

**CITY OF ANNA MARIA
REGULAR CITY COMMISSION MEETING MINUTES
MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
THURSDAY, MARCH 26, 2009
7:00 P.M.**

CALL TO ORDER

Commission Chair Quam called the meeting to order at 7:00 p.m.

PLEDGE TO THE FLAG

ROLL CALL: Mayor Fran Barford, Commissioner Jo Ann Mattick, Commissioner Dale Woodland, Chair John Quam, Deputy Chair Christine Tollette, and Commissioner Chuck Webb.

Staff present: Finance Director/Deputy City Clerk Diane Percycoc, Administrative Assistant Ann Marie Thorpe, City Attorney Jim Dye, Building Official Bob Welch, Public Works Director George McKay, and City Planner Alan Garrett.

Press present: Sun and Islander.

1. Approve Minutes of:

City Commission Regular Meeting held February 26, 2009.

Special City Commission Meeting held March 12, 2009.

Commissioner Tollette asked that “affordable” be corrected to read “enforceable” on the March 12, 2009 Special Meeting Minutes. (Page 7, Agenda item # 2 – Staff and Commission Comments)

MOTION: Commissioner Woodland moved that the Regular Meeting Minutes held February 26, 2009, be approved as written and the March 12, 2009 Special City Commission Meeting Minutes be approved as amended. Commissioner Tollette seconded the motion.
Motion carried – All Aye.

2. Commissioner Reports.

Chamber Report

Commissioner Tollette attended the Chamber Board meeting. She announced that a reporter from the New York Times was in town writing an article about the Island.

Community Center Report

Commissioner Tollette reported that the Community Center would be hosting the “Affaire to Remember” on April 4, 2009. The Tour of Homes was held the previous Saturday and was very successful.

3. Mayor’s Report

ITPO Meeting

Mayor Barford attended the ITPO Meeting held in Bradenton Beach on Monday, March 16, 2009. The stimulus projects were discussed.

Transportation Enhancement Grant

The Transportation Enhancement Grant is on the stimulus list in the amount of \$879,335. The City has been approved for the Pine Ave. Boardwalk project and FDOT may want to get it up and running as soon as possible. The City has also been approved for sidewalk construction.

The City is currently in negotiations with Manatee County through a LAP Interlocal agreement already in place for the design, engineering, and planning for the Pine Ave. Boardwalk. The City Attorney has the proposed agreement that will be presented to the Commission at a later date.

BIEO Meeting

Mayor Barford attended the March 18, 2009 BIEO meeting in Longboat Key. The Town of Longboat Key continues to question the Port Dolphin gas pipeline route, however, Port Dolphin continues to refuse to share technical information.

The TBARTA (transportation project for the region) was also discussed.

4. Proclamation – April 2009 “Walk Now for Autism” – Christina Irelan

Mayor Barford read the Proclamation. She stated that Ms. Irelan, who is very active in this pursuit, has a four-year old son with autism. Mayor Barford presented the Proclamation to Ms. Irelan.

Christina Irelan thanked the Commission.

MOTION: Chair Quam moved to adopt the Proclamation designating the month of April 2009 as “Autism Awareness Month”. Commissioner Tollette seconded the motion.
Motion carried – All Aye.

5. Second Reading and Public Hearing – Ordinance No. 09-699 - Amending the Single-Family District (R-1); Amending Lot, Yard, Bulk and Parking Regulations; and Deleting in its Entirety the Two-Family District.

Finance Director/Deputy City Clerk Percycoe read the Ordinance by title.

Planner Garrett reviewed the changes discussed by the Commission during the March Work Session.

- Planner Garrett informed that after the Work Session he researched City Hall records and found that out of the two-family dwelling currently existing in Anna Maria, the majority are in the R-2 District and are non-conforming. The proposed Ordinance would not alter the status of those dwellings. He informed that of the sixty-five two-family dwellings in the City, at least sixty-three of them are already non-conforming.

Commissioner Mattick said she was still concerned about making a decision on the non-conformities that might result in devaluing the property.

Planner Garrett confirmed that an Ordinance dealing with the non-conforming uses would be discussed in the near future.

Commissioner Webb spoke in opposition of allowing the duplexes existing in both the R-1 and R-2 Districts to become a non-conforming use.

Planner Garrett informed that a section could be added under Sec. 114-221. (b) *Permitted uses*. (5) "Two-family dwellings existing as of April 1, 2009." This would allow those structures not currently non-conforming uses to not be penalized.

City Attorney Dye advised that the existing two-family dwellings would remain non-conforming. A separate set of non-conforming regulations would need to be created to govern them in order to allow them to expand, etc.

Commissioner Woodland informed that all existing non-conforming use two-family dwellings have been non-conforming since 1991. He said he was opposed to making the two-family residences as a permitted use.

Lengthy discussion and explanation followed.

- *Commissioner Tollette* asked for clarification relating to Sec. 114-221. (3) b. "No instruction or class work in connection with such lobby or arts or crafts activity is undertaken on the premises." Discussion followed relating to home occupations and the definition of disturbance.
- *Planner Garrett* discussed the *Minimum setbacks* section in detail.
- Consensus was to discuss vertical setbacks floor area ratio, daylight plane, coastal high hazard area, sliding scale for lot coverage, non-conforming uses, and architectural standards at the April 9, 2009 Work Session.

After discussion, It was the consensus of the Commission that the following changes be made to the Ordinance:

- Add Section 14-221. (b) *Permitted uses*. (5) Two-family dwellings existing as of April 1, 2009.
- Add back in "and its deck" in Sec. 114-222.b. (4) *Swimming Pools*.
- Define Swimming Pool, setbacks, etc., under the definition section at a later date.
- Change Sec. 114-221. (3) a. to read "No disturbance nuisance shall result form such operation."
- Delete Sec. 114-221. (3) b.
- Sec. 114-222. (5) – Change Side street yards from 15 feet to 10 feet.

Chair Quam opened the Public Comments portion of the hearing.

Public Comment

Margaret Jenkins, Chilson Ave., stated that Sec. 114-222. (2) b. “at least 50 feet of frontage on a single public street” does not take into account that cul-de-sacs only have 30 feet of frontage.

Tom Turner, N. Shore Dr., felt the 10-foot side street yard setback would restrict what a person could do on their property.

Mr. Turner stated that 90% of the buildings in the City are non-conforming due to being built on 50-foot or less lots. It was his opinion the non-conformities were “completely out of hand.”

Mr. Turner felt the Ordinance should include the changes to the non-conforming sections of the Code.

Deborah Kilichowski, property owner of 218 Palm Ave., voiced concern relating to the 50% rule.

Chair Quam confirmed that the language had already been removed.

Micheal Coleman, Pine Ave., discussed the impact of the “choking out” of the small buildings in the City. He felt in order to maintain a charming village; the City should encourage the small property owners to maintain their properties.

Hearing no further public comment, Chair Quam officially closed the public comments portion of the hearing.

MOTION: Commissioner Woodland moved and Commissioner Webb seconded the motion to adopt Ordinance 09-699 with the following amendments:

- Add Section 14-221. (b) *Permitted uses.* (5) Two-family dwellings existing prior to April 1, 2009.
- Change Sec. 114-221. (3) a. to read “No disturbance nuisance shall result from such operation.
- Delete Sec. 114-221. (3) b.
- Add back in “and its deck” in Sec. 114-222.b. (4) *Swimming Pools.*
- Sec. 114-222. (5) – Change Side street yards from 15 feet to 10 feet.

On Roll Call Vote, the motion carried unanimously.

6. **Second Reading and Public Hearing – Ordinance No. 09-700 - Amending Planting Regulations and Creating Landscaping Regulations and Amending Lot, Yard, Bulk and Parking Regulations of the C-1 District.**
Finance Director/Deputy City Clerk Percycoc read the Ordinance by title.

Chair Quam informed that after the Work Session he reviewed and amended the original document to make it more concise.

Planner Garrett reviewed the proposed and recommended changes. He pointed out that it is being recommended that - ROR District be changed from 16 native shrubs to 9 native shrubs – 3 different shrub species. Also, that Vegetative buffers be changed from at least 7 feet in depth to at least 5 feet in depth and in addition to the landscaping material the buffer shall contain a 6-foot wood fence separating the use from the residential use.

Planner Garrett further recommended that the City of Anna Maria Native Plants List not be adopted as part of the Ordinance. It would be adopted as a separate Resolution at the April 2009 meeting.

Chair Quam officially opened the Public Comments portion of the hearing.

Public Comments

Jean Murray, 321 Hardin, asked why a homeowner should be told what to plant.

Planner Garrett responded.

Margaret Jenkins, Chilson Ave., agreed with Ms. Murray. She voiced concern about planting in the side yard setbacks. Ms. Jenkins recommended that the City require native species plantings but not require a specific number.

Planner Garrett informed that the Ordinance only applies to new construction, the addition of 1,000 sq. ft. gross area to an existing home, or in excess of 1,600 sq. ft. within a twelve-month period.

Jim Conoly, N. Shore Dr., stated that it had been previously discussed that neither the Building Official nor Code Enforcement Officer would be enforcing the Ordinance and that the burden would be on the homeowner. He questioned if that language was reflected in the Ordinance.

Mr. Conoly also asked what penalties would be assessed.

Tim Eiseler, Tarpon St., EEEEC Chair, said he had not received the most recent amended Ordinance and, therefore, was not informed enough to make any comments on the revisions.

Micheal Coleman, Pine Ave., did not believe that all comments made at the Work Session were not included in the proposed Ordinance.

Mr. Coleman felt the Ordinance needed more review. He gave the examples of the Sandbar parking lot, City Hall, Historic Museum, Rhea Chiles Studio, and the PAR properties as being the largest plantings in the City and stated that even the landscape planner was strongly opposed to the Ordinance.

Mr. Coleman questioned the language relating to the 5-foot buffer.

Jim Murray, 321 Hardin, discussed the effects of planting a tree in the side-yard setback. He voiced concern about planting a tree in the rear buffer area where a pool without a cage may exist.

Mr. Murray was not opposed to native plantings, but felt plantings with color should be included.

Robin Wall, 112 Palmetto, encouraged the Commission to adopt the Ordinance that evening and stated that the Comprehensive Plan requires a certain amount of native plantings. Ms. Wall pointed out that since May 2008, the EEEEC Committee held meetings that were open to the public. Also, P&Z Board held two Public Hearings.

Ms. Wall stated that only 25% native plantings will be required in the Residential District. She felt that the buffering language was good in order to protect the Residential from the Commercial use impact.

Ms. Wall reviewed portions of the Comp Plan that would be satisfied by the proposed Ordinance. Comments followed relating to requiring the planting of native plants.

Tom Turner, N. Shore Dr., felt the required vegetation was out of proportion to the lot and the buildings that can be built on the lot.

Sally Eaton, 316 Spring Ave., said she and her husband support the vegetative buffering language in the proposed Ordinance.

Jean Murray, 321 Hardin, said she had not attended previous meetings relating to this issue, however, urged the Commission to delay the approval of the Ordinance.

Tim Eiseler, Tarpon St., said he had an opportunity to review the amended Ordinance and supported the changes. He stated that the EEEEC Committee had taken language from the very best codes and chose the ones that would be the easiest to deal with, and yet comply with the Comp Plan.

Mr. Eiseler said as a fifteen-year Anna Maria property owner, he has found that residents come to Anna Maria for the environment and character of the City. He stated that the proposed Ordinance was written to preserve and enhance the environment.

Micheal Coleman, Pine Ave., said he was not at all opposed to native plantings. His objection to the Ordinance was that there were elements of it that were unnecessary, impractical, and unenforceable. Examples followed.

Carol Ann Magill, 403 Spring Ave., encouraged the Commission to move forward in adopting the proposed Ordinance.

Arlene Clarke, 218 Periwinkle, stated she was in favor of the Ordinance.

Hearing no further public comment, Chair Quam officially closed the public portion of the hearing.

Commission Discussion

City Planner Garrett reviewed the changes to the “Second Final Draft” Ordinance distributed to the Commission that evening. It was agreed that the following changes be made:

- Add Sec. 114-420 (b) (4) That installation of all landscaping required under this section shall be completed as a condition to issuance of Certificate of Completion or Certificate of Occupancy.
- Add Sec.114-420 (c) (3) Native trees and shrubs required to meet the requirements shall be selected from the City of Anna Maria’s Native Plant List as adopted by the City Commission by Resolution from time to time.
- Add Sec. 114-420 (d) (4) The native trees and shrubs required to meet the requirements of this section shall be selected from the City of Anna Maria’s Native Plant List as adopted by the City Commission by Resolution from time to time.
- Add Sec. 114-420 (e) (6) Each buffer must be maintained to encourage dense capacity for screening purposes.
- Amend Sec. 114-420 (f) to read: Installation standards for plants required in parking areas and vegetation buffer for C-1 and commercial uses in ROR.
- Add Sec. 114-420 (h) Tree Protection Native trees under this section may not be removed unless a replacement native tree is installed on a lot or parcel.
- Prohibited Plants to be renumbered (i).
- Irrigation to be renumbered (j).

City Planner Garrett informed there are a couple of permits that had previously been filed. If the Ordinance were approved that evening, language would be added – That the Ordinance would take effect April 1, 2009.

Commissioner Mattick stated she had spent a lot of time reviewing the proposed Ordinance revisions and was shocked to see all the additional changes. She said she was not prepared to vote on the Ordinance that evening and that further review was needed.

Commissioner Webb agreed.

In answer to *Commissioner Tollette's* question, *Planner Garrett* informed that the Code will not require that a Landscape Architect be utilized, but a description and location of the plantings will be required on the Site Plan. Commissioner Tollette voiced her concern about the Ordinance as proposed.

MOTION: Commissioner Webb moved that the Second Reading and Public Hearing of Ordinance No. 09-700 be continued to the April 23, 2009, 7:00 p.m. City Commission meeting. Commissioner Mattick seconded the motion.
Motion carried – All Aye.

7. Maintenance Dredging of Lake LaVista Channel Agreements—MillMac Corporation.

Mayor Barford informed that the City Attorney and staff recommend the contract be approved.

Commissioner Woodland felt that the monitoring, analysis and reporting, as referenced in Article 2. Scope of Work of the agreement, should be performed by the City rather than the contractor.

Public Works Director McKay explained that the City would be performing the work.

MOTION: Motion was made by Commissioner Woodland to approve the Multi-Year Dredging Agreement between the City of Anna Maria, FL, and MillMac Corporation as presented. Commissioner Tollette seconded the motion.

Public Comment

Jim Conoly, N. Shore Dr., asked what would happen to the sand.

Public Works Director McKay explained.

ACTION: Motion carried – All Aye.

-- **MOTION:** Announcing that it was 9:00 p.m., Chair Quam moved that the meeting be continued until the Agenda is completed. Commissioner Webb seconded the motion.
Motion carried – All Aye.

8. Proposed Electronic Mail Policy.

Mayor Barford informed that the City Attorney and City staff felt that the Electronic Mail Policy was an important protection for the City's personnel, residents, Elected Officials, and Boardmembers. She gave the example of the Venice, FL case.

Finance Director/Deputy City Clerk Percycoe informed that Elected Officials in other communities have had their personal computers reviewed and in some cases have had to pay huge fines. The Electronic Mail Policy would provide that protection.

Commissioner Tollette asked for clarification on 2. Purposes b. relating to Incidental, personal use of the email system being permitted.

City Attorney Dye explained the difference between a public record and incidental personal use of the email system. Determining a public record is based on the content of the email.

Commissioner Woodland said he would like the City's website to include an Electronic Read File. This would include all open record e-mail received being accessible on the website.

Mayor Barford stated that the City is not required to maintain a Read File. She agreed that it was a good service to provide, especially for the Press and residents, but she would like to have time to evaluate and track the Read File process. However, it was not used by many people and took a tremendous amount of time for the City staff to maintain it.

Mayor Barford announced that the City hosted the Florida Association of City Clerk's Region meeting on March 20, 2009 and the Read File issue was discussed. Of the Cities represented, five do not provide a Read File, four do, one burns a disk once every two weeks for the press, one provides one Council members e-mail per week that rotates through the Council, and one provides the Mayor's correspondence only.

Mayor Barford said the City's paper Read File would continue but she was concerned that the technical equipment that would be required for only a few persons to review the documents would be very costly.

Comments and discussion followed by *Ms. Percycoe*. She explained that all e-mails would be archived.

Commissioner Woodland felt there would be no additional cost to develop the software interface between outlook and the end product if implemented by the outside contractor at the design phase. He said he was opposed to the filtering of any e-mails. However, those e-mails not classified as an open public records would need to be flagged by the writer in order to be separated by the software.

Commissioner Webb agreed that a screening process would be required due to the exceptions to the open public records act. He suggested that the City contact the Manatee County Clerk's Office relating to their e-mail system.

Ms. Percycoe used the example of receiving an application via e-mail and it automatically being sent to the website Read File with the applicant's social security number listed. Social security numbers are not open record.

In answer to *Commissioner Tollette's* question, *City Attorney Dye* pointed out that any City related e-mail received on the Commission or a Boardmember's personnel computer should be forwarded into the City's e-mail system to be archived.

MOTION: Commissioner Webb moved that the City of Anna Maria move forward with the Electronic Mail Policy. Commissioner Tollette seconded the motion.

Commissioner Woodland again stated he felt the design stage was the perfect time to implement the Electronic Read File.

Commissioner Webb amended his motion as follows:

MOTION: Commissioner Webb moved that the City of Anna Maria move ahead with the Electronic Mail Policy and to explore Commissioner Woodland's suggestion for an Electronic Public Read File being established at time of set-up. The effective date is to be based on as soon as all resources are in place.

Public Comment

Jim Conoly, N. Shore Dr., requested that the City move ahead with the policy. He felt that the City's e-mail system should not be used for personal correspondence and that language reflecting that should be included in the policy.

Mr. Conoly felt the Read File helped the City operate and that the cost to keep it going would be less than a public records request.

Mayor Barford stated that as Administrator for the City she could confirm that there was no personal e-mail abuse in the City.

Commissioner Tollette seconded the amended motion.

ACTION: Motion carried – All Aye

9. Proposed Agreement with Integrated Tech Support.

Finance Director/Deputy City Clerk Percycoe presented cost figures relating to the Exchange Hosting Services for the City. She informed that the cost is based on 25 users. An annual \$299 archival fee is also proposed. The one-time setup fee is \$581.65 plus \$368.40 per month. She recommended that the amount be taken from the City's contingency fund.

Commissioner Mattick asked why Integrated Tech Support was the company selected.

Ms. Percycoe informed that they were referred by the City's computer tech. She informed that Integrated Tech Support also has the capability of hosting the City's website which could result in a cost reduction to what the City currently pays.

Commissioner Mattick said she would like the City to obtain cost comparisons from other companies.

Building Official Welch explained that his department's software was separate proprietary software and that Integrated Tech Support was willing to solve the problem with the web-based interface. Other companies contacted were not willing to place the proprietary software on their servers.

It was noted that the contract would be on a month-to-month basis. *Commissioner Webb* asked that the City insure that all information on the website is owned by the City and not the provider.

MOTION: Commissioner Tollette moved to authorize the Mayor to enter into a contract with Integrated Tech Support, Inc. Commissioner Webb seconded the motion.

City Attorney Dye stated that prior to returning the contract to Integrated Tech Support, Inc. he would add language relating to the City owning the e-mail.

ACTION: Motion carried – All Aye.

10. CONSENT AGENDA.

- a. Special Event: AMI Chamber of Commerce – Bay Fest
April 24, 2009 – 3:00 p.m. – 10:00 p.m.**

Commissioner Webb informed he would need to abstain from voting on the AMI Chamber of Commerce event due to serving on their board.

ACTION: The Commission approved Consent Agenda item a. with Commissioner Webb abstaining.

b. Proclamation – City of North Port’s 50th Anniversary

MOTION: Motion was made by Commissioner Tollette and seconded by Commissioner Webb that Consent Agenda item b. be approved.
Motion carried – All Aye.

11. REPORTS AND UPDATES – All Written Reports

- a. Sheriff’s Report**
- b. Building Department Report**
- c. Public Works’ Department Report**
- d. Code Enforcement Report**
- e. City Pier Report**
- f. Ordinance Update**
- g. Resolution Update**
- h. Financial Report**
- i. Line of Credit Report**

Public Comment – None

Press Comment – None

Adjournment.

On motion made by Commissioner Webb and seconded by Commissioner Tollette, the meeting was adjourned at 10:02 p.m.
Motion carried unanimously.

Alice Baird, CMC, City Clerk

Minutes approved: _____