

**CITY OF ANNA MARIA
CITY COMMISSION SPECIAL MEETING
MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
THURSDAY, APRIL 9, 2009
6:30 P.M.**

CALL TO ORDER

Chair Quam called the meeting to order at 6:30 p.m.

PRESENT: Mayor Fran Barford, Commissioner Jo Ann Mattick, Commissioner Dale Woodland, Commissioner John Quam, Commissioner Christine Tollette, and Commissioner Chuck Webb (6:47 p.m.).

Staff present: City Clerk Alice Baird, Building Official Bob Welch (6:37 p.m.), City Planner Alan Garrett (6:45 p.m.), City Attorney Jim Dye, Code Enforcement Officer Gerry Rathvon, and Minutes Clerk Stacey Johnston

Press present: Sun, Islander.

1. Request for Relief of Encumbrances in Right-of-Way within Eight (8) Feet of Edge of Pavement – 207 Elm Ave.

Code Enforcement Officer Rathvon explained she visited the property at 207 Elm Ave. on January 14, 2009 that had rocks, bricks, and a palm tree recently placed in the City right-of-way. She asked that they all be removed and stated that the bricks were not flush to the ground. She pointed out that the City Commission had approved her addressing the violation of items in the rights-of-way upon noticing them. Approximately 37 violation letters had been sent to date.

A request for relief of items in the right-of-way was received from homeowner Elizabeth C. Righter. Pictures taken by Ms. Rathvon were presented to the City Commission for their review. She informed that Ms. Righter's husband, Robert Patterson, had taken approximately 14 additional pictures of both the 207 Elm Ave. property and other similar examples of properties in Anna Maria.

Ms. Rathvon informed that the correct process for landscaping the front of a property is to obtain a Right-of-Way Use Permit through the City. Explanation followed. She stated that the City is trying to encourage the homeowners to either use sod or the 250-filter mix. She will be attending an ADA meeting the following week in Fort Myers relating to what product should be used in the first 8-feet of the City's right-of-way.

Discussion followed relating to the materials used for the circular driveway. *Building Official Welch* stated that only a single driveway was on the property at the time a previous building permit was finalized for remodeling of the property.

He explained that a Right-of-Way Use Permit is for the entire right-of-way. The first 8-foot is to remain clear but an area will be allowed for parking. Plantings up to 12-inches in height can be planted past the first 8-feet. If rocks are placed, they must be made part of the Right-of-Way Use Permit.

Chair Quam said Sec. 114-421 – Uses within right-of-way – clearly states there shall be no encumbrances of any kind such as trees, bushes, rocks, stones, plantings, etc. placed or constructed on the right-of-way within eight feet of the edge of the pavement.

Spouse Robert Peterson spoke on behalf of applicant Elizabeth Righter. Mr. Peterson complimented Ms. Rathvon on the process she pursued involving the code violation. He stated that the front of the house is built to the front setback line.

Mr. Peterson felt there were confusing provisions in the City Code and read the landscaping materials allowed. It was his opinion the materials included rocks and that his case should be based on provisions of the current Code. He informed that he and a friend placed all the brick edging and Dan Gagney placed all the marble stones. He said no stones have gone into the road.

Mr. Peterson suggested that sidewalks be constructed for pedestrian usage and ADA compliance.

Mr. Peterson informed he planted the palm tree to beautify the turn-around, but would remove it. However, he felt the Code allows for all types of driveway materials so the bricks and stones should remain.

Commissioner Woodland suggested that the circular driveway be moved back 8-feet.

Mr. Peterson said he could but it would give little room to turn around.

Commissioner Tollette did not object to the circular drive but had a concern relating to the riprap (unless made flush with the surface) and the tree that will increase in size.

Building Official Welch suggested that in the future the applicants be required to go through the Right-of-Way Use Permit process so any issues can be rectified in-house.

MOTION: **Commissioner Mattick moved that the Request for Relief of Encumbrances in Right-of-Way within Eight (8) Feet of Edge of Pavement at 207 Elm Avenue be denied but the City be authorized to work with the applicant to move the Palm Tree back, remove the large stones, and to solve any issues with the homeowner. Commissioner Tollette seconded the motion.**

Chair Quam pointed out that pursuant to Sec. 114-421, the Code Enforcement Officer was working towards insuring the first 8-feet is cleared. He said he was not in favor of leaving any encumbrances in the right-of-way.

ACTION: Motion carried on a vote of 4-1 with Commissioner Webb voting No.

Mr. Peterson felt the motion would be more clear if approved in the affirmative to allow the marble and bricks to stay and that the palm and stones be removed.

Adjournment

Chair Quam moved to adjourn the meeting at 6:58 p.m. **Commissioner Woodland** seconded the motion. **Motion carried – Aye.**

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____