

**CITY OF ANNA MARIA
CODE ENFORCEMENT BOARD
MARCH 13, 2006
7:00 P.M.**

CALL TO ORDER (7:00 P.M.)

ROLL CALL: Acting Chair Gordon Atkinson, Shirley O'Day, Jeff Murray

Absent with excuse: Carl Pearman, Chair William Iseman

Also present: City Attorney Jim Dye, Code Enforcement Officer Gerry Rathvon, Minutes Clerk Sylvie Reichmann

Press: Sun, Islander

APPROVAL OF February 13, 2006 Minutes

MOTION: Shirley O'Day moved to approve the minutes of February 13, 2006, and Jeff Murray seconded the motion.

Vote: All Ayes. Motion carried.

OLD BUSINESS

1. Hearing of Case #2006-008 – English Property Update

Code Enforcement Officer Gerry Rathvon distributed copies of a Memo she had written to the Board. She said that on March 1, 2006, she inspected the English's property at 776 North Shore Drive. The Code Enforcement Officer noted that according to the Nov. 16th, 2005 Administrative Order from the Code Enforcement Board, the fence needed to be brought into compliance. She indicated that her inspection concluded that the fence now met the requirements of the Code and the case was now closed. Code Enforcement Officer Gerry Rathvon distributed photos of the fence as it appears today, and the Board remarked on the excellent appearance of the work.

NEW BUSINESS

1. a. Code Enforcement Officer Gerry Rathvon noted that Acting Chair Gordon Atkinson would be moving to Hickory N.C. at the end of April of this year. She thanked him for his time and effort on behalf of the City and indicated that he would be missed. Acting Chair Gordon Atkinson said that he had started a new business venture with two other people, one of whom lives in Hickory.
- b. Code Enforcement Officer Gerry Rathvon distributed copies of a memo from the Mayor regarding the possibility of going to a magistrate system rather than using Board hearings for Code violations.

Shirley O'Day asked Code Enforcement Officer Gerry Rathvon how she felt about having a magistrate for the City of Anna Maria. Code Enforcement Officer Gerry Rathvon responded that since the magistrate did not need to reside in Anna Maria, and there would be no problem with Board members feeling they are being pitted against their neighbors. She also noted the difficulty in recruiting members for the Board from the community, and expressed the opinion that having only three Board members making decisions puts more pressure on them.

Acting Chair Gordon Atkinson asked how the magistrate system worked. City Attorney Jim Dye said that in Manatee County, persons before the magistrate are asked if they are in violation of the Code or not. He said that if the person cited responds that they are guilty, the magistrate then determines how much time the person would need to come into compliance. The City Attorney said that if the person cited responds that they feel they are not in violation, the magistrate immediately schedules another hearing before a citizen-staffed code enforcement board similar to this one. He said that in the zoning context, there is a need to be professional, and that the magistrate is required to be an attorney with a specialized zoning background, or a professional planner. Acting Chair Gordon Atkinson noted that a magistrate would need to be paid by the City, and that this Board's services were free of charge. City Attorney Jim Dye said that if the City does move to the magistrate system, the City would need to recoup the cost of the magistrate from the violators.

2. Hearing of Case #2006-007

The Minutes Clerk swore in the Code Enforcement Officer.

Code Enforcement Officer Gerry Rathvon said that she inspected the property on November 30th, 2005 and sent out a warning letter was to the owners, giving a period of fourteen days, or by December 14th, 2005 to remove a junk boat from the front of the property located at 319 Tarpon Street. The Code Enforcement Officer said that she had not been able to return to inspect the property until January 3rd, 2006, at which time she observed that the junk boat remained on the property. She said that on January 4th, 2006, she mailed out a violation notice to owner Paul Pelletreau giving him thirty days to come into compliance. Code Enforcement Officer Rathvon said that she was to re-inspect the property on February 7th, 2006, however had been unable to do this before February 15th, thus giving the owner an additional eight days for coming into compliance. She said that on February 15th, her inspection concluded that the violation still existed. Code Enforcement Officer Gerry Rathvon indicated that on February 22nd, 2006, she made the transmittals of Notice of Hearing, sent a Statement of Violation to the owner by both certified and regular mail, and posted the property. She said that as of today, March 13th, 2006 she had received neither confirmation of receipt of certified mail, nor any returned mail from the address, leading to her assume that the regular mail had been picked up.

Code Enforcement Officer Gerry Rathvon referred the Board members to photographs she had been taken of the property at approximately 5:30 p.m. the same evening of this meeting. She noted that the owner of the property had failed to appear at this evening's hearing. The Code Enforcement Officer stated that the owners of 319 Tarpon were in violation of Article III Abandoned Property, Section 26-56 Definitions, and Section 26-58 Abandoned Property Found on Private Property, noting that a boat is considered abandoned when it does not have a license and is not in operable condition.

Shirley O'Day confirmed that the owner of the property had not signed for the certified mail to this date. Code Enforcement Officer Gerry Rathvon confirmed to Jeff Murray that she had received a response to an earlier mailing sent by standard mail. City Attorney Jim Dye explained that the Code provided for three methods of contacting the owners of the property: 1) certified mail, 2) regular mail, and 3) physically posting the notice on the property and in a public place. He noted that the Code Enforcement Officer had confirmation of having successfully completed two of those methods, in a legal sense. Code Enforcement Officer Gerry Rathvon displayed a photograph of the notice she had posted on a tree in front of the property. She confirmed to Shirley O'Day that it was evident that someone was living at the address.

Acting Chair Gordon Atkinson asked what the recourse was in cases where the property owner did not respond to communication sent by the City. City Attorney Jim Dye confirmed that the Board could proceed, since the legal requirement was that the property owner receives notice. He said that at this evening's meeting, the Board needed to determine whether or not there had been a Code violation.

Code Enforcement Officer Gerry Rathvon noted that the property owner had been given since November 30th, 2005 to come into compliance. She said that in her opinion, he was given ample time and notice to have the junk boat removed from his property. The Code Enforcement Officer recommended that the Board draft an Administrative Order the same evening of this meeting, if it voted to find the property in violation.

City Attorney Jim Dye explained that, depending on how the Board voted at this evening's meeting, an Order might need to be drafted to provide to the owner, stating the finding of violation, along with a deadline for coming into compliance.

MOTION: Shirley O'Day moved that according to the evidence, the property at 319 Tarpon Street is not in compliance with Article III. Sections 26-56 Definitions and 26-58 Abandoned Property Found on Private Property. Jeff Murray seconded the motion.

Vote: All Ayes. Motion carried.

At 7:35 p.m., Acting Chair Gordon Atkinson recessed the meeting while the City Attorney drafted the Administrative Order.

The meeting resumed at 8:07 p.m. and Acting Chair Gordon Atkinson acknowledged receipt of the draft Administrative Order from City Attorney Dye. City Attorney Jim Dye noted there were two blanks in the Order, one being the date for compliance, and the second being relative to setting the date for the next hearing.

Shirley O'Day confirmed relative to #5, Findings of Fact, that the property owner was sent notice on February 22nd, 2006. City Attorney Dye noted that the conclusion would be, since the regular mail had not been returned, that it had been delivered to the addressee. Shirley O'Day confirmed with Code Enforcement Officer Gerry Rathvon that the notice posted had been secured and would have needed to have been purposefully removed so as not to be where it had been placed (on a tree), as was the case at an inspection earlier on the day of this meeting.

Code Enforcement Officer Gerry Rathvon recommended a compliance date of seven or five days, which would bring the date to March 20th, 2006. Shirley O'Day noted that she would not be available on April 3rd, 2006. **There was consensus to hold the hearing on Tuesday, April 4th, 2006 at 7:00 p.m.** City Attorney Jim Dye stated the change to be added to the 'Notice' paragraph in the Administrative Order [Attachment 1 to these Minutes].

MOTION: Shirley O'Day moved to approve the final Administrative Order as presented and amended this evening. Jeff Murray seconded the motion.
Vote: All Ayes. Motion carried.

Code Enforcement Officer Gerry Rathvon indicated that the final copy of the approved Administrative Order could be available at the City Clerk's Office the morning following this evening's meeting.

Shirley O'Day inquired as to compliance in the subject of the last hearing, asking if there was much more to clean up. Code Enforcement Officer Gerry Rathvon responded that the vehicle remained where it was, and it appeared that the pool also was not totally operational. She indicated that the owner had been given until March 30th or 31st, and that she would be bringing a memo reporting the status of compliance to the April Code Enforcement Board Meeting.

SET DATE FOR NEXT MEETING

April 4th, 2006

PUBLIC COMMENT

PRESS COMMENT

ADJOURNMENT

Acting Chair Gordon Atkinson adjourned the meeting at 8:22 p.m.