

**CITY OF ANNA MARIA  
CITY COMMISSION WORK SESSION  
MEETING HELD AT ANNA MARIA COUNCIL CHAMBERS  
10005 GULF DRIVE – ANNA MARIA, FL  
THURSDAY JUNE 11, 2009  
7:00 P.M.**

**CALL TO ORDER**

Chair Quam called the Work Session to order at 7:00 p.m.

**PRESENT:** Mayor Fran Barford, Commissioner Jo Ann Mattick, Commissioner Dale Woodland, Chair John Quam, and Commissioner Chuck Webb.

**ABSENT:** Deputy Chair Christine Tollette.

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

**Press present:** Sun, Islander.

- *Chair Quam* announced that there would be no discussion that evening on Agenda Item # 5.
- *Chair Quam* stated that discussion to schedule a Shade Meeting regarding Villa Rosa would be added to the end of the Agenda.

**1. Review Sec. 114-221 (b) Permitted Uses. (5) “Two Family Dwellings Existing as of April 1, 2009”.**

**Reference to Minutes of March 26 Meeting, Pg. 3, Ordinance No. 09-699.**

*Commissioner Woodland* referred to the March 26, 2009 minutes adopting Ordinance No. 09-699 relating to addition of Sec. 114-221. (b) (5) “Two-family dwelling existing as of April 1, 2009 – allowing those structures not currently non-conforming uses to not be penalized.” *Commissioner Woodland* said he felt he made a mistake by voting in favor of the Ordinance since Planner Garrett had confirmed that the permitted uses do not fall under the nonconforming uses when it pertains to alterations and repair.

*Commissioner Woodland* estimated that two-thirds of the existing duplexes are located in the R-1 District and have been non-conforming since the early 1990’s. However, the adoption of Ordinance No. 09-699 allowed all non-conforming uses in the R-1 District to become conforming uses. He said that was not his intent and he now wanted to readdress the issue.

*City Attorney Dye* explained that the duplexes in the R-1 are permitted uses. He pointed out that the decision to allow the duplexes to remain and owners to add on and do repairs would be a Commission policy issue – not only making them permitted uses also makes them permitted structures. If the intent is to treat a duplex as non-conforming and allow them to remain as legal uses but not expand, etc. then the regulations need to address that intent. If permitted uses, but not permitted structures, there may be a conflict with the regulations that need addressed.

*Commissioner Webb* addressed his original concern relating to the former R-2 District and not wanting the duplexes to be nonconforming. He pointed out that revisions began in 1996 when so many nonconforming structures were made throughout the City. He felt their nonconformity was created for “no good reason”.

Commissioner Webb said his intent was to freeze the structures in amber – having the structure conform but not allow any expansion. He did not feel there would be a great difference in impact (car trips, additional water/sewer generated, etc) if a structure were to build to two-story. He did hesitate to allow building to three-stories. Freezing in amber, he felt, would allow the structures to rebuild to their existing footprint in the event of fire, etc. so to not change the character of the City.

*City Planner Garrett* clarified that by listing two-family dwellings prior to April 1, 2009 as a permitted use now lists the two-family dwellings in the permitted use section of the Code. If they had not been listed as a permitted use, then the two-family dwellings in the former R-2 District that were conforming uses would have become non-conforming uses. However, what did happen by adding the language was that the two-family dwellings in the R-1 District that were non-conforming dwellings have now become a conforming use. As a non-conforming use – only non-habitable floor space can be added, whereas, a conforming use allows habitable floor space to be added.

Planner Garrett presented the option that the duplexes are kept in the list as a permitted use with language that prohibits them from increasing non-habitable space. Another option would be that all duplexes in the City regardless of where they existed in the past would now only have the ability to expand non-habitable floor space. He asked that the Commission determine the intent and the appropriate language would be developed.

Planner Garrett reminded that the P&Z Board recognized that the non-conforming uses included the motels, two-family dwellings, and Bayou Condominiums. They agreed those structures should be re-roofed so the re-roofing will be the same for a non-conforming use as for a non-conforming structure. The only difference is a non-conforming use is that non-habitable can be expanded versus a conforming use allows expansion provided that the Code requirements are met. Pre-FIRM structures must meet the 50% rule.

*City Attorney Dye* explained that if the Commission agreed that two-family dwellings should have the same rights as single-family dwellings there would be no Code changes required. However, if wanting to place the two dwellings in separate categories, then the restrictions would need to be determined.

*Building Official Welch* voiced his concern relating to allowing expansion of the existing duplexes and noted that some former motels had become duplexes. He clarified that expansion would not be allowed beyond the 35% land coverage and that most were already at that limit. There are also limitations to adding a second-story. Discussion and explanation followed.

*Commissioner Webb* said his intent was to preserve the character of Anna Maria. He feared that if the non-conforming use policy remained it would enforce them out of existence. He wants the smaller duplexes preserved by freezing them in amber so as to avoid their being replaced by large homes. He said he did not object to the duplexes in the R-1 District as conforming, feeling they shouldn't have ever been designated as non-conforming. He felt it was not proper planning to change a structure to non-conforming.

*Commissioner Mattick* suggested that rather than allowing a duplex to expand that they be allowed to build up to 27-feet in height and to allow to them to build to their maximum lot coverage. She was also opposed to them ever becoming non-conforming.

*Commissioner Woodland* voiced concern that the duplexes would expand to the maximum, short-term rentals would occur rather than long-term rentals, and the intensity to the City and surrounding neighbors would increase.

*Commissioner Webb* suggested that staff be directed to bring back some limitation language for the Commission's discussion.

Lengthy discussion followed relating to:

- Clarification of the 50% rule.
- The different duplex scenarios such a one duplex built on two lots.
- Need to determine type of expansion allowed if intent is for two-family dwellings to remain conforming with the right to expand.
- Concerns in event the structure is destroyed by Act of God or by voluntary removal.
- Suggestion of allowing expansion to FEMA requirements at 50% value, as long as all other Code requirements are met.
- Preserving the residential character of City.
- Commissioner Woodland felt that allowing duplexes in the Residential area to expand would be contrary.
- Duplexes by definition are residential.
- Allowing duplexes to have a reasonable amount of expansion.
- Limiting to a one-time expansion only.
- Intensity issue.
- Comp Plan defines Anna Maria as a single-family character.
- Lack of property maintenance in the event of remaining as non-conformity.
- Code does not permit new duplexes. New language gives relief to the existing duplexes in keeping with the single-family character of the City.

**ACTION:** After discussion, it was a majority consensus of the Commission that staff brings back limitation language that allows duplexes to a one-time expansion of their habitable area, 50% of the value.

*Commissioner Woodland* voiced opposition to the consensus. He said he would like the Ordinance language relating to duplexes reverted back to what existed

prior to March 26, 2009. He was open to discussion, however, as far as the regulations on duplexes in the R-2 District.

#### **Public Comment**

**Tom Turner**, N. Shore Dr., explained that in the early 1990's, the City was forced by the State to allow affordable housing / duplexes in certain areas of the City. He pointed out that the duplexes were originally built to Code. He did not feel they should be classified as a non-conforming use as long as they were built on a 10,000 sq. ft. lot as mandated in the Ordinance. It was his opinion the duplexes should be left as they are and eventually they would leave.

**Robin Wall**, 112 Palmetto Ave. reiterated that the Comp Plan addressed Anna Maria with the single-family residential character. She felt it would be best to classify the two-family structures as a non-conforming use.

Ms. Wall reminded that the P&Z Board had voted 5 to 1 that two-family dwellings be deleted from permitted uses. Also, six of the members voted unanimously that a non-conforming use could not be expanded and the footprint could not be replaced.

## **2. First Reading – Ordinance No. 09-701 – Amending Notice of Planning & Zoning Hearing Sec. 114-76.**

*City Clerk Baird* read the Ordinance by title.

*Chair Quam* stated that the Commission discussed this issue the previous December 2008 and gave Mayor Barford authorization to present it to the P&Z Board for their recommendation.

*Planner Garrett* informed that the P&Z would be reviewing Ordinance 09-701 and the non-conforming Ordinance at their June 16, 2009 Public Hearing. The P&Z recommendations will be forwarded to the City Commission for their June 25, 2009 regular meeting.

#### **Public Comment**

**Robin Wall**, 102 Palmetto Ave., said she was strongly opposed to the proposed Ordinance and felt it would reduce the protection to the affected property owners - such as new development. Ms. Wall referred to the letter previously delivered to the City from Attorney Jeremy Anderson on behalf of his clients.

It was Ms. Wall's opinion that the certified mail / return receipt requested method serves as a layer of protection and may be affected by future developments.

**ACTION: The Commission will consider Ordinance No. 09-701 for Second Reading at their meeting to be held on June 25, 2009.**

**3. Attendance Requirements for Commissioners.**

*Commissioner Mattick* referred to the current Code language relating to attendance requirements for City Commission members. It was her opinion that the current language was very subjective. She noted there was no procedure in place to carryout the attendance requirement for the City Commission members.

Commissioner Mattick suggested if a Commissioner were to miss two or more regular meetings in a row, or miss more than four meetings within a twelve-month period, it would serve as an automatic forfeit of their office of City Commission. She was opposed to the current language that requires a notice and hearing prior to forfeiture of the office. She also felt a definition should be established defining a regular City Commission meeting.

*City Attorney Dye* explained that each City Commissioner has a property right in their office. Many cases say that the property right cannot be taken away without an opportunity for due process. Therefore, the Notice and hearing language would need to remain in the Code. The City's Charter, on the other hand, allows the Commission to determine the definition of an excused absence, etc.

*Commissioner Woodland* said he had no objection to the current Code language, only that the Commission had not been following the definition set out for excused absences. He questioned whose responsibility it was to make the determination that an absence was or was not excused.

Due to the cost to change an Ordinance, *Chair Quam* was opposed to changing the current code language.

*City Attorney Dye* pointed out that the current code language states that an excused absence means those caused by or related to the illness of the Commissioner or their immediate family and any other is authorized by a vote of the City Commission for good cause.

*Mayor Barford* suggested that in order to maintain the order of the City, all meetings should be included rather than just the regular Commission meetings. She stated, for example, it was very important for the entire Commission to be present during the budget sessions.

Mayor Barford said she appreciated Commissioner Mattick bringing her concerns before the Commission, but felt the Ordinance could remain as written. If absences were to become an issue in the future, Mayor Barford said she could speak to the Chair and address it at that time.

*Commissioner Webb* stated that the electors place the City Commission in office and they can also take them out by recall. He was concerned that the Ordinance language could be used as a weapon and was opposed to the Ordinance altogether. It was his opinion that if the electors were opposed to the number of absences a Commissioner may have, they could pursue the recall method and have them removed from office.

**4. Discussion on Drafting an Ordinance that Would Prohibit Sexual Predators and Offenders from Living Within the City Limits.**

*Commissioner Webb* explained that the Ordinance would not completely prohibit a sexual predator from living in the City – only prohibit them from being a certain distance from areas where children congregate. He noted the City has to be careful to protect someone’s constitutional rights.

The example followed where several years ago an unregistered sexual predator was arrested in Anna Maria. If the individual had not been in violation of the registration requirements, they may still be living in Anna Maria.

Commissioner Webb informed that other cities throughout the State are adopting similar Ordinances that prohibit sexual predators from coming in contact with children.

*Mayor Barford* introduced Detective Carol Montague who heads the sexual predator unit for the Manatee County Sheriff’s Department.

Further discussion and explanation followed by Commissioner Webb including:

- The cities that have adopted a sexual offender/predator Ordinance.
- State law – 1,000 feet restriction, etc.
- Feeling that the beach is also a park, Commissioner Webb suggested that a definition of park be established.
- State law refers to where a sexual predator/offenders “lives” and Commissioner Webb suggested where they “work” should also be addressed.
- Should travel-by areas be included as prohibited locations such as churches, bus and trolley stops, etc.
- To avoid crossing the jurisdictional boundaries, Commissioner Webb suggested the Ordinance should be Island-wide and include the Cities of Bradenton Beach and Holmes Beach.
- Suggested requiring a 2,500-foot restriction versus only the 1,000-foot State law requirement.
- Original offense is a type of misdemeanor, yet 50% to 90% of those serving time in prison will recommit the crime.
- Authorize City to use its power of emanate domain to seize the property or force the sale of the property where a sexual predator is living.
- Make any lease or sale of property to a sexual predator unlawful and provide a method to break a contact in the event a sexual predator is found to be involved.

***Detective Carol Montague*** said there was no Manatee County Ordinance in place relating to sexual predators/offenders and to her knowledge the County is not in the process of adopting one. She said Manatee County is able through their personnel, State law, and Federal Adam Walsh Child Protection Act to actively pursue sexual predators and offenders.

She provided a background of the dedicated Sheriff's patrol unit formed for this effort in 2006. Since 2006 to present, at least one-third of the registered sex offenders in Manatee County have been arrested for violations. Manatee County has a zero tolerance as far as a sexual offender not complying with the requirements of the State law.

Explanation followed relating to an adult entertainment ordinance drafted in Manatee County a few years back. Unfortunately, the ordinance became so restrictive a Federal injunction was placed against it and it could never be enforced.

Detective Montague agreed that additional laws should be implemented as to the location sexual predators should be prohibited. She pointed out that the 1,000 feet rule applied only to those individuals who are currently under some type of supervision. Once off probation, the provision no longer applies.

She voiced concern relating to not allowing residency. She explained that studies indicate that a Residency Ordinance does not prohibit a sexual offender from coming into a community and molesting a child. The majority of sexual offender victims in Florida are family members or ones in everyday contact with the child. Sexual predators, on the other hand, are individuals who target a child, remove the child, then rape and murder them.

**ACTION:** It was unanimously agreed that the Commission review the materials provided by Commissioner Webb. Commissioner Webb will bring a proposed Ordinance back for Commission discussion at the July 9, 2009 Work Session.

**5. Local Agency Programs (LAP) Agreement with Manatee County and the City of Anna Maria Regarding Transportation Enhancement Grant (TEG) Project.**

Item removed from Agenda.

**6. Proposed Community Pool Discussion.**

*Commissioner Webb* informed that the most counties along the coast have a community pool. He suggested that an Olympic size (50-feet x 25-feet minimum) pool be installed. He stated that the Island poses certain safety issues such as Tampa Bay being the largest shark population, there are no lifeguards at the beach areas, and there is no organized swimming instruction available.

Commissioner Webb proposed that the Cities of Bradenton Beach and Holmes Beach, Manatee County, and the Manatee County School Board be contacted for the building of a community pool. A location would need to be determined and with the property values so low it would be a good time to purchase the required land.

*Commissioner Mattick* expressed concern about the ongoing maintenance and supervision of a pool. She also had concerns relating to the parking and noise situation if a community pool were built in Anna Maria.

*Commissioner Webb* suggested that the Community Center or County Parks system could contract for the day-to-day maintenance. He addressed the parking and noise concern and felt a pool would be quieter than a baseball or soccer event. As far as cost, he suggested a bond, grants, etc. could be pursued.

Discussion followed relating to the numerous private pools in Anna Maria, maintenance concerns, budget constraints, etc.

**ACTION: It was agreed 3 to 1 that the idea of a community pool no longer be pursued. Commissioner Webb was in disagreement and will be pursuing the issue on his own.**

**7. Commission Discussion.**

**Proposed Trolley Fare Discussion**

*Commissioner Mattick* referred to a letter received from a resident relating to Manatee County proposing to charge daily fares to ride the Trolley. The resident pointed out that they were paying tax dollars and suggested that the Anna Maria residents should receive an annual free Trolley pass. She suggested that the passes could be obtained at City Hall by showing proof of residency.

*Commissioner Webb* informed that two Manatee County Commissioners and the County Administrator had addressed the Anna Maria Chamber of Commerce informing they are looking at a daily charge for use of the Trolley.

After discussion, it was agreed that each City Commissioner e-mail the County Commissioner's with their recommendation.

**Rights-of-Way – N. Bay Blvd. Bridge**

*Commissioner Mattick* said she was concerned about the lack of 50-foot right-of-way in the event of having to replace the N. Bay Blvd. Bridge. She pointed out that the property at Anglers Lodge might be for sale at that location.

This issue will be discussed at the July 9, 2009 work session.

**8. Shade Meeting Scheduled.**

*City Attorney Dye* has been discussing the Verizon Bank vs. Anna Maria lawsuit (Villa Rosa) with League Attorney Greg Hootman. A Shade Meeting is requested to review the case with the Commission.

Unsure if Attorney Hootman could meet on July 9 or 23, 2009, it was agreed that City Attorney Dye schedule the date with Attorney Hootman and notify the

Commission of his availability. The Shade Meeting will be held at 6:30 p.m. on either July 9, 2009 or July 23, 2009 and will last approximately thirty minutes.

**Public Comment on Agenda Items Only**

**Community Pool**

**Micheal Coleman**, Pine Ave., suggested that it first be determined whether or not a community pool would be useful to have on the Island. If found to be useful, then pursue how it could be funded and maintained. He acknowledged there were many children on the Island who had not received any formal swimming lessons.

**Press Comments – None.**

**Adjournment**

**Chair Quam adjourned the meeting at 8:50 p.m. Commissioner Woodland seconded the motion. Motion carried – Aye.**

**The next regular Commission Meeting will be held Thursday, June 25, 2009.**

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**Alice Baird, CMC, City Clerk**