

**CITY OF ANNA MARIA
CITY COMMISSION SPECIAL MEETING
MEETING HELD AT ANNA MARIA COUNCIL CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
THURSDAY, FEBRUARY 18, 2010
6:00 P.M.**

CALL TO ORDER

Chair Quam called the Special Meeting to order at 6:03 P.M.

PLEDGE TO THE FLAG

ROLL CALL: Mayor Fran Barford, Commissioner Jo Ann Mattick, Commissioner Dale Woodland, Chair John Quam, Commissioner Chuck Webb, and Commissioner Harry Stoltzfus.

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

Press: Islander.

Chair Quam noted that also present was a court reporter that was not there on behalf of the City of Anna Maria.

Mayor Barford introduced Anna Maria's new Sheriff Deputies – Matt Kiernan and Eddie Hernandez. *Deputy Kiernan* informed he had been with the Sheriff's office for ten years and *Deputy Hernandez* stated he had been with the department for five years.

1. Second Reading and Public Hearing of Ordinance No. 10-708 – AMENDMENTS TO SITE PLAN PROCEDURES.

City Clerk Baird read the Ordinance by title.

Chair Quam explained that for the past few hours, staff had been working towards resolving some of the issues in the Ordinance. The Ordinance would not be ready for adoption that evening.

City Attorney Dye explained that the comments in the draft Ordinance was color coded based on either his, Building Official Welch, or City Planner Garrett's comments. The Ordinance language changes are based on Commission recommendations, along with issues identified by staff. Staff has been working towards the removal of terms that are open to interpretation in an attempt to avoid issues in the future. He informed that the Ordinance was not ready and that staff was recommending that final action be taken at some point in the future and not be taken that evening.

It was the consensus of the Commission that the Ordinance be reviewed that evening. The #1 Mark up version of the Ordinance was referenced.

City Planner Garrett explained that the major changes in the proposed Ordinance related to the change from a current 3-tier approval system to the proposed new 2-tier approval system involving the administrative and City Commission review of Site Plans. He informed that the administrative scope has been reduced and that prior to final action being taken by the City Commission, the Site Plans must first go before the Planning & Zoning Board for their recommendation.

City Planner Garrett informed that:

- The 2-tier system will remove the current requirement that the P&Z Board have the final approval authority for some of the Site Plans.
- The administrative scope has been reduced, and that prior to final action being taken by the City Commission, the Site Plans must first go before the Planning & Zoning Board for their recommendation.
- Currently, the administration could look at a subdivision plat of two lots as the final review authority. However, a plat still must first be approved by the

administration and will now be placed in the City Commission procedure. The proposed Ordinance will include a caveat in the City Commission procedure where a subdivision plat of two lots or less may be able to pass by the P&Z Board approval and go directly to the City Commission for approval authorizing the Chair's signature. Explanation followed.

Commissioner Webb suggested that this type review be placed on the consent agenda with the Commission's authority to pull it off for review if requested. Examples were provided.

- In response to *Chair Quam's* question, *Building Official Welch* informed that the Building Department has a tracking method, on a spread sheet, relating to all projects reviewed by administration (treated like a building permit) and will make that report available to the Commission on a monthly report basis.
- Sec. 74-351 (b) (2) Planner *Garrett* provided examples of how an applicant could take advantage of the addition of four or less parking spaces to an approved site plan parking area. Staff recommends that administrative approval only be allowed within a 24-month period versus the current 12-month period.
- *Commissioner Webb* asked that language be added that would prohibit a cumulative effect in regard to the two-lot subdivision approvals.
- *Commissioner Stoltzfus* referred to the provision in Chapter 114 for two buildings being joined by one roof or continuous front – and in that instance, setbacks between the buildings can be relocated to the exterior side setbacks. He felt there should be a method during the Site Plan process that alerts the City when that is being proposed by the applicant. He suggested that when the setbacks are drawn on the Site Plan, the Commission should know if they have been moved and the amount of the setback that has been transferred and relocated – either by a written description or an elevation view of the building. *Planner Garrett* agreed to add the requirement under Sec. 74-354 (5) (c) *Required information on the site plan.*

City Attorney Dye explained why the best method would be to only provide a note rather than looking at the architecture of the building.

- *Commissioner Woodland* asked to see information regarding the process and Ordinances that were reviewed by the administration that were applicable to the approval of an application.
City Attorney Dye pointed out that Sec. 74.354(d) (10) shall examine the application for consistency with the applicable Ordinances and the Comprehensive Plan.
- *Planner Garrett* explained that the administration could not provide approval or denial - only provide a written statement to the City Commission as to whether or not the Site Plans were consistent with the applicable Ordinances and Comp Plan.

Chair Quam officially opened the Public Comments portion of the Public Hearing.

Public Comments

Robin Wall, 112 Palmetto Ave., asked when final action would be taken on Ordinance No. 10-708. She suggested that an additional Special Meeting be held for the final adoption.

Certified Planner ***Jan Norsoph***, Engelhardt, Hamner & Associates, addressed the Commission on behalf of his clients, Mr. and Mrs. Fred Nally. He provided the following suggested changes to the proposed Ordinance:

- Add a caveat in Sec. 74-351 (b) *Administrative approval* – that the administration could not make any approvals when variances were involved.

- Sec. 74-354 (d) (10) – include a statement as to whether or not the plans were or were not consistent with the Comp Plan and why or why not they are or are not consistent.
- Sec. 74-354 (f) (9) – Public notice should reference Sec. 114.77 as the specific Code reference.
- Sec. 74-354 (h) *Standards for review* – Add a subsection (11) Consistency with the Comprehensive Plan.
- Sec. 74-355 (e) – add – If, after holding a duly notice public hearing *pursuant to Sec. 114.77.....*
- Agreed with adding language relating to the possible cumulative process that could occur during the administrative review process.

Tom Aposporos, Crescent Dr., asked if the proposed Ordinance would be brought back as a First Reading since there would be numerous changes made.

Chair Quam explained that the Ordinance would be continued as a Second Reading.

Attorney representing PAR voiced concern about the number of changes that had been made to the proposed Ordinance. She explained that the Ordinance had not been available until the prior day even though it should have been available at the time the Public Hearing was noticed. She suggested that the next reading be a First Reading to allow time to provide comments.

Commissioner Webb asked for clarification stating that it was his understanding that the Second Reading was more of a notice provision and that an Ordinance continues to be reviewed until finalized.

City Attorney Dye later confirmed that changes could be made to the proposed Ordinance on Second Reading until it is adopted.

Commissioner Webb suggested that the length of time a Final Site Plan or permit was viable be changed to six months. After the six month period, the applicant would be required to come back before the Commission for any extension. He pointed out that the applicant should be required to follow the current code requirements upon any extensions.

Planner Garrett explained that the Code currently allows the Final Site Plan to be good for one year with a one-year extension.

City Attorney Dye explained that Sec. 74-356 addresses *Commissioner Webb's* concerns. He suggested that when staff brings back the Ordinance revisions, the amount of time a final site plan is valid will be left blank to allow the Commission to make that final determination.

City Attorney Dye pointed out that after the validity period, there was an option for one administrative extension for six months.

Commissioner Stoltzfus suggested a Final Site Plan only be viable for the twelve-month period and that the applicant not be bothered with extensions.

Commissioner Webb explained that the applicant must show good cause for an extension approval and suggested that staff come up with good cause standards.

Commissioner Mattick pointed out that finances will often play a big role in an applicant requesting an extension. She questioned if an additional fee would be required when

an applicant requested an additional extension - after all code allowed extensions had been granted.

City Attorney Dye advised that additional fees would be required. After the initial approval lapses, it would take the property back to its original state and the application process would need to start over.

Planner Garrett suggested that a fee structure could be established that would allow for a lesser fee in the event the Code language had not been changed at the time an application was resubmitted.

Planner Garrett responded to Jan Norsoph's previous comments and pointed out that Sec. 74-351 (6) (c) would include subsection (6) Variances, (7) Rezones, and (8) Appeal by the applicant of an administrative site plan. All items would still be under the City Commission's review. A variance was never intended to be an administrative review. Discussion and explanation followed.

MOTION: Commissioner Webb moved that the Second Reading and Public Hearing of Ordinance No. 10-708 be continued to Thursday, March 4, 2010, 6:00 p.m. Commissioner Woodland seconded the motion. Motion carried – All Aye.

2. Chapter 90 – Internal Traffic Circulation and Access.

Chair Quam informed that the Parking Safety Committee (PSC) presented their recommendations to minimize the safety hazards of parking across sidewalks and that concept drawings were presented by them at the February 11, 2010 joint City Commission/P&Z Board meeting. He stated that the Planner had reviewed the concepts presented by the PSC and they were found to be viable and would work. The City Planner was then given the task to further review the drawings for the March 4 joint City Commission/P&Z Board meeting.

Chapter 90 had been placed on the agenda for discussion at the February 11, 2010 joint meeting, however, was not discussed at that time. Chair Quam informed that the City Commission would now discuss Chapter 90 language in an attempt to set the groundwork for the March 4, 2010 joint meeting.

Commissioner Woodland stated he wanted to determine how the City had gotten to the point they were at. He said that no one had helped him understand why the City's Ordinances had not been applied during the Site Plan process.

Commissioner Woodland said he had not been consciously aware that the City had ignored Ordinances that should have been applied. He asked why Chapter 90 was not currently being applied to the Site Plan approvals.

City Planner Garrett answered that Chapter 90 has been applied. He pointed out that he did not like the word "ignore" because the City had not ignored any Ordinances. He stated that when a new person comes onboard and inquires on how a certain provision is handled, that person is advised on how the Code has been interpreted. If the Commission wished to enforce the way they are now interpreting the Code, then the language would need to be changed.

City Planner Garrett pointed out that he had previously submitted proposed language revisions for the Commission's consideration in the event they wished to now have the Code language interpreted differently. He gave the examples of establishing a definition of a driveway and if it was agreed that there shall be no backing out across a sidewalk then it should be specifically stated that way in the Code. He pointed out, however, that unless certain zoned districts were excluded, then every home in the City would be required to have a turn-around in their front yard or side-yard in order to drive out to the right-of-way, rather than backing out over the sidewalk.

Commissioner Stoltzfus felt that rather than bad language there may be some misinterpretation of the language in place. Commissioner Stoltzfus referred to the "maneuvering" language and felt that when there is no definition of maneuvering, then common usage should be referred to. He stated that when researching the definition of maneuvering on the web, etc. – the definition indicates that the City is non-compliant.

Commissioner Woodland stated that the City has an Ordinance on the books and an obligation to conform to those Ordinances. He felt if the City did not want to comply by a specific Ordinance then it should be changed.

City Attorney Dye advised that in his experience no Ordinances had been ignored when any application was going through the review process.

Commissioner Stoltzfus said he had never suggested introducing any language governing maneuvers. He did feel, however, that the City should adhere to the language, as he saw it, regarding placement of vehicles – not how vehicles do what they do - but where they do it. He also indicated there were a lot more issues that needed addressed other than just the issue of maneuvering.

Building Official Welch referred to Sec. 90-3 (m) *General design standards* – All off-street parking areas, including all areas for maneuvering, shall be located solely on the subject property, shall not use public rights-of-way, shall have vehicular access to a public street, and shall be designed to provide safe and convenient circulation in accordance with commonly accepted traffic engineering practices.

Commissioner Stoltzfus stated that the key phrase of Sec. 90-3 (m) was "including all areas for maneuvering."

Commissioner Woodland indicated he was not looking at the details of Chapter 90. He was instead looking at Chapter 90 as it exists 100% and trying to get a statement from the Commission that they endorse it as it is written and that it should be enforced.

Commissioner Webb responded stating that the City Commission originally adopted Chapter 90 and at that time directed staff to apply the language as written. He pointed out that the City Commission would never direct staff to not apply the language as written. In referring to Planner Garrett's comments regarding interpretation, he clarified that certain interpretations of the Code, over the years, have been interpreted a certain way. Another individual, however, could interpret the language differently. Commissioner Webb stated he was unaware of any ambiguities in the Code or areas where the Code had not been applied.

City Attorney Dye advised that the language in Chapter 90 is valid and directing the staff to endorse it as it is today would not change its effectiveness. Also, Chapter 90 is currently being applied to properties and projects.

Commissioner Woodland responded that attorneys have informed that if Chapter 90 is enforced the City would end up in court. He then referenced the PSC concepts that were presented to the City Planner and City Attorney for their review.

Discussion followed relating to whether or not precedence had been set in regard to Site Plan approvals. *City Attorney Dye* explained how precedence was used in the legal system. He explained that the law states if a case is decided in a specific way, an identical case should be decided in the same way as it was before. The City would not have the same binding legal duty. Site plan reviews would never be exactly the same as any others and he stated that in real estate there would hardly ever be identical circumstances. He did feel, however, that it was good practice for the City to take into account the way that the Ordinances had been applied in the past.

Stating he did not feel that the Code language had been interpreted correctly, *Commissioner Stoltzfus* asked that the Code language be changed. He felt the definition of driveways should be addressed and further asked that the Commission begin the review of Chapter 90 on a line-by-line basis.

Commissioner Webb asked when discussion of Chapter 90 had been placed on the agenda and was informed by Chair Quam that it was added the previous Tuesday morning.

Commissioner Webb said he would prefer more lead-time when reviewing issues.

Commissioner Stoltzfus stated that the day he was sworn in he had submitted a statement regarding his questions on the interpretations on parking, and noted that Chapter 90 had been on the agenda numerous times.

Commissioner Stoltzfus then addressed his proposals in Chapter 90 that included:

- Sec. 90-3(l) (4) *Uses not listed*. He noted that during the City Pier Boardwalk proposal he had suggested that within the documents presented there was no reference to the Anna Maria codes. He felt if the parking lot was going to have to be approved, then variances would need to be in place.
- Insert "*Unless otherwise noted, these standards apply to all zoning classifications.*" as the last sentence in the first paragraph under Sec. 90-1. Purpose of Chapter.
- Sec. 90-2 (2) (b) (1) – Change title to: *Private road "and driveways."*
City Attorney Dye explained the difference between a private road and a driveway and noted that the only private road in the City was Villa Rosa - which was built to City standards. If the City wished to include the private road section, that section should then be more extensive.
Building Official Welch suggested that the dimension for a parking lot be identified as a "drive isle".
Commissioner Stoltzfus said he was not opposed to striking *Private Road* and then changing the title to *Driveways*.
- Questioned if a maximum width for driveways should be established.
Building Official Welch suggested that the Commercial should be separated from Residential when addressing driveways.
- Commissioner Stoltzfus clarified that the proposed maneuvering language would only relate to parking spaces and not to driveways. An individual can go through a driveway first and then into a parking space – not maneuver in the right-of-way. Planner Garrett informed that two parking spaces are required for a residential driveway.

Discussion followed relating to two parking spaces required for a residential driveway. *Commissioner Stoltzfus* referred to State standards and definitions relating to driveways.

Commissioner Webb stated there were no State standards for driveways, that driveway standards were set by each community. He informed that the State standards have to do with State highways.

Building Official Welch was not opposed to defining a driveway as a portion of the right-of-way. However, there would then be a need to define after getting off the driveway how wide a driveway is in a commercial area. The driveways in a residential area would then be determined by how much space a property owner wanted to dedicate to their driveway. He stated that the apron positioning should be referenced in the Code. Explanation followed.

Commissioner Stoltzfus said he would agree that the precedence of commercial driveways versus residential driveways should be treated differently, but that two separate definitions would not be needed.

City Attorney Dye suggested that the Commission focus on what they hoped to accomplish versus getting tied up with the technical aspects.

Commissioner Webb felt the process was being addressed backwards – that it should be determined if the process worked prior to rewriting any language.

Commissioner Stoltzfus pointed out that his proposed language would not limit the backing out of a driveway. It would, however, limit the number of driveway openings, and limiting multiple driveways within fixed distances.

Commissioner Webb asked that the practicality of how the proposals worked on the small lots in Anna Maria be considered. He stated that his calculations show that when a parking lot was utilized, then the buildings were reduced to allow for the parking. He asked that dimensions and impact on the property be provided for him to visualize what will happen with the Ordinance.

Commissioner Stoltzfus stated that the PSC drawings were reviewed by City staff and that the City Attorney had indicated that when an individual bought a lot in the ROR, that they would have a specific amount of square footage they were entitled to.

Commissioner Webb explained that his review showed that staff only gave a cursory review of the PSC's plans. He said he had questions on how the dimensions were being calculated on the proposed plans. With the proposed changes, every commercial structure would be limited to a driveway that would open up to a parking area. He did not believe that the concept was practical, felt it was not necessary, did not feel there was any public safety or welfare issue, and did not feel that allowing an individual to back out was inconsistent with the Comp Plan. He pointed out over the past fifty years, there had only been one defined fender-bender along Pine Ave. and no personal injuries had occurred.

Chair Quam referred to the PSC meeting minutes and stated that a majority had agreed there was not an emergency with backing out over the sidewalks - but that there is a safety hazard as the ROR is developed - and long-term. He suggested that the Commission discuss reducing the required number of parking spaces on a 50-ft lot.

Commissioner Webb said the PSC minutes indicated there was no emergency safety issue right now but he did not see any language that there would be any future safety issues.

Commissioner Mattick asked that the Commission look at the big picture and not just the parking issue. She gave the example of only allowing for a 10% footprint on one of the PSC drawings.

Chair Quam reminded that the City Commission approved the establishment of a Parking Safety Committee for the purpose of studying and reviewing if there is a safety hazard with parking and backing out across a sidewalk. The Committee was then asked to come up with recommendations to minimize that safety hazard. Though the PSC indicated there was no emergency, all recommendations brought forward addressed the parking issue by not backing out over the sidewalk.

PSC member Micheal Coleman, Pine Ave, advised that the PSC never agreed that any one concept was better than another – even though he had asked that only one be recommended by the committee. The first thing accomplished by the PSC was determining that there was no safety emergency. During that same meeting, Sgt. Turner testified there was no safety issue. However, in an effort to come together as a community and do the right thing, the PSC agreed to explore ways to make things better. He pointed out based on the past fifty year history; it would be very difficult to indicate there was a safety issue.

Mr. Coleman informed that the only PSC drawing presented to the Commission that did not drive across a sidewalk was the one presented by Gene Aubry. All others involve crossing over the sidewalk in order to get in and out of the property.

PSC Chair Larry Albert, 711 Gladiolus, stated that all plans were submitted to the Commission and none of them included backing out across the sidewalk. As a group, they agreed there was a safety hazard and the best way to address the issue was to not back out across a sidewalk. His personal opinion was that angled parking would be much safer in the event an individual would have to back out across a sidewalk.

PSC member Terry Schaefer, 311 Iris, felt that good details had been provided by the Committee. He said the Committee did not expect the City Commission or P&Z to rely specifically on the drawings. The drawings were submitted to the City staff to make the right assessments and proper conclusions.

Mr. Schaefer felt there was a full intent by the members of the Committee to limit consideration to the original plan submitted by Gene Aubry. However, rather than limiting the scope, direction, and recommendation to only one proposal, the Committee came up with additional alternatives. The Committee made it clear that all proposals be reviewed by City staff prior to forwarding on to the City Commission and P&Z Board for their review.

Mr. Schaefer stated that the City staff had indicated that all proposals would work. He further stated that City Attorney Dye had made it clear that Gene Aubry's proposal of placing the sidewalks in front of the parking would eliminate the issue of backing out over the sidewalk; however, moving the sidewalks would require the cooperation of every property owner. He informed that Mr. Aubry's proposal did not specify the size of the lot. He then stated that the plan that he had submitted for a 52-ft lot would allow for a 1,200 sq. ft structure.

PSC member **Tom Aposporos** questioned why there was a rush to make changes. He referred to Mr. Schaefer's comments and said that the Committee never took action to request that the City staff take a harder review of the proposals. Instead, it was clear to the Committee that there were several concepts to forward, and that they be forwarded to the City Commission and P&Z Board once they had passed a cursory test. He said he never assumed that there would be a conclusion, as a result of the initial cursory test, that all the concepts would work, were legal, or were practical. He explained that there was a comment by the staff that the concepts "may" work with some adjustments; however, the adjustments had never been determined or quantified.

Mr. Aposporos informed that Gene Aubry's drawings did not show vehicles backing out over the sidewalks into the right-of-way. Mr. Aubry had made the point that all the space in front of the buildings, where his design might be implemented, is part of a setback. Mr. Aposporos stated that there are limitations on the property owner's part as to what the setback can be used for. Therefore, a possible redesign would be practical.

Mr. Aposporos addressed the question of the 5,000 sq. ft lots. He reminded that a study was originally going to take place that would indicate how many 5,000 sq. ft there were and how many were 7,500 sq. ft. He pointed out that many of the designs submitted would require combing lots. He stated that a 5,000 sq. ft lot would result in a one-story, 1,200 sq. ft building, with two or three parking spaces on-site. It would also require traveling across a sidewalk to come onto the property – but would not have to back out over a sidewalk – but would require limiting to only a 1,200 sq. ft. structure.

Mr. Aposporos concluded by recommending there be a study of Pine Ave. as it currently exists. He suggested that the problem be solved - rather than rushing into it.

Commissioner Stoltzfus said there had never been a suggestion that an individual would be required to buy two lots. The drawings that were submitted were only showing scenarios that would occur if an individual owned two lots.

He stated that Gene Aubry's drawings were conceptual and did not include loading zones and handicap parking. The drawings included four spaces within the visibility triangle and there was no attempt to allocate spaces based on building size. He said Mr. Aubry had indicated that on many of the sites, there was a strong possibility that parking would have to take place on the site itself. Commissioner Stoltzfus said he saw limited benefit from Mr. Aubry's configuration.

It was Commissioner Stoltzfus' opinion that there were different levels of scrutiny performed on Mr. Schaefer's drawings compared to Mr. Aubry's drawings. He said the City reviewed both concepts and had indicated that the Schaefer/Hunt drawings were compliant. He said the only comments relating to Mr. Aubry's drawings were that they could be legal if codes were changed.

Planner Garrett clarified that when staff reviewed all the drawings, it was agreed they would look at the size of the spaces and the number of spaces that were required. Staff all agreed that there may be other aspects of the drawings that may not meet current code requirement. Examples followed.

Tom Turner, N. Shore Dr. stated that Chapter 90 was approved in 1996 and there had only been one change to the language since that date. It was his opinion that the original concept had changed in the ROR from a Mom and Pop concept to one of building as big as allowed on a property.

Mr. Turner felt that the 29-ft and 35-ft setbacks should remain. He pointed out that the footage was only a guide and did not prohibit increasing the setback to place driveways in and out for the parking.

Mr. Turner suggested that Chapter 90 should have a separate ROR district broken out and that Chapter 90 should be rewritten in its entirety.

Attorney Jeremy Anderson, Lobeck and Hansen Attorneys, representing Mr. and Mrs. White, 110 Spring Ave. thanked Chair Quam for addressing the issue of precedence and City Attorney Dye for indicating that the City was not bound by previous decisions made in terms of the Code.

Attorney Anderson suggested that the following be addressed:

- Sec. 90-1. Purpose of chapter. – to provide for on-site and site-related traffic circulation... Attorney Anderson questioned how pulling onto parking spaces and backing out complies with the “circulation” purpose of the section.
- Sec. 90-2 b. (2) – Attorney Anderson felt that the City needed a legal opinion. Explanation followed.
- Sec. 90-3 (m) – Pointed out that the Code states that All off-street parking “shall” be designed to provide safe and convenient circulation in accordance with commonly accepted traffic engineering practices. He questioned why Site Plans were being approved that were not in accordance with commonly accepted traffic engineering practices.

Attorney representing PAR addressed City Attorney Dye’s statement that precedence does not apply - that it only applies when the facts are identical. She then quoted the U.S. Constitution’s 5th Amendment as it applies to the State’s 14th Amendment relating to equal protection and process rights. She explained that the court’s interpretation is there cannot be selective enforcement. Therefore, the City should not enforce the law differently than it had been since 1997.

Chair Quam closed the Public Comments portion of the Public Hearing.

Commission Discussion

Commissioner Stoltzfus did not feel there was a rush to adopt Chapter 90, only that it carefully be reviewed. However, he was concerned about the City presently having four Site Plans in process. He questioned that giving the number of issues in flux, could they now expect the P&Z Board to review the Site Plans and interrupt them any differently since the language had not yet been changed.

City Attorney Dye advised that until the Ordinances are changed, the ones in effect are the ones that are written and are the ones that are affected. The City Commission could not direct the P&Z Board to interrupt the Ordinances in a specific way. The P&Z Board would need to act on its own and provide their recommendations based on how the Ordinances are currently written.

Commissioner Stoltzfus then asked if the Site Plan approvals could be delayed if the Commission were to impose a moratorium – or would the Site Plans need to be approved under the current Code requirements.

City Attorney Dye explained it would be based on several issues including the effective date of the moratorium. However, unless there was some grievous threat to the public health, safety, and welfare, the applications currently in the pipeline should continue through the process. The City Commission would need to determine if that threat were high enough to shut down the permitting process.

Commissioner Stoltzfus said he would hate to see the City impose a moratorium but felt they should do so. He felt there were enough issues in flux that were causing a danger - and that language had not been changed to address what he considered as deficiencies. He said he was concerned that the Commission did not have the legal standards to change the outcome the way the language is written now.

Commissioner Stoltzfus suggested that the moratorium be limited to the ROR and C-1 Districts. He felt that everyone would agree there was a safety problem with multiple adjacent entrances across sidewalks. As a result, he suggested that a temporary moratorium – limited to no longer than 6 months (or as long as required to institute the language changes to Chapter 90) – be established. Commissioner Stoltzfus asked that the March 4 agenda include Commission discussion regarding a moratorium.

Commissioner Webb responded pointing out that if a moratorium were imposed, it would have an impact of some of the permitting processes and it would result in a temporary taking. As a result, the City would have to be prepared to pay the owner for a fair rental value of the property, plus any other damages. Commissioner Webb did not feel there was a big enough issue to require a moratorium.

Chair Quam stated that if there were no advances made to the Ordinance review after the March 4 City Commission/P&Z Board Work Session, that he would definitely be in favor of a moratorium. Chair Quam asked that staff continue review of Chapter 90 and make proposed changes.

It was agreed that discussion of a moratorium would be placed on the March 4 Work Session agenda.

Commissioner Mattick recommended that City Attorney Dye provide written documentation as far as the specific moratorium requirements.

Commissioner Woodland felt that a moratorium was not required and that the City could accomplish what they hoped to by simply following the language provided in Chapter 90.

Commissioner Mattick said she had conducted a lot of phone calls regarding the Pier project and felt that the citizen's concerns should be considered. She stated there had been a lot of money spent on consultants and attorney fees. She felt the City should be very careful in the decisions that will be making to avoid costing the City millions of dollars or take people's rights away.

Commissioner Mattick felt establishing a moratorium directly relating to PAR would be truly selective and that a lawsuit would be the outcome. She stated that Commissioner Stoltzfus had referred to the Site Plans already in the pipeline and that no other entity had Site Plans in the process except for PAR.

Staff Comments

As requested by *Mayor Barford*, the City Commission set Thursday, March 18, 2010 at 10:00 a.m. as the date to meet for the Preliminary Budget Work Session.

Public and Press Comment on agenda items – None.

Adjournment

On motion made by Chair Quam and seconded by Commissioner Woodland, the meeting was adjourned at 8:50 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____