

**CITY OF ANNA MARIA
SPECIAL CITY COMMISSION MEETING
10005 GULF DRIVE – ANNA MARIA, FL
THURSDAY, OCTOBER 23, 2008
6:30 P.M.**

CALL TO ORDER

Chair Quam called the Special City Commission Meeting to order at 6:30 p.m.

PLEDGE TO THE FLAG

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

ABSENT w/excuse: Commissioner Duke Miller.

Also present: City Clerk Alice Baird, Finance Director/Deputy City Clerk Diane Percycoe, City Attorney Jim Dye, Code Enforcement Officer Gerry Rathvon, and Minutes Clerk Stacey Johnston.

Press present: Sun and Islander.

- 1. Application for Relief of item(s) in the Right-of-way / Easement.
Property Located at 222 Oak Avenue – Michael & Susan Powers.
Ref: Sec 114-421 – CEB Case No. 2008-014**

Code Enforcement Officer Gerry Rathvon explained that property owners Michael & Susan Powers had submitted a letter to the City requesting that a Palm tree that they had planted on their property a few years back remain on their property.

The Code Enforcement Board (CEB) who had agreed on certain recommendations, which included bringing the request before the City Commission, first addressed the issue.

Ms. Rathvon brought attention to City Code Sec. 114-421. Uses within right-of-way. (a) Generally. She pointed out that the Commission did have the authority to approve or deny the Power's request.

Ms. Rathvon took pictures of the right-of-way area on the property the previous Wednesday. She informed that tapes were stretched 8-feet from the paved area of the road. She pointed out there are still bushes, sprinkler systems, and the Palm tree in the City's right-of-way.

Ms. Rathvon informed that over the past seven years of her employment with the City, approximately two hundred different properties had been cleared of items in the right-of-way. Doing so has allowed for greater safety issues, cars are able to pull over in emergency situations, room is allowed for bicycles, etc. She explained that once the City is aware items do exist in the right-of-way it makes the City liable. Since it is the City's property, if anyone were to get hurt, suit could be brought against the City.

Commissioner Woodland asked for clarification relating to the CEB minutes where Chair Iseman suggested that if the Palm tree were allowed to stay it would set precedence.

City Attorney Dye explained that a decision is based on the facts presented. Allowing it to happen this time would not bind the City to decide it the exact same way the next time. Also, the exact same issue would most likely not be requested more than once.

In answer to *Commissioner Tollette's* question, *Mayor Barford* confirmed that Phil Charnock served as the City's Building Official in 2000. *Mr. and Mrs. Powers* confirmed that Mr. Charnock did approve a final inspection on their property at that time.

Commissioner Tollette said she looked at the property and the Palm tree earlier that day and pointed out how beautiful it is. She said she also noticed other properties with items in the right-of-way throughout the area. She did not feel it was right to require the Power's to remove items in the right-of-way when other property owners only one-half block away would not be required to since no one had contacted the City relating to that particular property.

Susan Powers explained that the original complaint submitted to the Code Enforcement Officer involved rocks in the right-of-way and not the Palm tree. She stated that the ground covering and other plants have been removed and that the original complaint has been satisfied.

Ms. Powers informed that the trunk of the Palm was very slow growing and the closest portion to the street measured 5 ½-feet back.

Commissioner Mattick asked if as the Palm grew it would encroach more into the right-of-way.

Ms. Powers answered that if the bottom chutes are kept cut back and maintained it would not continue to grow into the setback area.

Commissioner Mattick agreed with Commissioner Tollette's comments and said many actions were taken in the past that were not placed in writing, thus the citizens are at a disadvantage. She said she sympathized with the Power's and acknowledged that they had no idea at the time they planted the Palm that there would be a right-of-way issue come up at a later date.

In response to *Chair Quam*, *Mr. Powers* acknowledged that all items encroaching into the right-of-way would be removed except for the Palm tree. *Chair Quam* said he agreed with the Code Enforcement Board's recommendation except for the Palm tree.

Code Enforcement Officer asked that a time limit be determined for the removal of all other items encroaching into the right-of-way.

MOTION: Commissioner Mattick moved to approve CEB Case No. 2008-014 relating to the relief of items in the right-of-way/easement – property owned by Michael and Susan Powers located at 222 Oak Ave. as follows: All items within the 8-foot setback must be removed within thirty days, with the exception of the Palm tree. Commissioner Woodland seconded the motion. Motion carried – All Aye.

ADJOURNMENT

On motion made by Chair Quam and seconded by Commissioner Woodland, the meeting was adjourned at 6:46 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____