IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR CHARLOTTE COUNTY, FLORIDA **CIVIL ACTION**

ROBERT BERRY TRABUE and MCCO, INC.,

Petitioners,

vs.

CASE NO. 16-2152 CA

CITY OF PUNTA GORDA,

Respondent.

/

ORDER TO SHOW CAUSE

THIS CAUSE comes before the Court on a Petition for Writ of Certiorari and an accompanying Appendix, filed December 2, 2016, as amended by an Amended Petition for Writ of Certiorari and an accompanying Appendix, filed January 6, 2017. Having reviewed the amended petition and appendix, copies of which are attached hereto, and noting that the original petition was timely filed, it is hereby

ORDERED AND ADJUDGED that Respondent shall have thirty (30) days from the rendition of this order within which to file a written response showing cause why the relief requested by Petitioner should not be granted. The response may include an appendix, shall include appropriate citations of authority in support of any argument, and shall also include references to the appropriate pages of any appendices. The Petitioner shall then have twenty (20) days from the filing of the response to file a reply and supplemental appendix, if any.

No hearings or status conferences shall be scheduled or held unless by order of the Court.

DONE AND ORDERED in Chambers at Punta Gorda, Charlotte County, Florida, this 3rd day of February, 2017.

Lisa S. Porter
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been furnished to: **W. Kevin Russell,** Attorney for Plaintiffs, 14295 South Tamiami Trail, North Port, Florida 34287; **David M. Levin,** Attorney for Respondent, 110 Sullivan Street, Suite 112, Punta Gorda, Florida 33950; **Rachel Keesling, Mayor of Punta Gorda,** 326 West Marion Avenue, Punta Gorda, Florida 33950; **Warren Ross,** Attorney for ATA Fishville FL, LLC, 1107 West Marion Avenue, Unit 111, Punta Gorda, Florida 33950; and **Court Administration (XXVII),** 350 East Marion Avenue, Punta Gorda, Florida 33950, this _____ day of _____, 2017.

FEB - 3 2017

By: _____
Judicial Assistant

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IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR CHARLOTTE COUNTY, FLORIDA CIVIL ACTION

ROBERT BERRY TRABUE and MCCO, Inc.,

Petitioners,

vs.

Case No. 16-2152-CA
Filed Pursuant to
Rule 9.100(f)

CITY OF PUNTA GORDA,

Respondent.

AMENDED PETITION FOR WRIT OF CERTIORARI

COME NOW, Petitioners, ROBERT BERRY TRABUE and MCCO, Inc., a Florida for-profit corporation, file this Amended Petition for Writ of Certiorari to review a quasi-judicial action of a board of local government pursuant to Rule 9.100(c)(2), Florida Rules of Appellate Procedure and support thereof states the following:

I. PRELIMINARY STATEMENT

In this Petition, the Petitioners, ROBERT TRABUE and MCCO, Inc., shall be referred to collectively as "Petitioners." The Respondent, the CITY OF PUNTA GORDA, shall be referred to herein as "Respondent" or "City." The City of Punta Gorda City Council may be referred to as the "Council" and the City of Punta Gorda Planning Commission may be referred to as the "Commission."

This Petition for Writ of Certiorari references to documents in the Appendix, which shall be indicated by the document number in the appendix and where applicable, the page as follows: (App. ___, P. ___). The transcript of the November 2, 2016 hearing before the Council in this matter is also included in the Appendix. References to the transcript of the hearing shall be to the page and line where applicable as follows: (Tr. P. ____, L. ____). All of the documents included in the Appendix are on file with the City and are included in the Appendix attached hereto pursuant to Rules 9.100(f) and 9.2200, Fla. R. App. P.

II. STATEMENT OF JURISDICTION

This cause is a Petition for Writ of Certiorari to review a quasi-judicial action of the City by its Council vacating certain parks and rights-of-way within the limits of the City of Punta Gorda. This Court has original jurisdiction to review such actions pursuant to Article V, Section 5(b), Florida Constitution, and Rules 9.030(c)(3) and 9.100(c)(2), Fla. R. App. P.

III. STATEMENT OF THE FACTS

1. Petitioner Robert Trabue is a great grandnephew and heir of Colonel Issac Hodgen Trabue. Issac Trabue along with his wife Virginia settled in Punta Gorda in the year 1885.

2. On February 24, 1885, Isaac Trabue recorded a plat in Plat Book 1, Page 1 of the Official Records of Charlotte County, Florida with the intent of establishing a town of the same name.[1] (App. 8).

3. The plat, hereinafter the "Trabue Plat," established the lots, blocks, and streets of what would become the City of Punta Gorda.[2] Within the Trabue Plat Isaac Trabue also dedicated twenty waterfront parks, constituting the entire waterfront of early Punta Gorda, to the public. (App. 8).

4. Petitioner MCCO is a wholly owned corporation of Robert and Paula McQueen, husband and wife. MCCO owns property located at 1190 W. Marion Avenue in Punta Gorda adjacent to the property that is the subject of this action.[3]

5. On or about August 16, 2016, ATA Fishville FL, LLC, an Arizona limited liability company, hereafter "ATA Fishville," applied for a plat vacation, the "Application," for portions of the Maud Street and Retta Esplanade right-of-ways along with certain portions of Maude and Cosby Parks (App. 2).[4] These street right-of-ways and parks were dedicated as part of the original Trabue Plat (App. 1, P. 1).

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[1] The original plat was filed on January 8, 1885 in Louisville, Kentucky with a copy recorded in the Official Records of Manatee County, Florida on February 24, 1885. Subsequent copies of the plat were also recorded in Plat Book 1, Page 1 of the Official Records of DeSoto and Charlotte Counties on May 5, 1888 and about April 12, 1921, respectively, as those counties came into existence.

[2] Incorporated as the City of Punta Gorda in 1887.

[3] Lots 1 and 2, Block 15 Plat Book 1, Page 23 of the Trabue Plat.

[4] Application designated SV-3-16.

6. According to the final Staff Report (App. 1, P. 1) and testimony of City staff (Tr. P. 2, L. 25) the stated purpose of these vacations fulfill obligations in Agreement between the City and ATA Fishville, hereinafter the "Acquisition Agreement" (App. 7, P. 3).

7. In accordance with Section 20A-11 of the Punta Gorda Code (App. 6), the Application was scheduled for public hearings before Planning Commission on October 24, 2016 and City Council on November 2, 2016.

8. At the October 24, 2016 Planning Commission meeting, the City affirmed its fee ownership of the lands subject to the proposed vacation. (App. 2, P.2) At the same Commission hearing, the Petitioners raised concerns regarding the proposed vacation and whether ATA Fishville was the proper applicant. Specifically, W. Kevin Russell, counsel for Robert Trabue, cited the requirements of Section 177.101(3), Florida Statutes, which require that before a local government can vacate a plat that the application for such vacation be made by the fee simple owner of the plat, or portion thereof, to be vacated. (App. 3, P. 2).

9. Additionally, Petitioner Robert McQueen spoke in opposition to the vacation on the grounds that MCCO, along with the general public, would be deprived of

vehicular and riparian access to Charlotte Harbor resulting in a loss of property value.[5] (App. 2, P. 2).

10. Following the Commission meeting and in accordance with the City's procedures for quasi-judicial hearings the Petitioners filed a Request to Intervene in the November 2, 2016 Council public hearing. In their request the Petitioners reiterated their concerns regarding the proper applicant and loss of access. (App. 4).

11. At the November 2, 2016 Council hearing on the Terri Tubbs, Urban Design Manager for the City, presented the Staff Report and recommendation at both the Commission and Council public hearings. The findings and conclusions presented again clearly established the City's claim of ownership to the underlying fee for both the street right-of-ways and parks. (App. 1, P. 2).

12. Mr. Russell again restated the Petitioners concerns regarding the proper authority of ATA Fishville to file for a plat vacation (Tr. P. 6, L. 20) and Mr. McQueen echoed his concerns over lost access (Tr. P. 6, L. 1).

13. In addition to Ms. Tubb's testimony, Michael McKinley, counsel for ATA Fishville, and City Attorney David Levin testified as to the City's ownership of the portions of the plat to be vacated. (Tr. P. 10, L. 24 and Tr. P. 13, L. 3, respectively).

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[5] Section 177.101(c), F.S. further provides that a local government must find that the vacation will not affect the right

14. Mr. McKinley also testified that the Mr. McQueen's concerns regarding access were overstated and that the vacation would only affect pedestrian access (Tr. P. 9, L. 15) and that the underlying ownership issue was "a complete red herring" (Tr. P. 11, L. 14).

15. However, at no time did Mr. McKinley or Mr. Levin address the ownership issue in the context of the application requirements of Section 177.101(3), F.S.

16. At the conclusion of the public hearing the City Council voted unanimously to approve the plat vacation (Tr. P. 15, L. 11) by Resolution of the Council rendered on November 2, 2016 (App. 5).

IV. STANDARD OF REVIEW

The standard of review to be applied by the circuit court in reviewing quasi-judicial decisions of local government agencies is well-settled. In *Haines City Community Development v. Heggs*, 658 So. 2d 523 (Fla. 1995) the Supreme Court stated, "...[C]ircuit court review of an administrative agency decision...is governed by a three-part standard of review: (1)whether procedural due process is accorded; (2) whether the essential requirements of law have been observed; and (3) whether the administrative findings and judgment are supported by competent substantial evidence." *Id.* at 530. (citations omitted).

V. ARGUMENT

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of convenient access of other owners.

A. THE CITY COUNCIL DENIED THE PETITIONERS PROCEDURAL DUE PROCESS IN FAILING TO CONSIDER THE PETITIONERS CONCERNS.

In reviewing the Application, the City Council was seeking to only to fulfill its existing contract obligations. As a result the City Council was prejudiced against the Petitioners and their arguments, and ultimately failed in its role as a fair and impartial decision-maker. As mentioned above, in *Haines City* the Supreme Court determined that the first prong of certiorari review is whether procedural due process is accorded. The fundamental guarantee of procedural due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Keys Citizens For Responsible Gov't, Inc. v. Florida Keys Aqueduct Auth.*, 795 So. 2d 940, 948 (Fla. 2001). With regard to the due process determination,

> A participant in a quasi-judicial proceeding is clearly entitled to some measure of due process. See *Cherry Communications, Inc. v. Deason*, 652 So. 2d 803 (Fla.1995) (while administrative proceedings need not match the judicial model, an impartial decision maker is a basic component of minimum due process); *Charlotte County v. IMC-Phosphates Co.*, 824 So. 2d 298 (Fla. 1st DCA 2002) (an impartial decision maker is a basic component of minimum due process in an administrative proceeding). The issue of what process is due depends on the function of the proceeding as well as the nature of the interests affected. *Woodard v. State*, 351 So. 2d 1096 (Fla. 3d DCA 1977), cert. denied, 358 So. 2d 135 (Fla.1978).

Florida Water Services Corporation v. Robinson, 856 So. 2d 1035, 1039 (Fla.5th DCA 2003). In the analogous context of an administrative quasi-judicial proceeding to revoke a license or permit, "[t]he presiding official should be judicial in attitude and

demeanor and free from prejudgment and from zeal for or against the licensee or permittee." *Seminole Entertainment, Inc. v. City of Casselberry*, 811 So. 2d 693,696 (Fla. 5th DCA 2001) (quoting 9 McQuillin, Municipal Corporations, Sec. 26.89 (3rd Ed.)). In the present context, the Petitioners and the residents of the City of Punta Gorda were entitled to a fair and impartial tribunal who could review the park and street vacation application dispassionately and under the appropriate legal standard.

However, throughout the proceedings, both before the Planning Commission and City Council, the record clearly establishes the City's bias in favor of the Application. Pursuant to its Acquisition Agreement with ATA Fishville the City of Punta Gorda in exchange for the sale of the property known as Fisherman's Village, ATA Fishville agreed to pay the City the sum of $3,510,000 and make other public and private capital improvements estimated at $34,500,000 providing additional benefits in economic development, tourism, and tax revenues to the City. (App. 7).

The first indication of prejudice came in the form of City's staff report on the Application. (App. 1). Specifically, the numerous findings and conclusions outlined in the report which fail to address any of the controlling requirements of either (App. 6) or the requirements of Section 177.101, Fla. Stat. Instead the report addresses the obligations of the City and ATA Fishville with respect to the Acquisition Agreement (App. 7) or the City's ownership of the property. Moreover, the City accepted an Application which on its face failed to meet with the City's own application

requirements by not requiring an up-to-date survey showing the location of utility facilities or addressing the City's own Public Works Department's objection to right-of-way vacations. (App. 3, P. 1). During the Planning Commission hearings both Ms. Tubbs (App. 3, P. 1) for the City and Mr. McKinley (App. 3, P. 2) for ATA Fishville further testified that the plat vacations were requirements of the Acquisition Agreement.

At the November 2nd City Council hearing City staff offered no additional testimony relying entirely Planning Commission record. (Tr., P. 3, L. 4). What little testimony there was came almost entirely from ATA Fishville and the Petitioners and focused on many of the issues presented in this pleading.[6] (App. 9). Notwithstanding the Petitioners' concerns there was scant discussion amongst the members of the City Council regarding the Application, with the most significant contribution from Councilmember Prafke highlighting the public benefits of the Acquisition Agreement.

Despite its purportedly quasi-judicial nature, the City failed to provide the Petitioners with procedural due process with respect to ATA Fishville's Application. The staff reviewed the Application consistent with the requirements of the Acquisition Agreement rather than the applicable state and municipal law and the City Council failed to apply the correct standards or appropriately consider the testimony of the

[6] The Petitioners argued that (1) Fishville ATA was not the proper applicant under the applicable statutory regime, (2) the proceeds of the proposed sale should be reallocated to park purposes, again pursuant to applicable law, and (3) the proposed right-of-way vacation would limit access, including riparian access of MCCO, Inc. (App. 9).

Petitioners both before the Planning Commission and at the final hearing. Instead the City Council, with a blind eye to the Petitioners, rubber-stamped the vacations consistent with and validating their obligations under the Acquisition Agreement.

The City's predisposition towards ATA Fishville was compounded by the City Attorney's failure to inform the Council of their quasi-judicial and statutory obligations with respect to the Application. In addition to both the City staff (App. 3, P. 1) and ATA Fishville's counsel's assertions (App. 3, P. 2) during the Planning Commission hearing that the plat vacations were requirements of the Acquisition Agreement, the City Attorney opined that in his legal opinion that there was no need for the vacation except that the title insurer under the Acquisition Agreement required it (App. 3, P. 3).

Mr. Levin was undoubtedly heavily involved in the negotiations and drafting of the Acquisition Agreement and perhaps was still, and innocently, viewing the Application through this transactional lens and not that of legal counsel to a quasi-judicial board. The City Attorney's opinion as expressed before the Planning Commission is evidence of his bias to vacation procedure and that in his view the City's action was in fact a ministerial function rather than a quasi-judicial process. Although the City Attorney is ultimately not the decision-maker his legal opinions and actions, or omissions, as advisor the City Council can affect the outcome and partiality of the tribunal.

The City Attorney acted as legal counsel to the City throughout the negotiations with ATA Fishville, culminating in the Acquisition Agreement; he further acts as legal counsel to the City's planning staff, and was legal counsel to both the Planning Commission and City Council. In *Cherry Communications*, the Florida Supreme Court recognized the unconstitutionality of the dual roles of legal counsel emphasizing that "the decision maker must not allow one side of the dispute to have a special advantage in influencing the decision." *Id.* at 805. In *Cherry*, the Court questioned the due process implications of allowing the former prosecutor of a matter to advise an adjudicatory body on the same matter. The Court found that due process was indeed violated when that attorney was invited to participate in the body's deliberations. *Id.*

Given that the Council's approval of the vacation was needed to conclude a business transaction in which the City was to receive in excess of three million dollars it is difficult to believe that the City Council acted as an impartial decision-maker. Approval of the vacation was guaranteed when the City entered into the Acquisition Agreement. City Council was fulfilling its contractual obligations and not acting in its quasi-judicial role by applying factual findings to applicable code provisions. Similar to a judge, the governing board should be an impartial decision maker free from bias and prejudgment. See *Florida Water Services Corporation v. Robinson*, 856 So. 2d at 1039. In the instant case, Council was not in fact free from bias and prejudgment.

B. THE CITY COUNCIL IN APPROVING ATA FISHVILLE'S APPLICATION DEPARTED FROM THE APPLICABLE AND ESSENTIAL REQUIREMENTS OF LAW AS ESTABLISHED BY FLORIDA STATUTE.

In reviewing the Application, the City departed from the essential requirements of law by utterly failing to address the clear and unambiguous requirements of state law relating to the vacation of plats. In determining whether the City observed the essential requirements of law, the Court must consider compliance with Florida precedent, *Gadsden County Times, Inc. v. Horne*, 426 So. 2d 1234 (Fla. 1st DCA 1983), and applying the correct law, which is synonymous with observing the essential requirements of law. *Blair Nurseries, Inc. v. Baker County*, 199 So. 3d 534, 537 (Fla. 1st DCA2016) (footnote 2 citing *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 530 (Fla. 1995). The power of a county or municipality to vacate property dedicated to the public use is controlled by statute. *Id.* at 537 *citing* Op. Att'y Gen. Fla. 2005-11 (2015).

Nevertheless, despite the Petitioners numerous attempts to clarify their concerns regarding the applicable ownership requirements of state statute, which provides that:

> The governing bodies of the counties of the state may adopt resolutions vacating plats in whole or in part of subdivisions in said counties, returning the property covered by such plats either in whole or in part into acreage. Before such resolution of vacating any plat either in whole or in part shall be entered by the governing body of a county, it must be shown that the persons making application for said vacation own the fee simple title to the whole or that part of the tract covered by the plat sought to be vacated, and it must be further shown that the vacation by the governing body of the county will not affect the

> ownership or right of convenient access of persons owning other parts of the subdivision. Section 177.101(3), F.S. (2016). The City provided no such clarification.

See also, Blair Nurseries, Inc. v. Baker County, 199 So. 3d 534, 537 (Fla. Dist. Ct. App. 2016).

In *Blair Nurseries*, the First District Court of Appeal quashed a circuit court decision on second-tier certiorari review that upheld a local government's decision to deny a landowner's application to vacate a subdivision plat. In rendering its decision, the Court found that the Section 177.101(3), F.S., required the applicant, Blair Nurseries, to show three things: (1) that it owned the property "covered by the plat sought to be vacated;" (2) that "the vacation [of the plat] by the governing body of the county will not affect the ownership ... of other persons owning other parts of the subdivision," and (3) that vacation "will not affect the ... right of convenient access" of such persons. Id. at 535. While the circuit court had identified that the county departed from the essential requirement of law in misinterpreting the non-discretionary nature of plat vacations, what is clear from the First District's opinion is that the three elements identified by the Court clearly represent the applicable and essential requirements of law applicable to a plat vacations.

In addition to the decision in *Blair Nurseries*, the Attorney General's Office has thrice opined on the authority of local governing bodies to vacate subdivisions. Each time finding that a local government does not have the authority to vacate a plat absent

application by the fee simple title owner as stated in Section 177.101(3), F.S. Op. Att'y Gen. Fla. 2005-11 (2015); *accord* Op. Att'y Gen. Fla. 83-51 (1981); Op. Att'y Gen. Fla. 75-77 (1975).

Ownership of the underlying fee is the foundation of any platting matter and not a "red herring" as posited by Mr. McKinley, this follows naturally – what legal or rational basis could there be for allowing someone other than the property's owner to apply for a land use change. In construing a statute, courts are to give effect to the legislative intent by first looking to the actual language used in the statute. *Joshua v. City of Gaineville*, 768 So. 2d 432, 435 (Fla. 2000). The plain meaning of statutory language is the first consideration of statutory construction, when the statute is clear and unambiguous, courts need not resort to legislative or other rules of statutory construction to ascertain intent. *See Shelby Mut. Ins. Co. of Shelby, Ohio v. Smith*, 556 So. 2d. 393 (Fla. 1990). Applied to the instant case, the key essential requirement of law is compliance with the statutory language regarding application by the fee simple owner. It is clear from the Staff Report and testimony of counsel for the City and ATA Fishville that the purported owner and thus proper applicant was the City itself and that to allow ATA Fishville to make application for the vacation for City-owned property was a fatal departure from the essential requirements of law.

C. THE CITY COUNCIL'S DECISION WAS NOT BASED ON COMPETENT SUBSTANTIAL EVIDENCE.

As to establishing the burden of proof in quasi-judicial hearings, the Florida Supreme Court in *Irvine v. Duval County Planning Commission* held that the applicant bears the initial burden of proof to show through competent substantial evidence that their application meets the statutory criteria for approval. 495 So.2d 167 (Fla. 1986). Only after the applicant has met this burden may the reviewing agency approve a quasi-judicial request, and if met, the agency can only deny such request based on competent substantial evidence that the request does not meet the applicable criteria. *Florida Power & Light Co. v. City of Dania*, 761 So.2d 1089 (Fla. 2000).

Here, the record is clear, ATA Fishville did not meet its burden – the most preliminary of which under Section 177.101(3), F.S., is ownership. As previously stated herein, ATA Fishville's application was improper as it did not own the underlying fee for the land upon which the requested vacation was sought. Moreover, the City's staff report similarly failed to address any of the statutory requirements.

The meaning of "competent substantial evidence" in quasi-judicial matters has been succinctly stated as follows:

> In this context, competent evidence is evidence sufficiently relevant and material to the ultimate determination "that a reasonable mind would accept it as adequate to support the conclusion reached." *DeGroot v. Sheffield*, 95 So.2d 912, 916 (Fla.1957). Substantial evidence is evidence that provides a factual basis from which a fact at issue may reasonably be inferred. Id.; *Blumenthal*, 675 So.2d at 608;

> *see also Pollard v. Palm Beach County*, 560 So.2d 1358, 1359-60 (Fla. 4th DCA 1990) ("evidence relied upon to sustain the ultimate finding should be sufficiently **relevant and material** that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the 'substantial' evidence should also be `competent.'"). (Emphasis supplied)

City of Miami Gardens v. Miami Dade Charter Foundation, Inc., 857 So.2d 202, 204 (Fla. 3d DCA 2003).

In *Jesus Fellowship Inc. v. Miami-Dade County*, the Third District, in reversing the circuit court's order affirming the County's denial of a church's special exception application for a private school and day care held both that lay testimony was not converted to substantial competent evidence simply because it was fact-based, and that even the testimony of experts outside of their field of expertise was not substantial competent evidence. The court held:

> The basis for the circuit court's errors here was its conclusion that the simple fact that the Commission had before it the county zoning maps, the professional staff recommendations, aerial photographs, and testimony in objection was a sufficient basis for the Commission's denial. The mere presence in the record of these items is not, however, sufficient. They must be or contain relevant valid evidence which supports the Commission's decision.

752 So.2d 708 (Fla. 3d DCA 2000).

The Florida Supreme Court's ruling in *Jesus Fellowship* has great bearing on the instant case. As in this case, there was substantial factual testimony and evidence presented by the City staff and ATA Fishville, however as *Jesus Fellowship* the evidence presented "does not bear on the [issues], thus is not relevant." *Id.* 710. In fact,

the only competent substantial evidence on the record that complied with the applicable statutory criteria was the evidence presented by the City in which it went to great lengths to establish its ownership of the underlying fee and would have supported denial. (App. 1) (App. 3, P. 2) (App. 9, P. 13).

VI. REQUESTED RELIEF

In reviewing by certiorari a final order of a local government rendered in its quasi-judicial capacity, the appellate court's power is also limited to denying the writ of certiorari or quashing the order reviewed. *Broward County v. G.B.V Intern.*, Ltd., 787 So. 2d 838, 844 (Fla. 2001). The Petitioners request that the Court quash the decision of the City restoring to the Trabue Plat Maud Street and Retta Esplanade right-of-ways along with Maud and Cosby Park. At a minimum, the Court should issue an order to show cause as to why this Petition should not be granted.

DATED this 6th day of January, 2017.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via electronic mail this 6th day of January, 2017 to: David M. Levin, Esq., Icard Merrill at dlevin@icardmerrill.com and Warren R. Ross, Esq., Wotitzky, Wotitzky, Ross & McKinley, P.A. at warren.ross@wotitzkylaw.com.

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this Petition complies with the font requirements of Rule 9.100 of the Florida Rules of Appellate Procedure.

\s\ W. Kevin Russell
W. Kevin Russell, Esq.

Filing # 50861062 E-Filed 01/06/2017 12:51:48 PM

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR CHARLOTTE COUNTY, FLORIDA
CIVIL ACTION

ROBERT TRABUE and MCCO, Inc.,

Petitioners,

vs.

Case No. 16-2152-CA

CITY OF PUNTA GORDA,

Respondent.

APPENDIX TO AMENDED PETITION FOR WRIT OF CERTIORARI

1. November 2, 2016 City Council Agenda Summary and Staff Report for SV-03-16.

2. ATA Fishville Vacation Application, undated and designated SV-03-16.

3. Excerpt from Punta Gorda Planning Commission meeting of October 24, 2016.

4. Letter from Derek Rooney, Esq. to Mayor Rachel Keesling, dated October 24, 2016.

5. Resolution 3271-16, dated November 2, 2016.

6. Section 20A-11 of the Punta Gorda Code – Vacation of plats and Section 20-9 of the Punta Gorda Code – Vacation of streets and rights-of way.

7. Fishville Acquisition Agreement, dated September 2, 2015.

8. Copy of the Plat of Trabue, Plat Book 1, Page 1 of the Official Records of Charlotte County.

9. Transcript of Hearing, dated November 2, 2016.

Respectfully submitted,

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