

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD MEETING & WORKSHOP
MEETING HELD AT ANNA MARIA COUNCIL CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
TUESDAY, JUNE 1, 2010
6:30 P.M.**

CALL TO ORDER

Chair Stover called the Meeting to order at 6:30 p.m.

PLEDGE TO THE FLAG

PRESENT: Boardmembers Margaret Jenkins, Mike Yetter, Frank Pytel, Tom Turner, Bob Barlow, Vice-Chair Sandy Mattick, and Chair Randall Stover.

Staff Present: City Clerk Alice Baird, City Attorney Jim Dye, Building Official Bob Welch, City Planner Alan Garrett, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander.

Introduction of New P&Z Board Member

Chair Stover introduced Tom Turner who was appointed to serve on the P&Z Board.

Boardmember Tom Turner thanked the Mayor and City Commission for selecting him and said it was a pleasure serving on the P&Z Board again.

Boardmember Turner informed that shortly after he was appointed to the Board, PAR Developer Micheal Coleman contacted him and asked to meet with him. The meeting consisted of discussing various issues – primarily the parking on Pine Ave.

Boardmember Turner informed Mr. Coleman that he was not committed on either side and would be reviewing all issues as they were presented prior to making any decisions. He did, however, mention to Mr. Coleman that there was a vacant parking area at Gulf Dr. and Pine Ave. Also, Mr. Coleman indicated he had no immediate plans for the 313 Pine Ave. vacant lot and Boardmember Turner suggested it could also be utilized for future parking.

Boardmember Turner informed he does not correspond by e-mail and that any correspondence he would have will be hand-delivered to the City Clerk.

Chair Stover asked City Attorney Dye to address the requirements of the Sunshine Law as it related to Boardmember Turner's meeting with Developer Micheal Coleman.

City Attorney Dye informed that Boardmember Turner could meet with Mr. Coleman. However, though not illegal, he highly discouraged any Boardmembers from meeting with any other individual wanting to discuss a specific project. Discussions relating to changes to regulations or concepts applying to all properties would be okay, but discussing specific projects - especially having an active application - should be avoided.

1. PUBLIC HEARING - Ordinance 10-771 – An Ordinance Regarding a Proposed Moratorium Affecting the Conservation Land Use Designation.

City Clerk Baird read the Ordinance by title.

City Attorney Dye explained that the purpose of the Ordinance is to place a moratorium on any development of the land within the Conservation Future Land Use Category.

The suggestion of a moratorium began as a result of a situation arising from property owned by the Walker's located between Beach and Park on the Gulf side. A portion of the property straddles the City of Holmes Beach. Explanation followed relating to the origination of the property, it's platting, etc.

Dr. and Mrs. Friday, a neighboring property owner to the Walkers, have filed suit against the City over the platting process alleging that the City's Comprehensive Plan prohibits development within the Conservation Future Land Use Category – of which much of that land is located.

City Attorney Dye said in looking at the FLUM, he believes there is work that needs to be done. He did not feel that the way the current Comp Plan reads is in line with the City's stated intent of how the property should be treated. Therefore, the best approach would be that the City imposes a moratorium on all development within the Conservation Future Land Use Category while the City determines what the accurate intent is. The moratorium would include the entire Conservation area that wraps around the water's edge - both the Gulf and Tampa Bay shorelines, and also portions of Bimini Bay.

Aerial photos provided by Building Official Welch were distributed to the Board. *Building Official Welch* explained that along with the Walker property, there are seven other homes in the Conservation Future Land Use area that if destroyed would not be allowed to be rebuilt. The new City boundaries also need to be taken into consideration.

City Attorney Dye explained that the City is not allowed to "take any property" and that some of the property owners have alleged that their property has been taken. Though he does not agree with the allegations he would like to have time, by means of a moratorium, to review the issue.

City Attorney Dye explained how the original Comp Plan allowed for both a Conservation Future Land Use Category and a Preservation Land Use Category and how now the two have been combined into only the one Conservation area category. The current Comp Plan states there is no development allowed in that area. The Zoning Code, on the other hand, still maintained the old Preservation/Conservation. The question now is with the Comp Plan language – is the zoning category in violation of the Comp Plan. Therefore, it needs to be determined whether or not the Comp Plan accurately reflects the City's intent. He said he never felt that the City did not intend to prohibit development on areas which had traditionally been used for development.

The moratorium would allow for the City to "take a time out" for review of the issue. A Comp Plan amendment may then be recommended. Also, the City's amendments were approved by the Governor last week so the city limits have been expanded. That new land will need to be given a Comp Plan category.

City Attorney Dye further pointed out that if the beach is designated as a no-development area, it would prohibit the City from ever doing a beach re-nourishment. Though there are only seven properties in the Conservation area, all beachfront properties are affected.

Boardmember Yetter noted that the Code exemptions state that Building Permits for maintenance repair and interior remodel of existing structures would be allowed.

City Attorney Dye said he had not concluded if a property could be rebuilt or not – only that it was an issue that needed addressed. He informed that the exemptions were in place as recommended by Commissioner Webb.

Boardmember Mattick reminded that during the previous meetings, John Cagnino had brought up this very issue of the properties in the Conservation area and it was suppose to have been corrected.

Boardmember Turner questioned how many of the lots were metes and bounds lots versus platted lots. He noted that some are submerged lots.

City Attorney Dye said most of the platted lots are located north of the Sandbar restaurant. The Walker properties were originally metes and bounds. He explained that whether the properties were platted or were metes and bounds would not determine whether or not the property could be developed. The fact that the Conservation Future Land Use Category states there shall be no development would override.

Building Official Welch informed that the cost for the aerial maps was \$500. A base map of the City for the FLUM and the Zoning Map will cost approximately \$2,500. Explanation followed relating to the overlay use of the map.

MOTION: Boardmember Mattick moved to approve Ordinance 10-711 as written. Boardmember Barlow seconded the motion.

Discussion

Boardmember Barlow felt a moratorium was the only reasonable way to approach the issue.

Boardmember Pytel said he was concerned about the scope of the moratorium and questioned if it might open up a “new can of worms” as to what constitutes the Conservation District.

Boardmember Turner stated that the Conservation plan in the previous Comp Plan was not as severe as it is presently. He also voiced concern questioning what might happen with all the other properties in that district. He did, however, feel that a moratorium should be approved to allow the City to look at the entire District and issue as a whole.

Boardmember Jenkins was in support of a moratorium feeling that the Comp Plan should be changed.

Boardmember Mattick asked about the unlimited time period for the moratorium.

City Attorney Dye explained that there is no “date” attached to the moratorium – only a “task” – in order to undertake a study and determine if a Comp Plan amendment is necessary. He hoped that the study would be completed this summer.

Boardmember Yetter pointed out that the Walkers had spent a consider amount of money grading and filling in the lots between Park and Beach. He said he would like to hear testimony from the Walkers due to it impacting the development of their two pieces of property. (Note: No individuals representing the Walkers were in attendance)

In answer to *Chair Stover’s* question as to what would occur of the lawsuit if the Comp Plan is approved back to the way it was before, *City Attorney Dye* informed that when the Walkers platted the properties, they followed the Zoning Code process. Explanation followed. He stated that a site specific determination of a parcel by parcel basis would be needed.

Chair Stover officially opened the *Public Comments* portion of the hearing.

Public Comment – None.

ACTION: On Roll Call Vote – the motion carried on a vote of 6 to 1 with Boardmember Pytel voting No. The Public Hearing was closed by Chair Stover.

WORKSHOP**Continued Discussion on Segways.**

Chair Stover opened the Workshop for the continued discussion on Segways.

Boardmember Pytel provided a detailed summary relating to the EMVs (Electrical Motorized Vehicles), Segways, bicycles, tricycles, scooters, boards, golf carts, etc. as discussed by the P&Z Board at their May 11, 2010 Workshop. He reviewed the problems that were identified, the concerns, and the P&Z Board recommendations.

A copy of the Sanibel Ordinance relating to Segways was provided by *Chair Stover* and copied for each Boardmember. He noted that Sanibel does not allow the use of Segways except for use by handicap individuals. The State of Florida's laws, on the other hand, are very lax.

Boardmember Mattick said she had originally agreed to a 16-year old age restriction for riding the Segways. She noted that a 15-year old can obtain a restricted driver's license so they would have identification and should also be old enough to ride a Segway.

Chair Stover stated that Sgt. Turner had indicated the dangers of the Segways. The Segways weigh 250-lbs - plus the weight of the person riding it. If a pedestrian happened to get hit by a Segway, it would cause a serious accident. Also, there are no rules established for the Segways such as: requiring headlights, license requirements, taillights, etc. Therefore, there would be no basis for issuing any citations.

Boardmember Turner stated that FL Statutes specifies the age required to operate any type of motorized vehicle. He was opposed to the younger children having the authorization to ride the Segways. He further felt a Hold Harmless Insurance Agreement, that would release the City of any responsibilities, should be required. Also, the rental companies should provide written rules to their renters.

Discussion

Boardmember Yetter agreed that the Insurance requirements should be addressed, an age requirement should be established, and for safety purposes, helmets should be required.

Boardmember Barlow said after hearing concerns expressed by Sgt. Turner at the last Workshop, he researched the issue of Segways and found the following:

- 43 States and the District of Columbia have active legislation relating to Segways.
- Segways, by Florida State law, can be operated on both the sidewalks and bicycle paths.
- Segways are permitted on roadways having 25 M.P.H. or fewer speed limits.
- Florida Statutes require the use of a helmet to operate a Segway.
- Segways by the Sea, who operates and rents Segways in Anna Maria, informed Boardmember Barlow that a Release and Waiver of Liability must be signed by all renters. The renter is also required to sign an agreement stating that they are 16 years of age or over. The rider must weigh at least 90 lbs. and no more than 260 lbs.
- Segways are not required by Florida Statute to have lights.

As a result of Boardmember Barlow's research, he pointed out that nation-wide State laws are in place that the Sheriff can enforce. He questioned if the City should have to implement any further regulations.

Chair Stover explained how Segways are operated. He said he is worried about the fact that there are no regulations in Anna Maria and felt that the City should provide regulations.

Boardmember Mattick felt Sgt. Turner addressed the P&Z Board for guidance in order to establish regulations. She pointed out that there are currently no laws prohibiting a Segway from being ridden on the Beach.

Boardmember Mattick agreed that insurance should be required, helmets should be worn, and that the age for riding a Segway be established at 15 - or with a valid driver's license.

Boardmember Pytel said his major concern related to unsupervised kids riding the Segways. He agreed with 16 years of age being required. He informed that the Segways were also being driven after dark.

Boardmember Yetter suggested that the City regulate that Segways follow the same requirements as a vehicle – must have lights if operating 30-minutes after dusk or 30-minutes before dawn.

Discussion followed relating to the areas the Segways should be limited to riding. It was suggested that Segways not be allowed on Pine Ave. or Gulf Dr. *Boardmember Mattick* did not agree, feeling that the City should encourage the “green concept” and was in favor of them being ridden on Pine Ave. and Gulf Dr. She felt they should be ridden on the street, rather than the sidewalk. They should not be allowed on the Beach or on another person's private property.

Boardmember Yetter felt when a bicycle path was available; the Segways should be ridden in the bike path and not on the street. He was concerned that riding the Segways on Pine Ave. or Gulf Dr. could result in a lot of accidents.

Boardmember Turner suggested that the company renting the Segways should be placing restrictions on the age, they should provide Segway operating education, and also provide information on where the Segways can and cannot be operated.

It was *Chair Stover's* opinion that the technology will continue to come to Anna Maria. He said he did not want to prohibit the use of the Segways, but felt the City should be proactive and regulate their use.

Boardmember Turner suggested that Sgt. Turner and the Segway rental owners be asked to attend the P&Z Board's next Workshop to explain what their restrictions are and to explain what their perspective is for renting the Segways.

Chair Stover informed that the Segway owners were shocked to hear that the City had no regulations.

It was agreed that the Board would review all the ideas submitted so far and bring back their final recommendations to the next P&Z Board Workshop.

Continued Discussion on Loading Zones.

Boardmember Pytel summarized the issue of whether or not loading zones regulations should be modified, as discussed by the P&Z Board at their May 11, 2010 Workshop. He explained what problems had been identified, the concerns, and the P&Z Board's recommendations.

Boardmember Turner suggested that the P&Z Board begin discussion, with the assistance of the City Planner, to revise Chapter 90 and Chapter 114. Loading zones would be included. Recommendations would then be forwarded to the City Commission in the form of an Ordinance for their consideration and final approval.

Boardmember Pytel agreed that the P&Z Board should focus on specifics to be forwarded to the City Commission. He suggested review begin at the next meeting.

Boardmember Barlow concurred that the loading zone issue should be part of the total review of Chapters 90 and 114.

Chair Stover felt that Chapter 90 will be discussed by the City Commission for the next six months. He felt the entire Chapter should be reworked. He suggested the P&Z Board decide upon sensible elements and then move them forward to the City Commission. The parking situation on Pine Ave. and Gulf Dr. were difficult issues and each needed their own designs.

Chair Stover asked that the Boardmembers each come up with a loading zone idea that would fit all criteria - for discussion at the next meeting.

Next Meeting Date

It was agreed that the next Workshop would be held on July 6, 2010 at 6:30 p.m. Boardmember Mattick noted she would be out of town for that meeting.

NEW BUSINESS - None.

OLD BUSINESS

Chair Stover adjourned the meeting at 7:59 p.m. After adjournment, it was noted that the April 20, 2010 meeting minutes needed approved.

Chair Stover reopened the meeting for consideration of the minutes.

1. Consider approval of April 20, 2010 P&Z Meeting Minutes.

MOTION: Boardmember Pytel moved that the April 20, 2010 P&Z Meeting Minutes be approved as written. Boardmember Turner seconded the motion.
Motion carried – All Aye

Adjournment

The meeting was officially adjourned by Chair Stover and seconded by Boardmember Tom Turner at 8:00 p.m.

The City Commission/P&Z Board will meet for a Joint Work Session on Friday, June 4, 2010 at 4:00 p.m. The next regular P&Z Board meeting will be held on Tuesday, June 15, 6:30 p.m. and the next Workshop will be held on Tuesday, July 6, 2010, 6:30 p.m. The July regular meeting is scheduled for Tuesday, July 15, 2010, 6:30 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____