



CITY OF ANNA MARIA

P.O. Box 779, 10005 Gulf Drive, Anna Maria, FL 34216 Phone (941) 708-6130 Fax (941) 708-6134

MINUTES CITY COMMISSION REGULAR MEETING JULY 21, 2016 – 6:00 P.M.

Pledge of Conduct: We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

CALL TO ORDER

Chair Copeland called the meeting to order at 6:00 p.m.

PLEDGE TO THE FLAG

ROLL CALL

Present: Mayor Dan Murphy, Vice-Chair Nancy Yetter, Commissioner Dale Woodland, Commissioner Chuck Webb, Chair Doug Copeland, and Commissioner Carol Carter.

Also present: City Clerk Diane Percycoe, Deputy Clerk II/Finance Debbie Haynes, and City Attorney Becky Vose.

Press: AMI Sun and Islander.

General Public Comment regarding non-agenda items and items not scheduled for future agendas will be taken at the beginning of the meeting with a limitation of three minutes. The Commission's intent is that General Public comment is to be used for the public to inform the Commission of new issues within the City. Public Comment regarding agenda items will be taken with each agenda item with a limitation of three minutes.

1. General Public Comment – None.

2. FY 2014-2015 Audit Presentation/Approval – *Jeff Gerhard from CS&L*

Jeff Gerhard, CS&L Partner, presented and reviewed the City's FY 2014-2015 audit. He provided explanation relating to the new required GASB 68 standard, and discussed how it affected the audit.

Mr. Gerhard pointed out the revenues were greater than budget by \$319,317. Total expenditures were less than budgeted at \$350,863. Difference of \$670,180 above what was originally budgeted.

A review of the Independent Auditor's Report on Internal Control, and the required Management Letter followed. He noted there were no new findings, only two repeat findings from prior years. The two findings included segregation of duties, and year-end adjustments. The Management's responses indicate both findings are being addressed.

Public Comment

Sun Newspaper Reporter *Joe Hendricks* asked for clarification on a name spelling.

Motion: Move that the FY 2014-2015 Audit be approved.

Action: Approved. Moved by Commissioner Carol Carter, Seconded by Commissioner Dale Woodland.

On Roll Call Vote, the motion carried unanimously.

3. Authorization for Mayor to Sign Commitment Letter – Refinancing Loan with Hancock Bank – *Mayor Murphy*

Mayor Murphy reminded the Commission had previously discussed the refinancing of the six lots (City Pier Park) at a better interest rate and better terms. He presented the refinancing proposal, informing the interest rates have been reduced, along with the monthly payments being reduced - creating a monthly savings of \$2,400.

Pre-payments in the amount of \$100,000 going forward had previously been discussed by the Commission. Mayor Murphy presented two approaches:

- Making \$100,000 pre-payments every year will result in the loan being paid off in August 2025. The savings to the City will be \$615,961.

- With the new loan, if there are no annual \$100,000 pre-payments, it will result in a total savings of \$480,407 - with a December 2030 loan payoff.

Mayor Murphy requested Commission approval to accept the new 1.9% interest rate, and give him authorization to execute the letter. He further recommended the City makes the annual \$100,000 pre-payment commitment,

Mayor Murphy informed the City chose the end of December as the pre-payment date since most of the City's ad-valorem has been received by then.

Commissioner Woodland said he would feel more comfortable if there was some flexibility allowed each year as to the pre-payment date – versus a date agreed upon between the two parties.

Mayor Murphy informed he would see if Commissioner Woodland's suggestion was agreeable with the Bank. However, as it currently stands, the payment is planned for the end of December.

Public Comment – None.

Motion: Move to approve authorizing the Mayor to execute the Financing Proposal between the City of Anna Maria and Hancock Bank relating to the approximate \$2,500,000 Public Improvement Revenue Refunding, Note, Series 2016.

Action: Approved. Moved by Commissioner Dale Woodland, Seconded by Commissioner Chuck Webb. On Roll Call Vote, the motion carried unanimously.

Mayor Murphy thanked consultant John Chambers for his assistance in getting the loan.

4. City Clerk Position Recommendation – *Mayor Murphy*

Mayor Murphy announced the City Clerk position had been posted, and for interview purposes the number of candidates were narrowed to five. Of the five to be interviewed, three of the five withdrew, and only two were interviewed. Mayor Murphy stated he was not comfortable only interviewing two candidates.

Mayor Murphy has now expanded the scope of the job description, which has been reposted. The new posting will expire on August 1. He hopes to draw more candidates to interview. He hopes no later than mid-August that a candidate will be presented to the Commission for their final consideration.

Public Comment – None.

5. Ordinance 16-819 – First Reading – Public Improvement Revenue Refunding Note – *Mayor Murphy*
City Attorney Vose read the Ordinance title.

Public Comment – None.

The Public Hearing and Second Reading is scheduled for August 11, 2016.

6. Bert Harris Claims – *Mayor Murphy*

City Attorney Voss stated the Florida Legislature did a great disservice to cities through their previous legislation. She pointed out when she began over a year ago, the City had no control over the continued proliferation of vacation rentals in the City. The City took its first step when adopting the Vacation Rental Ordinance.

The City is now faced with 59 Bert Harris claims totaling \$23 million – not including attorney's fees. When adopting the Bert Harris law, the Florida Legislature sided with developers, against local governments, and against ordinary citizens.

A review of how the Bert Harris claims work was presented by City Attorney Voss. She noted if a vacation rental owner can prove their property is worth less, after the adoption of the Vacation Rental Ordinance, than it was before the Ordinance, they have by definition – a Bert Harris claim.

City Attorney Voss explained the City has 150 days to either pay the claim, or allow certain changes or regulations as to that particular property. If the claim has not been settled within that time period, the property owner can then file a lawsuit. If the property owner wins, the City will be responsible for not only the proved damages, but also the claimant's attorney fees. She emphasized a settlement offer must be made on all 59 Bert Harris claims filed.

City Attorney Voss informed Anna Maria was not the only Florida City having Bert Harris issues. She presented the example of the City of Ponce Inlet currently facing one claim resulting in a \$30 million Bert Harris judgment – and speculation the City could be facing bankruptcy.

City Attorney Vose recommended settling 24 of the 59 claims. She pointed out the importance of being reasonable and getting credibility with the Judge.

A notice went out to property owners on January 26, 2016 providing one year for property owners to file a complaint on the effect of the Vacation Rental Ordinance. There can be no further claims filed as of January 26, 2017.

City Attorney Vose recommended the Commission approve the settlement offers. She will bring back additional settlement offers for other claims over the next couple of months. Review of the settlement offers followed. City Attorney Vose felt the proposed settlements would result in credibility with the Judge going forward. Commission discussion followed.

Commissioner Yetter stated she understands the financial aspect. However, she was very upset the Commission had told the public they would not back down. As a result, she stated she could not vote in favor of the settlements. Though she does not want to see the City in jeopardy, she felt the Commission owed the citizens to do something more than what they are doing.

Commissioner Carter informed she and Holmes Beach Commissioner Jean Peelen attended interviews for the State Senate District 23 candidates. Though realizing the Island was no longer part of District 23, the outcome was positive as it relates to Home Rule. League representatives recommended both individually, and also the Cities, should ban together to lobby and work with their representatives to get laws changed. Home Rule and changes in how Tourist Development funds are spent were used as examples.

City Attorney Vose suggested lobbying against the Bert Harris Act.

Chair Copeland stated though he did not like it, he would recommend approval of the settlement offer.

Public Comment

Jonathan Crane, North Shore Drive, stated he was very surprised the Commissioners were discussing details of offers in a public meeting.

Chair Copeland explained a Shade Meeting cannot be held until the City were actually in litigation.

Mr. Crane further felt the City should not lead with its final offer. He used the example of the number of occupants, and the issue of settlement running with the land. Mr. Crane noted the number of cars parked at a property was one of the big issues that had been discussed by the Commission. He suggested number of vehicles be part of the offer.

City Attorney Vose informed the Vacation Rental Ordinance does not address there be no more cars than there are parking spaces. She then responded to Mr. Crane's recommendation. Commission discussion continued.

Motion: Move that the City Attorney proceed with making a settlement offer on 24 of the 59 Bert Harris Claims filed, and as presented that evening by City Attorney Vose.

Action: Moved by Commissioner Dale Woodland, Seconded by Commissioner Carol Carter.

Motion carried on a Roll Call Vote of 3 to 2.

Aye: Commissioner Carol Carter, Chair Doug Copeland, and Commissioner Dale Woodland.

No: Vice-Chair Nancy Yetter and Commissioner Chuck Webb.

Commissioner Webb stated he can't stand that the City is in this position, feeling in some ways they 'dug their own grave' by not taking action to address the issue much earlier. In his opinion, there should be a cap on the number of vacation rentals. He suggested the Commissioners think outside the box for other solutions, in order to get control of the issue.

- 7. **FY 2016-2017 – Approve Budget Calendar – *Mayor Murphy***
Thursday, July 21 – 6:00 p.m. – Set Date, Time, and Tentative Millage Rate
Wednesday, August 4 – 6:00 p.m. – Budget Work Session
Wednesday, August 11 – 6:00 p.m. – Budget Work Session
Wednesday, August 18 – 6:00 p.m. – Budget Work Session

Public Comment – None.

Motion: Move that the proposed FY 2016-2017 Budget Calendar be approved.

Action: Approved. Moved by Commissioner Dale Woodland, Seconded by Commissioner Chuck Webb.

On Roll Call Vote, the motion carried unanimously.

- 8. **FY 2016-2017 – Set Date, Time and Place and Tentative Millage – *Mayor Murphy***
Chair Copeland noted the maximum millage discussed at the last meeting was 2.05 mills.

Commissioner Webb reminded the maximum millage was tentative, and caps the rate the Commission can ultimately approve.

Public Comment – None.

Motion: Move that the First Public Hearing for FY 2016-2017 Budget will be held on Wednesday, September 7, 2016, 6:00 p.m. at the City of Anna Maria Commission Chambers, 10005 Gulf Drive, Anna Maria, FL, and that the tentative millage rate be set at 2.05 mills.

Action: Approved. Moved by Commissioner Carol Carter, Seconded by Commissioner Dale Woodland.

On Roll Call Vote, the motion carried unanimously.

- 9. **Mayor's Comments – None.**

- 10. **Commissioners Comments**
Noise Ordinance / Violations

Commissioner Webb said he did not see as part of the Agenda attachments where any Noise Violation citations or warnings were issued. He questioned what would be addressed with a property manager who has a property with a continuous noise problem.

Mayor Murphy noted he had discussions on the same topic with Commissioner Woodland earlier that day. He stated Holmes Beach recently had a noise violation where the owner of the home was cited. In turn, the owner took the case to court, which was thrown out by Judge Smith - and charged the people creating the noise, versus the owner of the home.

Chair Copeland stated the Holmes Beach Code Enforcement is under the Police Department.

Mayor Murphy clarified that in Anna Maria, the Sheriff's Department handles all noise complaints – versus Code Enforcement.

Public Comment

Holmes Beach Commissioner Carol Soustek addressed the Commission. She explained the Holmes Beach code was written to hold either the owner, agent, and/or the tenants responsible. Enforcers could issue a citation to one, two, or all three. The court said the City cannot hold an owner responsible, or an agent responsible, because they were not there. Therefore, only the persons in the actual unit could be issued the citation.

The City has since decided to not take the cases to court, and they instead will be taken before the Special Magistrate. Though all three can be cited, only the tenants will be cited at this time.

Warnings were being issued, however, the party house would have new tenants weekly – versus the residents who would be calling in a complaint every week. As a result, it was agreed warnings were not effective. Warnings will now be at the discretion of the officer.

Mayor Murphy stated he will discuss strict enforcement with the Sheriff in terms of issuing more citations for repeat offender locations.

Mayor Murphy said the reason more noise complaints are being seen is not that there are more complaints – but rather there is more productivity in terms of response by the Sheriff's Department.

Chair Copeland noted the issue will be placed on a future Agenda for additional Commission discussion.

11. **City Attorney Comments** – None.

12. **Staff Comments** – None.

13. **CONSENT AGENDA:** The following items are considered routine in nature and should be considered in a single motion. Items which warrant individual discussion should be removed from this list prior to the motion to adopt. Such items will be discussed separately.

a. **Approve Minutes: Regular Meeting 6/23/16; Special Meeting 7/14/16**

b. **Proclamation: Star-Spangled Banner Day – 9/14/16**

c. **Special Event: Bean Family Reunion – Saturday, May 13, 2017 – 10:00 a.m. to 1:00 p.m.**

d. **Special Event: VanDemark 50th Anniversary Vow Renewal – Friday, Dec. 1, 2017 – 3:00 p.m. – 6:00 p.m.**

e. **Application: Re-Appointment to Planning & Zoning Board – Jonathan Crane – 7/2016 to 7/2018**

f. **Application: Re-Appointment to Planning & Zoning Board – Margaret Jenkins – 7/2016-7/2018**

g. **Application: Re-Appointment to Planning & Zoning Board – Carl Pearman – 7/2016-7/2018**

Motion: Move that the Consent Agenda be approved as presented.

Action: Approved. Moved by Commissioner Chuck Webb, Seconded by Commissioner Dale Woodland.

On Roll Call Vote, the motion carried unanimously.

14. **CITY DEPARTMENT REPORTS AND UPDATES**

a. **Sheriff's**

b. **Building**

c. **Public Works**

d. **Code Enforcement/City Pier**

e. **City Clerk/Ordinance Update**

f. **Finance**

Press Comment – None.

Adjournment

Chair Copeland adjourned the meeting at 7:25 p.m.

Diana L. Percycoe
Diana L. Percycoe, CMC, City Clerk

Minutes approved: *August 25, 2016*