

**CITY OF ANNA MARIA
REGULAR CITY COMMISSION MEETING MINUTES
MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
THURSDAY, AUGUST 28, 2008
5:00 P.M.**

CALL TO ORDER

Commission Chair Quam called the Meeting to order at 5:00 p.m.

PLEDGE TO THE FLAG

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

Absent w/excuse: Mayor Fran Barford and Commissioner Duke Miller.

Staff present: City Clerk Alice Baird, Finance Director/Deputy City Clerk Diane Percycoe, Public Works Director George McKay, City Attorney Jim Dye, Building Official Bob Welch, and Minutes Clerk Stacey Johnston.

Press present: Sun and Islander.

PLEDGE OF CONDUCT read by Chair Quam.

1. **Approve Minutes of:
City Commission Regular Meeting held July 24, 2008, and
City Commission Shade Meeting held July 24, 2008.**

MOTION: Commissioner Mattick moved that the July 24, 2008 City Commission Meeting Minutes and the July 24, 2008 City Commission Shade Meeting Minutes be approved as written. Commissioner Woodland seconded the motion.
Motion carried – All Aye.

2. **Commission Reports – None.**

3. **Mayor's Report**

City Clerk Baird presented the Mayor's Report on behalf of Mayor Barford.

Pier Piling Replacement

For the purpose of structural maintenance, four pilings will be replaced in two locations on the City Pier this fiscal year. The replacement is the City's responsibility and the approximate cost will be \$2,400. Funds will come from the Pier Contingency Reserve Fund this fiscal year and is on the consent agenda for approval.

Pool Construction & Ground Water Discharge Report

It was reported there are many pools being constructed in the City at this time and each impact the area differently in regard to ground water discharge load. The Building and Public Works Departments will be reviewing each pool application and will be specifically addressing how the ground water discharge will be managed for the purpose of controlling negative flooding that is being experienced in certain areas.

Storm Water Appeals

Staff is recommending to the Commission that the City proceed in establishing the Storm Water Appeals Fee Schedule for the next few years. However, staff recommends a zero fee be set for the first year – the process is new to the City’s residents which has resulted in questions, concerns, and confusion relating to the process. The City’s Engineer has a technical procedure to follow in the event a property owner wishes to file an appeal. Many of the concerns have already been resolved.

4. 2008 Legislative Update by Representative Galvano.

***Chair Quam* noted that Representative Galvano had not arrived. The Commission would continue with the Agenda and hear his presentation upon his arrival.

5. Manatee County Sheriff’s Contract for 2008/2009.

Chair Quam informed that the current budget for this year is \$645,898 and the new budget amount is \$655,495.69.

Sergeant Kenney was in attendance to answer any questions.

Contract with the Manatee County Government:

MOTION: Commissioner Tollette moved to approve the Service Agreement with the Manatee County Government for Sheriff’s Law Enforcement Services for 2008/2009 in the amount of \$655,495.69. Commissioner Woodland seconded the motion.

Public Comment

Jim Conoly, N. Shore Dr., stated he believes the City is getting their dollar’s worth by utilizing the Sheriff’s Department in Anna Maria and further felt the City was getting better service than was being provided in the neighboring cities.

ACTION: Motion carried – All Aye.

Contract with the Manatee County Sheriff’s Office:

MOTION: Commissioner Tollette moved to approve the Service Agreement with the Manatee County Sheriff’s Office for Sheriff’s Law Enforcement Services for 2008/2009 in the amount of \$655,495.69. Commissioner Mattick seconded the motion. Motion carried – All Aye

6.

a. Public Hearing to Adopt a Non-Ad Valorem Stormwater Assessment Roll and a Fee Per Equivalent Stormwater Unit (ESU) – Resolution R 08-640.

Chair Quam announced there had been ten public meetings held relating to this issue and that the City had invested a considerable amount of money and time during the process.

City Clerk Baird read the Resolution by title.

Chair Quam explained that the Commission had agreed on establishing the first annual charge at \$45. He suggested that the Resolution include language stating that after the initial fee amount, that it be reviewed on an annual basis.

Commissioner Mattick reiterated that the Commission had spent many hours discussing the issue and tried to make their best judgment based on the information provided to them. The Commission has every intention, based on Commissioner Woodland's recommendation, to keep close control over the dollars brought in and how they are spent. The fee will be reduced if possible. She said they felt the fee was a valuable tool for the City in order to maintain the Stormwater System.

Commissioner Woodland said he had already spoke to several of those in attendance that evening. He informed that discussions relating to this issue began three to four years ago and he had agreed to adopt the proposed fee all along. He said he originally questioned the City Attorney about the "tax" versus "fee" concept and though it is defined as a "fee" he does believe it serves as an additional "tax" to the taxpayers.

Commissioner Woodland informed he had discussed with the Commission a way to try and make the proposed fee as revenue neutral, however, no Commissioner's, Mayor, or the public had supported him on his effort. He said he had also discussed the issue with Representative Galvano. However, after speaking with the County Appraiser's office, the fee could not be made revenue neutral at this time without some State Legislative action. Explanation of the definition of "revenue neutral" followed by Commissioner Woodland.

Commissioner Woodland asked that the City Commission consider permanently exempting the fifteen low-income senior citizens in Anna Maria from the Stormwater Utility Fee. He said he discussed the request with the County Assessor and since the City already has the low-income senior citizen exemption in place as part of the tax bill, it would be simple to apply the same to the Stormwater Utility Fee.

Commissioner Woodland stated that the purpose for the Stormwater Utility Fee is to create a dedicated funding source that runs in perpetuity to maintain the stormwater infrastructure. He felt doing so would remove the stormwater utility fee to stand on its own and would not be a part of the budget process and come up for consideration on an annual basis.

City Attorney Dye said it was his understanding that the low-income credit goes to the “property taxes” and since the Stormwater Utility Fee was not a tax he was unsure it could be set off. He said he would need to review it further to see if it was possible. In answer to *Chair Quam*, City Attorney Dye agreed it would need to be addressed at a separate meeting.

Chair Quam officially opened the Public Hearing.

Jim Conoly, N. Shore Dr. asked for clarification as to whether canal maintenance had been included as part of the Stormwater Utility Fee program and had there been any consideration to enforcing the maintenance on the work accomplished.

Commissioner Woodland said he had discussed the canal maintenance issue with the Mayor and he never envisioned the fee being used to fund it. There were still numerous questions that needed answered first.

As far as the enforcement of the maintenance of the work, all projects have very stringent SWFWMD requirements that require the City to maintain the system. They must be re-certified each year and on-site inspections are required.

Mike, representing **Galati’s Marina**, asked for clarification on the definition of an ESU. He questioned the purpose of controlling the runoff and asked about a property located on the water and its immediate runoff into the Bay.

Commissioner Mattick explained it did not have anything to do with running off into someone else’s property, but was for improving the water quality.

Alice Newlon, N. Shore Dr., thanked the Commission for the work they had done. Ms. Newlon presented the City with a petition of 150 citizens and property owners who would like the funding for the maintenance of the stormwater system to come from the existing taxes rather than a separate fee. She stated that cities are beginning to add additional fees and was concerned where it would stop.

Ms. Newlon said in looking at the last eight years, the operating budget had tripled. She encouraged the City to find the additional funds for the maintenance in the existing budget.

Charlie Canniff, Tarpon St., asked if only the minimum standards required by the EPA would be met. He stated that Anna Maria citizens were living on a Barrier Island and if they were concerned about driving through water to get home, he did not see it as being the reason for doing it.

Discussion followed relating to previous years when all the oysters disappeared from the canal due to runoff containing pesticides and fertilizer. Mr. Canniff felt if the City wanted to do something to control the water quality, a plan should be put in place to control the pesticides and fertilizer. He did not feel it was fair to have to pay the same fee amount as those who add fertilizers and pesticides to their lawns.

Commissioner Tollette informed that the Stormwater Utility project is being engineered to help treat and clean the water. She informed that the City has asked the EEEEC Committee to look into the fertilizer and pesticide issue and they will be providing the City Commission with their recommendations.

Pat Morton, 31 Seaside, Holmes Beach, addressed the Commission on behalf of the Crosspointe Fellowship Church. Mr. Morton asked how the specific fee amounts were determined. He stated that another non-profit organization in the City has more property than the church does; however, the church has to pay twice the fee amount. Mr. Morton informed that the church has pervious shell parking and that the way the property is graded, the majority of the stormwater runs into the City of Holmes Beach storm sewer.

Chair Quam explained that an appeal process is in place and asked Mr. Morton to get with Director of Public Works McKay to begin the appeals process.

Tom Peters said he had discussed the proposed fee with both Chair Quam and Commissioner Woodland. Mr. Peters said the tax law states if it is not a "tax" and is determined as a "fee", then the amount cannot be taken off a persons federal taxes. He felt there were many new fees and assessments being proposed by the Cities and Counties.

Mr. Peters stated that if the citizens are making a \$1.5 million investment he did not feel many would be complaining about the maintenance costs. He further stated that Public Works Director McKay had indicated to him that the City's Public Works employees could perform all of the maintenance. Mr. Peters said he would much rather see his \$45 go towards paying the City staff rather than an outside company. However, he questioned why a fee would be needed at all if the Public Works employees could perform the work.

Tom Skoloda, N. Shore Dr., asked that the Commission reconsider establishing the fee and felt the maintenance costs should come out of the City's budget. He commented that the City's budget had tripled over the last eight years. It was his opinion that the City should find ways for generating income and he had never heard information on how the City should live within their budget.

Ms. Skoloda further felt the operating fees should be used for canal maintenance, etc. and that the City should live within its budget.

Diane Caniff, Tarpon St., said since the proposed fee was a stormwater assessment she assumed it dealt with getting the water off the street in the event of a hurricane, tropical storm, etc. She pointed out that the sea level is rising.

Ms. Caniff stated that for many years the City has operated without a stormwater system. She did not feel once the current system is in there should not be any more work that would cause an additional investment. Reference was made to the \$1 mil loan she felt currently burdens the taxpayers. It was Ms. Caniff's opinion that a dedicated fund should be setup as part of the City's budget rather than an additional tax be added. It was her concern that if additional funds are

collected through a fee, additional engineering upgrades, etc. may then be considered.

Ms. Caniff said she was totally opposed to the fee.

Chair Quam read from an article stating that EPA requires the City to implement a Stormwater Management program. He informed that projects have already been completed in the City and others are in the process totaling \$2 mil. He said the systems are in place and he felt a Stormwater Utility Fee was the best way to maintain the investment.

Commissioner Mattick stated that the real goal was not to prevent flooding. The swales are meant to hold the water in place so to percolate and actually put fewer pollutants into the water.

Tom Skoloda, N. Shore Dr., said he was never under the impression that it was to control flooding, nor were any of those who had signed the petition.

Chair Quam said he respected all those who had signed the petition, however, there had been a lot of study of the issue, it has cost the City a lot of money, and he felt it was the best method.

Hearing no further Public Comment, Chair Quam officially closed the Public Hearing.

Commission Discussion

Commissioner Woodland informed he had grown up in Anna Maria. He said years ago there was much more open space and the water was cleaner.

He made reference to the scallops he used to pick up and eat and the reason they are no longer here. He said numerous property owners have since brought in fill and built up their properties in order to build a home on it. He felt that was the biggest contributor for the additional flooding and water quality issue in the City.

Commissioner Woodland said he was proud to be a part of an administration that was being proactive about the Stormwater Utility in the City and also as one of the backers of the Stormwater Utility Fee.

**MOTION: Commissioner Woodland moved to adopt Resolution 08-640 to set a Stormwater Utility Fee in the amount of \$45 and to amend the Resolution to state that the Stormwater Utility Fee will be reviewed annually. Commissioner Tulette seconded the motion.
Roll call vote – All Aye**

**** Agenda Item # 4 -****2008 Legislative Update by Representative Galvano.**

Representative Galvano thanked the City Commission for the job they do for the City and then presented the 2008 Legislative Update. The following issues were addressed:

- Discussed that this year was the first time in FL where they had to really cut their budget. He explained that for the past five years, the State had reserves put away, which was utilized last year when revenues came up short. He informed that based on revenue estimates, there is an additional \$6 - \$8 Billion to cut from the \$66 Billion budget. Types of innovative programs being implemented were discussed such as a transportation system, creation of TEBARTA, etc.
- Funds will be brought back to this area such as the Mote Marine Laboratories that continues its work on Red Tide and other coastal concerns.
- Representative Galvano felt Amendment 1 was a disappointment. The creation of the Recapture Rule was explained.
- Gang violence/organized crime was addressed.
- There have been great strides in health care. The Florida Plan is being implemented and an affordable product will be available to fill in the gap. A market place for businesses with fifty employees or less has been created.
- The EPA has come up with a new set of demands and the FDEP has come up with a new set of stormwater standards. Included are regulations for gaming vessels and to continue the commitment relating to the Red Tide research.
- Representative Galvano said he had an opportunity to discuss the issue of a fee being revenue neutral with staff. However, given the current statutes and constitutional demands, it cannot be done at this time - but is something they are looking into.
- It was noted that Representative Galvano is currently serving his final term due to being term limited out. He said he was proud to represent Anna Maria.

Commissioner Woodland felt the revenue neutral issue was important and a legitimate concern for the City.

City Clerk Baird asked if there was anything in place that would allow small municipalities and counties to piggyback with the State's insurance program. She pointed out that due to the size of Anna Maria, they have very little bargaining power when it comes to health insurance.

Representative Galvano said it might be something the State needs to look at.

6.**b. Establish an Appeal Fee Schedule.**

Chair Quam reminded that the Commission had discussed setting the Appeal Fee at \$50 and suggested it be approved at that amount.

Commissioner Mattick said the reason for setting the fee at \$50 was due to the cost to the City. She asked how much time City Engineer Wilcox had spent in regard to those appeals he had addressed so far.

Public Works Director McKay said approximately six or seven appeals had been filed so far. City Engineer Wilcox spent approximately two hours per request plus there had been time involved by the City Staff.

Both Commissioner's Mattick and Tollette questioned if the City was charging enough.

Commissioner Mattick pointed out that the majority of appeals would be filed this year (at no fee) and suggested that the fee be increased for the following year to cover the City's costs. It was noted that the fee for the City Engineer was \$160 per hour.

Lengthy discussion followed that involved tracking the appeals costs, the Public Works Director breaking down the costs, getting the County Appraiser involved in determining the calculations, if the costs for the appeal time could be taken out of the Stormwater Utility Fund, and if so would a fee even need to be assessed.

City Attorney Dye explained that once the fee had been established, the window to start the appeal process is opened. If the fee would be waived the first year, the Commission could establish the fee for the following year later. If no action were taken, the fee in place at that time would then automatically roll over.

Commissioner Woodland agreed with waiving the fee for the remainder of 2008 and then establishing it at \$50 with no increase. He did not want the fee to be so high it would discourage someone from filing an appeal if they chose.

Chair Quam said he would like to get the amount put in place and then the fee could be adjusted later, if necessary.

Public Comment

Nancy Colcord, 118 Oak, said she did not feel any appeal costs should come out of the fund since it was suppose to be for maintenance.

Commissioner Mattick agreed with Commissioner Tollette that the Commission wait to determine any further fee amounts until after seeing what the total costs are to the City for processing an appeal request.

MOTION: Commissioner Woodland moved to approve the Fee Schedule for Stormwater Appeals for Zero Dollars for calendar year 2008 and in an amount of \$50 for 2009. Chair Quam seconded the motion.

Commissioner Woodland said if the Commission saw that a mistake was made in implementing the \$50 fee amount, it could be reviewed at that time.

Motion failed due to lack of a majority vote - Commissioner Woodland and Chair Quam voted Aye and Commissioner Mattick and Tollette voted No.

MOTION: Commissioner Mattick moved to delay making the decision to establish an Appeal Fee Schedule until the City has an opportunity to analyze Engineer Wilcox's invoices and gather data to determine the amount of time spent to process an appeals request – in the same manner as how the City upgraded the Building Fees – in order to be realistic about the fees being charged for the services the City provides and to allow time for data to be obtained when an appeal is made. Commissioner Tollette seconded the motion. **Motion failed due to lack of a majority vote - Commissioner Mattick and Commissioner Tollette voted Aye and Commissioner Woodland and Chair Quam voted No.**

In answer to *Commissioner Tollette's* question, *City Attorney Dye* informed that the Resolution setting up the appeal process states that a Schedule of Fees is to be established. No further document is required.

City Clerk Baird suggested a zero fee amount be approved for the remainder of 2008.

MOTION: Commissioner Woodland moved to establish the Fee Schedule for the Stormwater Appeals at Zero Dollars for calendar year 2008. Commissioner Tollette seconded the motion. **Motion carried – All Aye.**

7. Authorization to Repave a Section of Gulf Drive Extending from Willow to White Street.

MOTION: Commissioner Woodland moved to authorize the Mayor to enter into a contract for repairing a section of Gulf Drive extending from Willow to White Street in an amount not to exceed \$25,500 and authorize Line Item transfer from 516.193-56 to 516.19-56. Commissioner Tollette seconded the motion.
Motion carried – All Aye.

8. Second Reading and Public Hearing of Ordinance No. 08-690 – Amendments to the Site Plan Procedure.

City Clerk Baird read the Ordinance by title.

City Attorney Dye explained the correction that should be made to Sec. 74-355. Final site plan approval (f). That section should read as follows:

- (f) Should the final site plan be found to not substantially comply with the approved preliminary site plan or any city code as a result of a change required by another government agency or because of a voluntary change made by the applicant, the approving body shall deny the final site plan.

Chair Quam brought attention to subsection (b) relating to the proposed eighteen months from the issuance of the order granting preliminary site plan approval to obtain the final site plan approval for the subject major development and for the extensions of six months. He suggested those time periods be reduced.

Building Official Welch explained that the section deals with the applicant getting the Preliminary Site Plan through to the Final Site Plan stage. Detailed explanation followed relating to the process.

Chair Quam said he discussed this issue with Planner Garrett and he agreed that amount of time was too long. Many changes can take place within a two-year time period.

Building Official Welch agreed that eighteen months should be reduced to twelve months. He noted that some applicants come in on a weekly basis to make changes to their Site Plans. It was noted that economic issues are the main cause for extension requests. Examples followed.

In answer to *Commissioner Mattick's* question relating to the Site Plan filing costs, *Building Official Welch* informed that a proposal would be brought to the Commission within the next sixty days. Currently there is a Site Plan fee paid, where within that fee is a mechanism to pay the consultant's fee over and above the fee. He pointed out that the Building Official's time had not been figured into the fees. He explained that the total Site Plan application cost was \$3,000. The

amount of \$500 is due upon Site Plan application and \$2,500 is due prior to the Final Site Plan Hearing. Any consultant fees assessed on the project are charged by the City to the applicant and are then paid by the City directly to the consultant.

City Attorney Dye acknowledged that the Ordinance was written for a one-time extension. He said he would re-word the language to make it clearer. It was agreed that an applicant would either be given a six-month extension or no extension at all.

After discussion, it was agreed that the following changes be made:

- Eighteen months changed to twelve months.
- Add language – Sec. 74-355. Final site plan approval. (d) “The applicant must file a request for extension of time with the city at least thirty days in advance before expiration of the time granted for approval of the final site plan.”
- Add language – Sec. 74-356 Building Permit. A. “An applicant may request an extension of time by filing an application for extension of time with the city at least thirty days prior to expiration of the final site plan.”
- Add Language – Sec. 74-356 Building Permit. B. “Any request for extension of time under this sub-section shall be filed with the city at least thirty days prior to the expiration of the site plan.”
- Correct Proving to “Providing” in the Ordinance title.

Public Comment

Tom Turner, N. Shore Dr., said he agreed in reducing the time from eighteen months to twelve months with a six-month extension.

Mr. Turner asked for clarification relating to the section that states the P&Z shall review the Site Plan and then it later goes to the Building Official for an administrative approval.

Building Official Welch explained.

Mr. Turner complemented the application document now being required when applying for a Site Plan review.

Jim Conoly, N. Shore Dr., voiced his concern relating to the language “site plan is in substantial compliance” in subsection (d) of Sec. 74-355. He felt that language was “an opinion” and left a giant loophole. He suggested that it state that any issue that does not comply be placed on a list that becomes an attachment to the Site Plan. He pointed out there are cases where the applicant agreed to do certain things and it never got done.

Building Official Welch explained that if any other governmental permits have for some reason changed the Site Plan, it would need to be looked at by the City

Administration - and if not in compliance brought back before the approving board. He said he could support striking "substantial compliance."

Explanation of the process and discussion followed.

Commissioner Tollette said she liked the idea of having a list of items attached to the Final Site Plan that were different in the Preliminary Site Plan than in the Final Site Plan.

Michael Coleman, Pine Ave., confirmed that he did get billed for the Planner's time when applying for the Pine Restoration Project Site Plan. He gave examples of the type of changes made to his Site Plan request. He further informed that if not in compliance, the Planner and Building Official provide a list of items that are not in compliance that need addressed.

After discussion, it was agreed that Building Official Welch and City Attorney Dye would work together relating to the appropriate language revisions.

MOTION: Commissioner Tollette moved to continue the Second Reading and Public Hearing of Ordinance No. 08-690 – Amendments to the Site Plan Procedure – to the next regular Commission Meeting to be held at 7:00 p.m., September 25, 2008. Commissioner Woodland seconded the motion.

Commissioner Woodland suggested that language state that the Final Site Plan shall contain a list of all the differences between the Preliminary Site Plan and the Final Site Plan.

Commissioner Mattick pointed out that applications all have to be in compliance prior to going before the appropriate board for Final Site Plan approval.

ACTION: Motion carried – All Aye

9. Request from Chamber of Commerce to waive Special Event fee for Bayfest. (Commission reduced fee from \$500 to \$200 on July 24, 2008)

City Clerk Baird informed that the Chamber representative had phoned to inform she had the flu and would be unable to attend. It was City Clerk Baird's impression that the Chamber of Commerce was requesting that the fee be entirely waived.

Commissioner Woodland noted that Cindy Thompson from the Chamber was in attendance, however, had left approximately ten minutes earlier.

No action was taken.

10. **Authorize Mayor to begin the Ordinance Amendment Process with the P&Z Board regarding the issues approved by consensus at the Joint Commission/P&Z Board meeting on August 21, 2008.**

MOTION: Commissioner Woodland moved to authorize the Mayor to begin the Ordinance amendment process with the P&Z Board regarding issues approved by consensus at the joint City Commission/P&Z Board meeting of August 21, 2008. Commissioner Tollette seconded the motion.

Motion carried – All Aye.

11. **Set Meeting Dates for November and December 2008.**

- Swearing-in Ceremony for newly elected officials – November 13, 2008.
- Regular City Commission Meeting – November 20, 2008 – 7:00 p.m.
- Regular City Commission Meeting – December 18, 2008 – 7:00 p.m.

12. **CONSENT AGENDA.**

- a. **Proclamation – Women’s Equity Day 2008 – August 26, 2008.**
- b. **Appoint SueLynn to Transportation Enhancement Grant Committee.**
- c. **City Pier Work.**
- d. **Humpback Bridge Repair.**
- e. **Authorize Mayor to sign First Amendment to SWFWMD Agreement for Phase I.**

MOTION: Commissioner Tollette moved to approve the Consent Agenda as presented. Commissioner Woodland seconded the motion.

Motion carried – All Aye.

Chair Quam read the Proclamation declaring August 26, 2008 as *Women’s Equity Day 2008*.

13. **REPORTS AND UPDATES.**

- b. **Sheriff’s Report (Written)**
- c. **Building Department Report (Written)**
- d. **Public Works Department Report (Written)**
- e. **Code Enforcement Report (Written)**
- f. **City Pier Report (Written)**
- g. **Ordinance Update (Written)**
- h. **Resolution Update (Written)**
- i. **Financial Report (Written)**
- j. **Line of Credit Report (Written)**

Public Comment – None

Press Comment – None

Adjournment.

On motion made by Chair Quam and seconded by Commissioner Woodland, the meeting was adjourned at 7:16 p.m. Motion carried unanimously.

The next regular meeting is scheduled for Thursday September 25, 2008 at 7:00 p.m.

Alice Baird, CMC, City Clerk

Minutes approved: _____