fund a Code Enforcement Officer during the weekends.

Chair Webb closed the public comments portion of the Hearing.

Commission Discussion

Commissioner Mattick suggested that any rental property found to be homesteaded be reported to Manatee County.

Mayor Selby said he would like to have the Rental Business Tax Receipt reinstated in the City. Doing so would allow for a database of the rentals and also the opportunity to revoke the Business Tax if found to be a continual abuser.

Commissioner SueLynn volunteered to serve as a liaison on a committee with the property managers. She was surprised rental agents have more power than the City and questioned why a rental property was not classified as a commercial establishment.

Building Official Welch informed that the State defines one and two-family dwellings used for commercial rentals as a resort dwelling. They still have the designation and the City has no enforcement

to not allow the property to be used in that manner. He informed that the State provided an exemption from inspections for one and two-family dwellings. Explanation followed.



City Attorney Dye addressed the issue of Anna Maria and the issuance of Business Tax Receipts. He informed there was a timeline when the City had to institute an upgraded Business Tax Receipt schedule. However, the deadline was missed by approximately 6 weeks. The Ordinance adopting the new schedule had revoked all the previous Business Tax Receipts. Since the City has repealed the previous program he has found no statutory authority allowing for it to be reinstated.

City Attorney Dye pointed out that the current Legislature is discussing a program to repeal the Business Tax statewide.

ADDITIONAL BUSINESS

February 9, 2012 Work Session Agenda Items

Chair Webb asked that the following be placed on the February 9 Work Session Agenda:

- Vacation Rental Discussion
- Personal Wireless Service
- Employee salaries and compensation

Commissioner SueLynn suggested that additional Work Sessions are held per month due to the current numerous issues relating to the quality of life in Anna Maria.

Mayor Selby reminded that further discussion is needed relating to the use of the 6 lots. He suggested a committee is formed. *Commissioner Woodland* expressed his opposition.

Micheal Coleman, Pine Ave. reminded that the Comp Plan and LDR's needed addressed.

Chair Webb will meet with City Clerk Baird relating to the suggestion of a committee for the 6 lots and for holding additional Work Sessions.

PUBLIC AND PRESS COMMENT – None.

ADJOURNMENT

Chair Webb adjourned the meeting at 9:01 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____