

**CITY OF ANNA MARIA**  
**City Commission**  
**Special Meeting**  
**March 11, 2003**  
**6:00 p.m.**

**CALL TO ORDER**

**PLEDGE TO THE FLAG**

**ROLL CALL:** Mayor SueLynn, Commissioner Tom Aposporos, Chair John Quam, Commissioner Chuck Webb, Commissioner Duke Miller

**Absent with excuse:** Commissioner Linda Cramer

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

**Press:** Sun, Islander

**1. RIGHT-OF-WAY EXEMPTION REQUESTS - Rathvon**

Chair John Quam noted the meeting is relative to Section 114-321 of the City Code, "Uses Within the Right-of-Way", quoting "No encumbrances shall be placed in the right-of-way within eight feet of the edge of the pavement. He said that over past 9 months, the Code Enforcement Officer had received over 125 complaints, with only about a dozen requests for an exemption. He asked Code Enforcement Officer Gerry Rathvon to take the floor.

Code Enforcement Officer Rathvon reported that in the case of **506 Magnolia Avenue**, the owners had requested a continuance. She went on to address **608 Fern Street**, and determined that owner Scott Elliott was not present.

Relative to **516 South Drive**, Code Enforcement Officer Rathvon said the owner had asked to be allowed to keep a fruit tree that had been there for ten years. She said the tree is next to an older palm tree, and there is no room for parking anyway due to the presence of older trees. The owner, Mr. Gelderman, requested to keep the fruit tree, along with a board box that contains the root system and protects it from floods. He said the box is about 5.5 ft. from the edge of the road, and the tree is 7 ft. from the road. Even if the tree is removed, he said, it would not make a difference to the rest of the street.

Mr. Gelderman noted that in the past in Anna Maria, complaints had to be signed by two people, which reduced frivolous or malicious requests.

Commissioner Miller confirmed with Mr. Gelderman that the tree is not blocking the view at the entrance to his driveway. Commissioner Webb confirmed that the planting and box does not constitute a safety hazard on the cul-de-sac where Mr. Gelderman lives. Chair Quam said he felt the box was a safety hazard, and said

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other residents on Mr. Gelderman's street had moved rocks and other encumbrances. Mayor SueLynn asked Gerry Rathvon if the box was a safety hazard in her opinion. Ms. Rathvon said the box was central to the original complaint. She agreed that other people had removed encumbrances, and the box possibly could be a dangerous obstacle. Mr. Gelderman asked to be allowed to keep the box until drainage issues are corrected on his street.

**MOTION: Commissioner Chuck Webb moved to allow Mr. Gelderman to remove the box and keep the tree, seconded by Commissioner Duke Miller. Vote: All Ayes. Motion carried.**

Commissioner Miller confirmed with the City Attorney that if someone is injured as a result of the planter, the City would be liable. Commissioner Webb asked if anyone had run into the box within the last ten years, and Mr. Gelderman replied in the negative. Commissioner Aposporos said that now it is aware of it, the City would be liable if injury were sustained relative to the planter. He asked if Mr. Gelderman had a problem with removing the box and keeping the tree, and he said he did not.

Relative to **519 South Bay Drive**, Code Enforcement Officer Gerry Rathvon noted that the owner had recently added new landscaping, and that rocks, plants and trees across the front of the property were in the City right-of-way. Mr. Ungvarsky asked to be allowed to keep his shell in rock form as a temporary fix until the flooding problem on his road is repaired. Commissioner Aposporos asked what the permanent fix he envisions is, and he said he would possibly put a concrete lip in. Mr. Ungvarsky also said he thought that the people who complain should sign complaints.

Chair Quam said the rocks needed to be removed and regular shell substituted because the rocks present a safety hazard to pedestrians and bicyclists. Code Enforcement Officer Rathvon said there were also several palm trees and plantings in the right-of-way. Chair Quam said he thought the trees and plantings would need to be removed also. Mr. Ungvarsky said that no one comes down the street and therefore nobody wants to park there. Commissioner Webb asked Gerry Rathvon what the safety hazard would be. Ms. Rathvon noted that no one could pull off the road for an emergency or other reason at the point where Mr. Ungarvsky has his plantings. Commissioner Webb confirmed that there are other passing places on that road. Chair Quam asked when the plantings were put in, and the owner responded that it has been approximately six months. Mr. Ungarvsky said that he would be happy to tear out plantings if the City came through with a need to use the right-of-way. He added he would just like to see the flooding taken care of.

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Commissioner Webb said he felt it would be appropriate to grant Mr. Ungarvsky permission to use the right-of-way because he could not see the plantings and rock shell as a safety hazard. Commissioner Miller noted that the sight line is blocked when one pulls out of the driveway, and the landscaping was recently installed. Commissioner Miller noted that the shell on either side of the driveway does not wash away, and therefore the rocks that are in the right-of-way are not necessary. Chair Quam said he would like to see everything moved back to 8 ft. from the edge of the pavement.

**MOTION: Commissioner Duke Miller moved to reject the request and that the owner must comply with Section 114-421 of the Anna Maria City Code. Commissioner Tom Aposporos seconded.**  
**Vote: Three Ayes. One Nay. Motion carried.**

Commissioner Webb noted that months ago, the Commission had decided how to handle the right-of-way noncompliance, and it was agreed to have warnings issued by the Code Enforcement Officer, and to consider exemption requests, and not simply to apply a uniform judgment. He said the City has a history of varied treatment of the right-of-ways, and this had a significant and interesting visual impact in the City. He said that unless someone could clearly define a safety hazard, he saw no problem with granting the request.

Mrs. Ungarvsky said that she and her husband had made a great effort to beautify the property, and had received several compliments from neighbors. She said she had had a fountain brought in from another property because it is special to her. She said she would like to keep the landscaping, but would be happy to remove the rocks and install another solution for flooding.

**MOTION: Duke Miller moved to adjourn the meeting, seconded by Commissioner Aposporos.**  
**Vote: All Ayes. Motion carried.**  
The meeting adjourned at 6:48 p.m.

Respectfully submitted,

Alice Baird  
City Clerk

Date Approved: 4/24/03