

**CITY OF ANNA MARIA
COMMISSION WORK SESSION
JANUARY 11TH, 2007
7:00 P.M.**

CALL TO ORDER (7:03 p.m.)

PLEDGE TO THE FLAG

ROLL CALL: Mayor Fran Barford, Commissioner Jo Ann Mattick, Commissioner Dale Woodland, Acting Chair Christine Tollette, Commissioner Duke Miller

Absent with excuse: Chair John Quam

Also present: City Attorney Jim Dye, Building Official Kevin Donohue, Public Works Director George McKay, Code Enforcement Officer Gerry Rathvon, City Clerk Alice Baird

Press: Sun, Islander

**1. Discussion on Ordinance No. 06-662 – Lot Split & Subdivision Amendment.
(Second Reading: January 24th, 2007)**

Chair Christine Tollette opened the meeting and City Clerk Alice Baird read the Ordinance by title.

Commissioner Jo Ann Mattick recalled that at the December meeting she had raised the issue of whether the Ordinance's requirement for 50 ft. of frontage on a public road was intended to preclude the need to enact the Coastal Overlay District (COD), as she believed that both would affect the same properties. She indicated that it was her feeling that this frontage requirement would unfairly target the few remaining property owners of tracts sufficiently large that they would the reasonable expectation to be able to re-plat according to the existing densities in the city. The Commissioner said that such property owners would experience a significant reduction in the value of their properties if this Ordinance were adopted in its present form.

Commissioner Mattick informed those present that in an effort to determine past City policy, she had prepared a list of questions, which she sent to the Building Official on January 2nd, 2007 in the hope that the answers would be available and addressed at this evening's meeting. She indicated that during subsequent conversation with the Mayor, it was decided that some of the answers to her questions would need to come from subcontracted professionals, therefore she would be posing these at this evening's meeting. For the record, she read the following questions contained in her Email of January 11th, 2007 to Building Official Kevin Donohue:

- What is the width of access to the Villa Rosa property?

- How wide is the roadway built by the developers, and does it have to meet the same standards as the other public roads in the city? If not, what standards does such a roadway have to meet?
- Is this going to be a dedicated road once the development is completed?
- Is there anything in the current City of Anna Maria Code of Ordinances that prohibits property owners from paying for and building their own access road in order to subdivide their property?
- How many residences in the city are presently accessed by private driveways that have less than 50 ft. of frontage on a public road?
- Are there specific standards for a private driveway / access road?

Commissioner Jo Ann Mattick said that she was attempting to determine how many private property owners would be affected if this Ordinance were to be passed. She indicated that two property owners she knew of, Mr. Lockwood and Mr. Fiske, would be prohibited from building on their land if the Commission passed this Ordinance.

In addition, Commissioner Mattick said that she believed the property at the corner of Pine Avenue and North Bay Boulevard would also be affected, since at least half of those lots is too close to the hump-backed bridge, and would need to be accessed from the rear of the property in an easement, for safety reasons. She asked what would be required to obtain an easement across the rear of such property. Further, the Commissioner asked whether this required City approval, regardless of whether the property owners wished to create the easement on their own property.

Commissioner Jo Ann Mattick said that she wished to know how many other properties would be affected by passage of this Ordinance, besides the ones she had just mentioned, as well as their location and the size of each tract.

Relative to the subject of access from alleyways, Commissioner Mattick asked if alleyways were considered public roads, and if they could be used to access private property in the city under this Ordinance if there is less than 50 ft. of frontage.

Lastly, Commissioner Jo Ann Mattick presented a comparison between the properties that would be affected by passage of this Ordinance and those affected by the proposed COD, and asked if these properties would not, for the most part, be one and the same.

Commissioner Tollette read aloud comments written by Commissioner John Quam in preparation for this evening's meeting, referring to Sect. 7 of the proposed Ordinance, copies of which had been supplied to the Commissioners in their meeting packets. In summary, Commissioner Quam indicated that the City needed to be proactive to protect all properties along the water, and that this would be in the best interest of the majority of property owners. He stressed that language such as that appearing in Sect. 7 was urgently needed to prevent future loss of 'property

rights' such as those already experienced due to erosion and the City's having permitted, at one time in the past, the building of structures too close to the water.

Commissioner Duke Miller expressed agreement with Commissioner Quam's memo, and said he thought it was very important for people to understand what was being discussed. He distributed and referred the Commissioners to copies of photographs, Picture #1 showing houses "A" and "B" at the water's edge, and noted that Mr. Hunsicker had said that these two houses were the probable reason for the damage. Commissioner Miller recalled that immediately following the beach renourishment in 2000, the beach extended a distance to the water in front of the Sandbar Restaurant, and then cut back in very sharply. He indicated that responses to concerns about loss of his property, which he had voiced to both Mr. Hunsicker and a consulting engineer, had explained that sand is deposited by water as soon as it hits a solid object, and that the area where his property is located would experience accretion. Referring to Picture #2, the Commissioner indicated that a white line had been drawn where the water's edge used to be, when houses "A" and "B" were built. Relative to Picture #3, Commissioner Miller explained that the small circle depicted the location of a reef, and noted that house "C" was in the water after Hurricane Agnes in 1972, even though the hurricane missed the Island by 200 miles. The Commissioner noted that the present structure replacing house "C" had still been built too close to the water. Commissioner Miller went on to explain, relative to Picture #4, that he had drawn an imaginary line parallel to North Shore Drive, where most likely the beach was when the first properties were constructed there. He indicated that it could clearly be seen how the houses that jutted out into the water had caused the problem.

In summary, Commissioner Duke Miller urged the City to learn from available history, and noted that the pictures showed that by building so close to the water, some property owners had taken property away from other property owners. Commissioner Miller expressed strong support for Commissioner Quam's comments, and submitted the pictures he had presented at this meeting for the record as visual proof that those comments are true.

Commissioner Jo Ann Mattick indicated that she did not dispute that houses located along Bean Point had suffered from severe erosion problem. She said, however, that she did not believe this would be justification for the City's assuming the role of the protector of property owners from themselves. The Commissioner recalled that Comprehensive Plan review facilitator Tony Arrant had pointed out that the entire Island had been designated as a Coastal High Hazard Area. Commissioner Mattick asked if anyone present, as an owner of undeveloped land, would be willing to make the sacrifice Commissioner Quam is suggesting should be made in the best interest of the majority of property owners.

Commissioner Christine Tollette expressed agreement with Commissioner Quam's assessment of the issue, as well as appreciation for the research and thinking contributed to the subject on the part of her fellow Commissioners.

Acting Chair Tollette opened the floor for Public Comment, indicating that comments would be limited to 3 minutes each.

Public Comment

Terry Lockwood of 703 North Shore Drive thanked the Commissioners for allowing his comments. He requested permission to display a survey of his property as a visual aid to his presentation of a brief history of the property. Mr. Lockwood recalled that he had written to the Commission on December 14th, 2006 after having been alerted that the proposed Ordinance would have a negative impact on the value of his property, located at 703 North Shore Drive. He noted that he had purchased two separate properties in the City of Anna Maria ten years ago, one being 701 North Shore Drive, and the other being a large, vacant adjacent lot with no assigned street address and no road frontage. Mr. Lockwood gave the dimensions of the beach lot as 89 ft. wide by 440 ft. deep to the main high water line, representing approximately 1.25 acres, and noted that the Building Official at that time had assured him that he would be allowed to build on it. He recalled that when the creation of a private drive to the beach lot was investigated, it had been found that this could not be done without the removal of a large part of the house at 701 North Shore Drive. Mr. Lockwood went on to explain that he next purchased the property at 703 North Shore Drive when it went up for sale, in order to create the access road. He gave the dimensions of 703 North Shore as 60 ft. wide, along North Shore Drive, by 80 ft. deep. Mr. Lockwood indicated that he then created a legal easement 18 ft. wide across 703 North Shore for the access road, and subsequently sold the property at 701 North Shore. He referred a boundary survey of the beach lot and an existing cottage dated December 1996, showing where a proposed building envelope might fit, relative to existing neighboring homes on either side, and to the beach. Mr. Lockwood reported that his property was currently packaged for sale as a cottage and Gulf front building site, and described his concerns about losing property value and prospects in the event that this proposed Ordinance were passed. He indicated that he and his co-owners did not wish to enter legal action against the City at this time, but could be expected to more strenuously defend their property rights if this is found to be necessary.

Commission Chair Tollette extended the time allowed for this citizen's comment.

Terry Lockwood asked if there were other property owners in the city that would be affected by this Ordinance. He noted that as Canadian citizens, the property owners spend six months of the year in Anna Maria, and that they pay their taxes in full, without the ability to vote. Mr. Lockwood said that he and his co-owners do support local politicians and have been good stewards of their property, which they love, having improved it over the past ten years. He said that the property had not been purchased for the purposes of financial gain, however, its owners were entitled to the same appreciation in property value that any other property owner in the city would eventually receive. Mr. Lockwood respectfully requested that the Commission remove language in the proposed Ordinance that requires new

structures to have 50 ft. of frontage on a public road. He said that the owners had no intention whatsoever to subdivide the property, however, if it would need to be sold, they would like to reserve the option for the purchaser to build a home on the beach lot. Mr. Lockwood said that otherwise, the value of the property would be greatly diminished. He invited any of the Commissioners who were not familiar with the property to come and view it.

Tom Turner of 850 North Shore Drive referred to a house in the area that Commissioner Miller had spoken about as 'the Rossi house' and noted that it, along with four large Australian pines had disappeared sometime during the 1970's.

Jack Eagan of 711 North Shore Drive indicated that he had been a resident of this community for forty years, and that he loved the City of Anna Maria. He told the Commission that he would be willing to make the sacrifice of property value in the interests of the health, safety and welfare of this community. Mr. Eagan noted that he owned 157 ft. of frontage on North Shore Drive, and that the beach has come and gone ever since he came to the Island forty years ago. He noted that citizens had been striving to keep this a low density community for forth years. Jack Eagan expressed the opinion that in a sense, all Ordinances are de facto takings of rights from the people. He urged the Commission to pass the proposed Ordinance language.

Chair Christine Tollette noted that the Second Reading of Ordinance No. 06-662 was scheduled for January 24th, 2007.

Mayor Fran Barford, in response to Commissioner Mattick's request for information, indicated that 3.0 hours consultant time, plus 1.5 hours of staff time would be required to fulfill the request. She informed Commissioner Tollette that consultants charged over \$100 per hour.

Commissioner Dale Woodland said that he would be in favor of obtaining this information, and indicated that in addition, he would like to see information relating to the number of lots, i.e., how many un-platted lots exist in the city; and how many long lots that extend from North Shore to the Gulf.

Commissioner Woodland asked City Attorney Dye relative to subdividing lots in the R-2 district, how this was covered in 242, Page 4. The City Attorney explained that the idea was not to eliminate anyone's lot rights, relative to existing 5,000 sq. ft. lots, but rather to impact newly created lots after January 1, 2007, which would require single family homes in the R-2 district to be built on 7,500 sq. ft. lots. Commissioner Woodland confirmed that the intent was to disallow an increase in population density [as stated in the Comprehensive Plan].

In response to a question from Commissioner Woodland, City Attorney Dye explained that if this proposed Ordinance were to be passed as it now stands, the language that has been struck through would disappear in the codification process,

and the language that is now underlined would replace it. Commissioner Woodland confirmed with the City Attorney that Section 13 would not affect any lot split applications in progress.

Commissioner Duke Miller asked Mr. Lockwood if he had stated that the owners did not have any intention of subdividing their property. He noted that on the map Mr. Lockwood had provided in the second page of his handout, house "A" would be torn down and be the access to lot "B", then fifty feet of the combined properties would have public road access. The Commissioner said that he could not see the issue in Mr. Lockwood's case, if the property was not to be subdivided. The City Attorney said the problem would arise when the owner attempts to maintain separate identities for both the "A" and "B" parcels. He noted that the "A" parcel has access onto North Shore Drive, while the "B" parcel never did have frontage on a public road, to his knowledge. City Attorney Dye said that if the two ownerships are combined, then the "B" parcel would have access from North Shore Drive. Mr. Lockwood explained to Commissioner Miller that he and his co-owners wished to be in a position where they could sell "A" and "B" as one parcel, and whoever purchased the property could have the small cottage existing on "A", and would have access, through lot "A" to build a separate house on "B" without dividing lot "B".

Mr. Lockwood asked City Attorney Dye if the lots could be combined to obtain the necessary 50 ft. public road frontage. The City Attorney explained that the lots were already combined, even though they maintained separate tax identities. He said that if the lots were sold from a single ownership to another single ownership, he could not see any problem with creating the desired access, using the 18 ft. easement on lot "A".

Chair Christine Tollette again stated that the Second Reading of this Ordinance was scheduled for January 24th, 2007. City Attorney Jim Dye asked if the additional information requested at this evening's meeting should be brought to the Commission at the January 24th meeting, or if the Commission would prefer to review the information at an upcoming workshop prior to making their decision.

Commissioner Tollette suggested that the topic be moved forward to the February 8th, 2007 Commission Work Session, and called for consensus for this to be done. Commissioner Woodland said that he would prefer to see the information brought before the Commission at the January 24th, 2007 Second Reading, at which time they could choose to continue the Public Hearing to another date certain, if they felt a decision could not be reached at that meeting. Commissioner Tollette expressed concern about allowing sufficient time for the consultants and City staff to prepare the answers. Mayor Barford agreed that it would be best to allow more, rather than less time. There was consensus to put this topic on the February 8th, 2007 Commission Work Session Agenda.

2. **Discussion of Ordinance No. 06-673 – Property Maintenance Code.**

City Clerk Alice Baird read the Ordinance by title. Receiving no discussion from the Commission, Chair Tollette opened the floor to Public Comment.

Public Comment

None offered.

Chair Tollette indicated that this topic would be on the February 8th, 2007 Commission Work Session Agenda, with the Second Reading to be scheduled for the Regular Commission Meeting on February 22nd, 2007. Mayor Barford explained that the version before the Commission at this evening's meeting was outdated and that the new Second Reading date would allow staff to present the final form of the draft Ordinance to the Commission at its upcoming Work Session.

3. **Renewal of FPL Franchise Agreement – Discussion / Consensus Approach to the Negotiation of a New Agreement Together with Bradenton Beach and Holmes Beach.** (John Quam memo)

Commissioner Christine Tollette said that it was her understanding that Holmes Beach had already negotiated a contract with FPL, and that Longboat Key had not expressed any interest in joining in negotiations with the other Island cities. Commissioner Tollette noted that there had been no consensus at the Barrier Island Elected Officials (BIEO) Meeting for all the cities to look at the agreement together. She further noted that Commissioner John Quam had written a memo on the subject, dated January 2nd, 2007, for inclusion in tonight's Work Session packets, which she proceeded to read aloud for the record.

Mayor Fran Barford said that Commissioner Quam was justifiably passionate about this topic. She noted that although the City had not received much support from its neighboring cities, she did not think that it should be discouraged from exploring the issue further. Mayor Barford said that she would be interested in working together with Commissioner Quam and the Florida League of Cities to bring more information about this important topic back to the Commissioners.

Commissioner Dale Woodland submitted information regarding Cool Cities, as well as a paper entitled "Renegotiating a Municipal Franchise During Electricity Restructuring and Deregulation". He agreed to summarize his comments and address them to Mayor Barford in memo form.

Public Comment

None offered.

Mayor Barford confirmed that the Commission would be updated on this topic as an item on their upcoming Work Session Agenda.

4. Discussion on Anonymous Complaints. (Commissioner Woodland)

Commissioner Dale Woodland stated that he recognized that there were advantages as well as disadvantages to anonymous complaints. He indicated that he was recommending a procedure that allowed anonymous complaints, although not as freely as they are allowed today, and that he was looking forward to discussing this topic with his fellow Commissioners.

Chair Tollette asked Code Enforcement Officer Gerry Rathvon to take the floor. The Code Enforcement Officer said that she would not like to see the right to make a complaint anonymously removed. She said that since she began investigating anonymous complaints for the City, she had yet to find that any such complaint had been unfounded. Code Enforcement Officer Rathvon said that it was important for citizens who are intimidated by their neighbors or who fear retaliation to be allowed to file a code violation complaint anonymously. The Code Enforcement Officer added that she was not aware of a municipality that did not accept anonymous code violation complaints.

Commissioner Duke Miller confirmed with the Code Enforcement Officer that if an anonymous complaint is received, and then the violation is corrected, only to reappear, another complaint must be filed before the Code Enforcement Officer can re-investigate. He objected to the onus being put on the average citizen to police code violations. The Commissioner said he felt there was a missing link which he would like the Code Enforcement Officer to discuss with the Mayor, perhaps a penalty for repeat violations.

Mayor Barford said that she and the Code Enforcement Officer would discuss the frequency of repeat violations and the possible need for additional measures.

Commissioner Dale Woodland said that part of the reason he had written the memo under discussion was that it was his feeling that many of the complaints are made anonymously, not for the reason that harassment or retaliation is feared, but rather because one neighbor has become upset with another neighbor for a reason unrelated to the code violation cited.

Public Comment

Jim Conoly of North Shore Drive said that he felt anyone had a right to complain, either anonymously, in writing, or in person, if they wanted to. He asked the City Attorney what reaction the City must have to complaints, and when are complaints considered part of the public record. City Attorney Jim Dye said that a written phone message is considered to be part of the public record, and that it would be a matter of administrative policy as to whether, or what action is taken.

Margaret Jenkins of Chilson Avenue said she believed citizens had a constitutional right to face their accusers, and that she did not think that filing anonymous complaints allowed this.

Sissy Quin of 301 North Bay Boulevard introduced herself as an administrator for the Historical Society and said that she had received no less than seven complaints, all originating from one person, all against her efforts to make money for the Society. Ms. Quin noted that all but one of the complaints had been unfounded, and added that she would like to see the City curtail in some fashion, acting on complaints intended as harassment. She confirmed to Commissioner Tollette that the complaint campaign against her efforts at the Historical Society began after she took office sometime in February of 2006.

Mayor Fran Barford indicated that the City would continue to conduct the Code Enforcement process as it had been conducting it, however, staff would attempt to be more sensitive to this type of issue. She noted that this was a touchy subject in any municipality, and commented to the effect that Code Enforcement Officer Rathvon had been doing an exceptionally good job.

5. **Discussion on Gulf Boulevard Handicapped Parking.**
(Commissioner Woodland)

Commissioner Dale Woodland read aloud the memo he had written on this subject. He indicated that Gulf Boulevard, between Magnolia and Palm Avenues, was designated a loading and unloading area only, with no parking allowed. The Commissioner proposed that the Commission allow handicapped parking on Gulf Boulevard in this area, in addition to the loading and unloading zone designation. He said that he felt this would be an ideal location for handicapped parking, because of its unique location on the Gulf side of the City of Anna Maria, where it is possible to enjoy the beach view and sunsets without leaving a vehicle. Commissioner Woodland said that for those handicapped persons that wish to exit their vehicles, the ground in this area is firm and the beach can be accessed without exposure to traffic. The Commissioner noted that he had brought this idea before a previous Commission, and it had been rejected, and that he was now asking this Commission to reconsider the proposal. He further noted that there are currently two handicapped parking spaces located on the southwest side of Palm Avenue, and that they are used regularly. Commissioner Woodland respectfully requested each Commission to visit the proposed handicapped parking area and to discuss his idea with their friends and neighbors.

Commissioner Duke Miller said that he would like to see a portion of the area still reserved for loading and unloading passengers for beach access. Mayor Fran Barford recommended that City staff consult with the Sheriff's Department and bring their recommendations back to the Commission at the February 8th, 2007 Work Session.

Public Comment

Jim Conoly of North Shore Drive expressed support for Commissioner Woodland's proposal, and said that he would like to see both sides of Gulf Boulevard opened for parking.

Diane Canniff of 327 Tarpon Avenue said that parking used to be allowed in the area under discussion, but over the years discussion turned to limiting parking, because this was the only stretch by the water where the view was not obstructed by fences or parked vehicles. She said she was opposed to locating handicapped parking spaces in this area, and suggested putting some spaces at Bean Point.

Chair Tollette confirmed that this item would again appear on the February 8th, 2007 Work Session Agenda.

6. Professional Services Review Committee Recommendation for Two Top Firms: 1. HDR, Inc., and 2. Dyer, Riddle, Mills & Precourt, Inc., and Authorize the Mayor and Public Works Director to Negotiate Hourly Rates and Agreements. To be presented at the January 24th Regular Commission Meeting (if ready).

Mayor Fran Barford reported that the City had received two responses to its published notice for Letters of Interest in December 2006. She said that the review committee had reviewed the letters and ranked the companies. The Mayor received the consensus of the Commission to move ahead and present the results at the January 24th Regular Commission Meeting.

7. Waste Management Contract Discussion (if available).

Rose Quinn-Baer of Waste Management, Inc. indicated that she had sent a copy of the contract to the City Attorney as well as to the City Clerk and the Mayor. Waste Management representative Steven Zellott explained that he had encountered difficulties in Emailing the information to the City, as the Email program did not recognize his name.

City Attorney Dye indicated that he had received a copy of the contract two or three days before this evening's meeting. He recommended that since the franchise contract would need to be approved by Ordinance, the First Reading could be scheduled for the January 24th, 2007 Regular Commission Meeting.

8. Old / New Business Issues.

Commissioner Christine Tollette referred to her memo relating to the City Pier, dated January 11th, 2007, and read it aloud. The Commissioner urged the Commission to take the same care regarding the City Pier as it had regarding Belle Haven.

Mayor Fran Barford questioned Public Works Director regarding his efforts to put pressure on the lessee to move forward with proper maintenance of the property. The Mayor said she would like to consult with the City Attorney regarding measures that could be taken to resolve issues at the City Pier relating to the lease and to maintenance.

Commissioner Dale Woodland asked what ‘teeth’ the lease contained to enforce the tenant’s proper maintenance of the property.

There was consensus to request City Attorney Dye to investigate lease and maintenance issues and options and to place this topic on the February 8th, 2007 Commission Work Session Agenda.

Mayor Fran Barford recommended holding a Joint City Staff / Commission Work Session on Monday, March 5th, 2007 to discuss budget format expectations, long-range planning, infrastructure, grants, and other issues, and there was consensus for this.

Mayor Barford noted that the money to construct a beach access at 787 / 789 North Shore Drive had been donated by a private resident. She said that this currently damaged beach access had recently been approved by the Department of Environmental Protection (DEP) for reopening. The Mayor noted that the Public Works Director was working with the resident to move the project forward.

City Attorney Jim Dye requested a meeting in the shade to discuss Frank Almeda’s code enforcement lawsuit, and there was consensus to hold this meeting on January 16th, 2007 at 5:00 p.m.

Chair Christine Tollette announced that the Regular Commission Meeting scheduled for January 24th, 2007 would be held at the Holmes Beach Commission Meeting chambers.

PUBLIC COMMENT

None offered.

PRESS COMMENT

None offered.

ADJOURNMENT

MOTION: Commissioner Duke Miller moved to adjourn the meeting, seconded by Commissioner Dale Woodland.

Vote: All Ayes. Motion carried.

Chair Quam adjourned the meeting at 9:00 p.m.