

**CITY OF ANNA MARIA  
REGULAR CITY COMMISSION MEETING MINUTES  
MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS  
10005 GULF DRIVE – ANNA MARIA, FL  
THURSDAY, OCTOBER 23, 2008  
7:00 P.M.**

**CALL TO ORDER**

Commission Chair Quam called the meeting to order at 7:00 p.m.

**PLEDGE TO THE FLAG**

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

**Absent w/excuse:** 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, City Planner Alan Garrett, Building Official Bob Welch, Minutes Clerk Stacey Johnston, and Court Reporter (Ref. Item # 5)

**Press present:** Sun and Islander.

1. **Approve Minutes of the Final Budget Hearing held September 23, 2008 and the Regular City Commission Meeting held September 25, 2008.**

**MOTION:** Commissioner Tollette moved that the September 23, 2008 Final Budget Hearing Minutes and the September 25, 2008, Regular City Commission Meeting Minutes be approved as written. Commissioner Mattick seconded the motion. Motion carried – All Aye.

2. **Commission Reports** – No reports given.

3. **Mayor's Report**

**Citizens Recognition Committee**

*Mayor Barford* announced that the members recommended to serve on the 2008 Citizen Recognition Committee are Nancy Colcord, Jim Conoly, Margaret Jenkins, Linda Scott, Tom Tollette, and Betty Yanger. Appointment of the members has been placed on the Consent Agenda that evening - reference item 11.b.

**Tourist Development Council Meeting**

*Mayor Barford* asked that the Commissioner's join her in attending the November 13, 2008 Tourist Development Charrette group meeting - 1:30 p.m. to 4:30 p.m., to be held at the Longboat Key Hilton. Funds distribution will be addressed and Anna Maria needs to weigh-in in regard to renourishment efforts. Both Commissioner Mattick and Commissioner Tollette agreed to attend.

**Anna Maria Bridge Closure Update**

The bridge repairs are on schedule and are over one-half complete.

**Waste Management – Recyclables**

All recyclables need to be separated. Newspapers are to be placed in a sack and placed in one of the bins and should be separate from cans and bottles. Those needing an additional bin can contact the City Hall and one can be picked up.

**Employee Work Schedule Update**

*Mayor Barford* reported that the City employees would be continuing the four-day workweek schedule through June 2009.

**City Hall Parking Lot**

The Pine Ave. City Hall parking lot area will be closed within the next two weeks during the stormwater project repairs. All staff will park in the back parking lot during that duration.

**N. Bay Blvd (Humpback Bridge) and Crescent Bridge Update**

Contingent on action taken that evening (ref. item #8), both the N. Bay Blvd. and Crescent Bridges will be reopened the first week of November 2008.

**4. Proclamation – *Farm-City Recognition Week – November 14 – 23, 2008.***

*Mayor Barford* read the Proclamation proclaiming the week of November 14 through 23, 2008 as Farm-City Week.

**5. Request to Vacate All or a Portion of Platted Palm Avenue Intersecting South Bay Blvd. Between Lots 86 and 87, of Wells Bay Harbor, Section “A”, in Plat Book 7, Page 78, Public Record of Manatee County, Florida.**

-- **Second Reading and Public Hearing of Ordinance No. 08-693.**

*Chair Quam* officially declared the Public Hearing open.

*City Clerk Baird* read the Ordinance by title.

*City Planner Garrett* explained that the applicant for the requested vacation was Attorney Perrey, representing Horizon Bank. The street vacation process and requirements as outlined in the Code was explained. The P&Z Board previously held a Public Hearing and their recommendation was placed in the form of a Resolution - Resolution 08-643.

*Attorney Phil Perrey* addressed the Commission on behalf of the applicant. A document entitled “Presentation to Anna Maria City Commission on October 23, 2008 Concerning Horizon Bank’s Petition to Vacate Platted Palm Avenue” was presented by Attorney Perrey and marked by the Court Reporter as an exhibit to the transcript. He addressed the following background as follows:

- Explanation of the 1950 plat of Wells Bay Harbor filed by Irene and Carlos Wells. It was Attorney Perrey’s interpretation that “Section B Under Development” on the plat was planned to be platted and developed at a later time. The plat included four stubbed-out streets – Palm Ave., Madeira Ave., Loquot Dr., and Kumquot Dr. The purpose

was to provide access to land planned to become Wells Bay Harbor Section "B". Attorney Perrey stated that based on the facts shown on the plat, Palm Ave. was intended exclusively for street purposes – to get vehicles from Bay Blvd. to Wells Bay Harbor Section B.

- Attorney Perrey stated that a City does not own the street right-of-way – it only holds an easement to construct a road on the right-of-way. He explained that the Wells gave an easement to the City to build a street on the right-of-ways shown on the plat. Attorney Perrey stated that FL laws states that the adjoining lot owners own the right-of-way, subject to the City's easement. Therefore, the owner of Lot 87 owns one-half of the Palm Ave. right-of-way and the owner of a portion of Lot 86, Horizon Bank, owns the other one-half.
- It was his contention that the City can only use the right-of-way to construct a road and not for a stormwater retention area or a lift station. He stated that when the plat was filed in 1950, the Well's intended Palm Ave. to be the location of a road. A copy of *Wilson vs. Dunlap*, 101 S.2d 801 (Fla 1958) case was provided to both City Attorney Dye and Planner Garrett for their reference. Explanation of the case followed by Attorney Perrey.
- A question about Horizon Bank's ownership of parcel on the southerly side of platted Palm Ave. was raised at the recent P&Z Board hearing. A copy of a Certificate of Title to Horizon Bank, Manatee County tax information, information how Horizon Bank incurred the property, legal description, and an overhead photo of the parcel were referenced and included in the agenda materials for the Commission's reference.
- Attorney Perrey referenced the Traffic Circulation Element of the City's 2007-2020 Comprehensive Plan. He read the section of the plan that states "Due to the environmentally constrained nature of the community, there is no foreseeable need for roadways other than those that currently exist. Therefore, future row (right of way) is not a concern in the City of Anna Maria."
- Attorney Perrey stated that the City's power to vacate streets couldn't be exercised in an arbitrary manner. Reference was made to three court cases reflecting his opinion.
- According to Attorney Perrey, Horizon Bank's position statement was as follows:
  - 1) The City has the power to vacate planned Palm Ave. based on the City's Charter, Ordinances, and FL case law.
  - 2) The requested vacation is consistent with the City's traffic circulation element of the Comprehensive Plan.
  - 3) Platted Palm Ave. does not provide the sole access to any parcel of land in the City. The parcels of each side of platted

Palm Ave. have access via Bay Blvd. S. Also, Lot 1 of Villa Rosa Subdivision has road access via Bay Blvd. S. and Villa Rosa Way shown on the plan of Villa Rosa Subdivision.

- 4) The vacation of the roadway would not jeopardize the current or future location of any utility. Horizon Bank will grant permanent utility and drainage easements to the City in the front, rear, and side yards of the resulting parcel of land, so long as the easements have no detrimental effect on the bank's ability to obtain a Building permit to construct a single-family residence on the resulting parcel of land.
- 5) The proposed vacation is not detrimental to the public interest. The bank proposes to build a single-family residence on the land thereby generating tax revenue in excess of \$12,000 for the City.
- 6) Platted Palm Ave. is not reasonably or materially beneficial to the surrounding properties abutting the platted Palm Bay. All surrounding properties have existing access by public roads and none of the surrounding properties abutting platted Palm Ave. suffer any damage or detriment from the proposed vacation.
- 7) It would be an abuse of discretion if the City denies the proposed vacation.
- 8) Courts may review the City's decision to determine whether the City exercised its authority arbitrarily and without regard to the rights and necessities of the public.

### **Public Comment**

**Attorney Thomas Fitzgibbons**, representing Bono Enterprises, Inc., addressed the Commission. Bono Enterprises, Inc. is the owner of Villa Rosa Subdivision - with the exception of one lot that has been sold.

Attorney Fitzgibbons informed that his client is engaged in litigation over the ownership of the property in question. He stated that his client was the titleholder for the deed and has a \$6.4 million title policy.

According to Attorney Fitzgibbons, Horizon Bank foreclosed on a mortgage on the property, however, failed to join the titleholder Bono Enterprises, Inc. Attorney Fitzgibbons contends his client owns the property since the deed has never been canceled by foreclosure. Explanation followed relating to the series of errors that had occurred relating to the property.

Attorney Fitzgibbons stated that Palm Ave. was created to grant access to his client's property – 15 lots. Though the market is presently challenging, he said his client's entrance was being subject to the challenge of the bank. He said if the bank were unsuccessful in obtaining the property, the requested vacation would be necessary to get access into their property. Details followed.

It was Attorney Fitzgibbons' opinion that the ownership issue should be resolved first. The use is for a right-of-way and using it in that fashion was his client's intent when building out the subdivision with luxury homes. Attorney Fitzgibbons

did not feel the City should be concerned about the “abuse of discretion” threat presented by Horizon Bank.

### **City Attorney Comments**

*City Attorney Dye* addressed the authority and power of the City to vacate Palm Ave. – what it is and what it can be used for.

- Pointed out it was the same subdivision involving the Oleson case.
- This issue is similar to the Oleson case in regard to the easement ownership. He agreed that the City does not own the land but the public has a right to use that piece of land as Palm Ave.
- In referencing the plat that created Palm Ave., City Attorney Dye explained that the streets and right-of-ways were being dedicated for proper purposes. Palm Ave. is not limited to a road. Proper purposes could include telephone poles, water utilities, lift station, drainage, etc. He explained that the plat has no restrictions on the use of Palm Ave. Therefore, whatever the City deems to be placed in a right-of-way (as long as it ties in with the roadway) can also be placed in the Palm Ave. right-of-way.
- Agreed that the adjoining property owners own out to the halfway point.
- Attorney Dye addressed the “abuse of discretion” statement. He advised that the City has unlimited discretion in reviewing the request and felt it was a policy issue on behalf of the Commission. He stated that “abuse of discretion” is only if they chose to exercise their authority and not granting the vacating would be not choosing to exercise their authority and would therefore remain status quo.
- Attorney Dye did not feel the cases presented by Attorney Perrey were relevant.

### **Commission Discussion**

*Commissioner Mattick* felt it was the City’s responsibility to maintain rights-of-ways and felt that the Comprehensive Plan was based on fact - that it was already an existing right-of-way and the City does not anticipate any future ones.

*Commissioner Tollette* asked about the status of Madeira Ave. She also asked if there was indeed a question of the ownership of the property. She asked if the City would be brought into the ownership litigation if action was taken relating to the vacation request. She also asked if Villa Rosa Way was a private or public street and how vacating Palm Ave. would impact the Villa Rosa Subdivision.

*City Attorney Dye* stated that if the Madeira Ave. was never vacated it would still exist.

*Planner Garrett* informed that there was a re-plat of Lots 74 through 85 and Madeira Ave. may have been deleted as part of the re-plat.

*Chair Quam* pointed out that the City has no basis that no precedence has been set in relation to whatever the status of Madeira Ave. might be.

City Attorney Dye said in regard to the question of ownership, that he was presented information that evening indicating that there apparently is litigation over the ownership. He informed that the City had not been made part of the litigation, however, if action were taken on the vacation request it could cause one of the parties in the litigation to bring the City into it.

In answer to Commissioner Tollette's question, City Attorney Dye informed that Villa Rosa Way serves as a private street. He stated that Palm Ave. was not within the Villa Rosa Subdivision. Vacating the right-of-way would only effect the portion of Lot 86 next to Palm Ave. as not having a public right-of-way next to it. However, vacating the public right-of-way would remove the public rights from the road.

Questioned by *Commissioner Mattick*, City Attorney Dye explained that the 40-foot right-of-way private road was developed as part of the initial Villa Rosa project.

*Commissioner Woodland* said he did not feel the ownership of the property was relevant to the City Commission's decision. He then reviewed the criteria for a vacation that the Commission would have to address in granting or denying a vacation and stated that he would not support the vacation request.

*Attorney Perrey* pointed out that the plat states that Boulevards, Avenues, Drives, and waterways are hereby dedicated for use of the public for proper purposes. He stated that proper purposes of a street are different that proper purposes of a waterway.

Attorney Perrey restated that the bank would be willing to grant easements all the way around the parcel of land and that the City has the authority to attach conditions to the vacation of a right-of-way. He informed that the bank is willing to consider any such conditions.

*Commissioner Tollette* voiced concern relating to the ownership issue. She also asked that the status of Madeira Ave. be researched.

*Planner Garrett* explained that research of the actual plat at the courthouse would be required.

*Commissioner Mattick* did not feel the verification of Madeira Ave. was relevant to the vacation request.

*City Attorney Dye* pointed out that the vacation request was a policy issue and that the Madeira Ave. status may be relevant to Commissioner Tollette's decision.

#### **Public Comment**

**Tom Turner**, N. Shore Dr., said it appeared that Lot 86 was a buildable lot and questioned why the bank would be contesting a property that they did not have

clear title to. He felt the City would loose out if agreeing to grant the vacation request.

**Charlie Conoly**, Horizon Bank President, said the drive on the side of the easement keeps it from being a buildable lot. He stated that the bank wants to build a single-family dwelling to increase the tax base for the City.

Mr. Conoly stated that the bank has clear title to the property and the battle of ownership has gone on for several years. The property has been in bankruptcy for a couple of years. Explanation followed.

**Margaret Jenkins**, Chilson Ave., did not feel the easement should be vacated without knowing who owns the adjacent property.

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*Chair Quam* pointed out that vacating of property in the City is non-existent other than swaps and was not in favor of vacating property for the economic benefit of the property owner.

**MOTION:** Commissioner Woodland moved and Commissioner Mattick seconded the motion to deny the vacation application for vacating all or a portion of platted Palm Ave. intersecting S. Bay Blvd., between Lots 86 and 87, of Wells Bay Harbor, Section "A", in Plat Book 7, Page 78, Public Record of Manatee County, FL and based on the following requirements for reviewing a street vacation:

- 1) That the requested vacation is consistent with the traffic circulation element to the City's Comprehensive Plan.
- 2) The right-of-way or other property sought to be vacated does not provide the sole access to any property.
- 3) The vacation would jeopardize the current or future location of any utility, and
- 4) The proposed vacation is detrimental to the public interest.

**ACTION:** On roll call vote, the motion carried on a vote of 3 to 1 with Commissioner Tollette voting No.

**Note:** Ordinance No. 08-693 died for lack of action taken.

**6. Amendment to the City's Sign Ordinance, Sec. 98-61 through 98-41.  
-- Second Reading and Public Hearing of Ordinance No. 08-694.**

*City Clerk Baird* read the Ordinance by title.

*Chair Quam* officially declared the Public Hearing open.

*City Attorney Dye* informed that he had presented a draft Ordinance, however, since then there have been two other drafts proposed by City Staff. He recommended that the Second Reading be continued to allow time for his review of the newly proposed draft Ordinances.

**Public Comment** – None.

**MOTION:** Chair Quam moved to continue the Second Reading of Ordinance No. 08-694 until the November 20, 2008, 7:00 p.m. meeting. Commissioner Mattick seconded the motion. Motion carried – All Aye.

**7. Accept Commission Direction Regarding Pro-Active Measurers to Protect City Operational Funds.**

*Finance Director/Deputy City Clerk Percycoe* explained that the City currently has City funds in Wachovia, Whitney Bank, and the State Board of Administration. She announced that Wells Fargo has acquired Wachovia Bank and the change over will occur January 2009.

Two issues were addressed – Are the City's monies secure and would the City have immediate access to funds if necessary. She pointed out that the Wachovia Bank and Whitney Bank funds are insured for the first \$100,000 and that FDIC is looking at raising that amount to \$250,000. The remainder of funds for a qualified public depositor is also insured. However, the City would not have immediate access to funds in the event that the bank might close their doors.

Ms. Percycoe recommended that for emergency operational purposes the City move funds from Wachovia Bank to Bank of America, which serves as another qualified public depositor bank on the Island. She also recommended moving the funds from the Whitney Bank to Bank of America for convenience purposes. The money market funds in Whitney Bank would be moved upon their maturity.

**MOTION:** Commissioner Woodland moved to authorize the Mayor and Staff to withdraw current designated funds from Whitney Bank – and to deposit the designated accounts with Bank of America. Commissioner Mattick seconded the motion. Motion carried – All Aye.

**MOTION:** Commissioner Mattick and Commissioner Woodland moved and seconded the motion to withdraw an amount from the City's General Fund Account with Wachovia Bank and establish an account with Bank of America for the purposes of creating an emergency operational fund, an amount to be determined by the Mayor and Staff that would provide emergency operational funds for one month.  
**Motion carried – All Aye.**

**8. Repair of Approach to the North Bay Blvd. Bridge – Uretek ICR, Lakeland, Injection of Polyurethane, in an amount not to exceed \$38,100.**

*Mayor Barford* explained that studies have also been conducted on the Crescent St. Bridge due to concerns with it showing the same similar problems as with the N. Bay Bridge a/k/a the Humpback Bridge.

*Public Works Director George McKay* said he felt the City should be proactive so therefore, from the last work session, the City has also looked at the Crescent St. Bridge. He informed that both the N. Bay and Crescent Bridges have soft areas in the bridge approaches. The Crescent Bridge is still stable except for hollow spots. He recommended that if funds are available out of the \$38,100, that the worst side of the Crescent Bridge also be repaired.

Director McKay informed that the use of a camera to look at any damage was considered, however, they were not able to find a camera small enough to fit into a 6-inch hole.

*Commissioner Mattick* pointed out that she was not in attendance at the work session and stated she had major concerns after reading the proposal. She did not feel the City could move forward without first knowing what the basic problems were with the bridges. She also pointed out that no guarantees were offered except for the Uretek product itself. She said she was not comfortable with only patching the bridges when not knowing the extent of their condition. She asked if City Engineer Wilcox was certified in bridge repairs.

Director McKay explained that the proposed Uretek repair would stabilize the bridge approach and was the most economical way for its repair. He informed that the best experts were obtained. He noted that FDOT has used the product on horizontal bridge slabs.

*Commissioner Tollette* said she too felt pressured in making a decision on something so important. After the work session, Commissioner Tollette researched Uretek on the Internet. Explanation of her findings followed.

Commissioner Tollette stated she did believe in the Uretek product and has confidence in Uretek's testing procedures. She said, however, she was not comfortable with not understanding the reason for the damage.

Director McKay responded. He pointed out that the City will be charged per pound of the product used.

*Chair Quam* suggested that the northerly approach on the N. Bay Bridge be addressed first. If satisfactory, then the City can proceed with the Crescent Bridge later.

Director McKay informed that there is a \$750 charge per mobilization.

*Mayor Barford* stated that the immediate concern is with the N. Bay Bridge. However, the Crescent Bridge is beginning to show similar issues - though not an immediate safety concern. She informed that the cost to repair the N. Bay Bridge is \$20,100.

*Commissioner Woodland* thanked Commissioner Tollette for presenting her research. He noted that the information presented was consistent with that presented by City Engineer Wilcox. He explained in detail why he was comfortable with awarding the contract to Uretek. Commissioner Woodland felt there was an immediate problem that needed to be addressed and he was comfortable enough with the information presented to move forward.

*Finance Director/Deputy City Clerk Percycocoe* explained that the funds would be taken out of the Contingency fund. She informed that the agreement would need to be amended and that it had been forwarded to City Attorney Dye for review. She suggested that the ten-year warranty of the product be included in the agreement.

In answer to *Commissioner Mattick's* question, *Mayor Barford* explained that the original Uretek quote of \$38,100 was based on 22 CY's of material. However, after Uretek performed a study, the total cost to repair the N. Bay Bridge totals \$20,100.

Discussion followed relating to the Uretek product 10-year warranty only covering the product and not the work or any repairs.

*Commissioner Tollette* said she wanted verification that the product would be injected along the walls of the bridge and that any cracks would be filled in. She asked if three probes would be sufficient.

*Director McKay* explained the process and stated he would research the question relating to the probing.

### **Public Comment**

**Gene Aubry**, Anna Maria, felt there was an inherit problem with the N. Bay Bridge and was hopeful that the City's Engineer was very knowledgeable about

bridges. He said there was obviously a severe problem because the sand was washing out from under the bridge meaning the sidewalls were moving. He was concerned that the damage would continue even after being injected with the Uretek product.

Mr. Aubry felt the City has the liability to keep both the N. Bay Blvd. and Crescent Bridges up to code so they will take the proper loads. It was his opinion that the City Engineer should have been in attendance to inform the City what was wrong with the bridge - rather than depending on an independent contractor.

*Mayor Barford* stated that the City Engineer was in attendance and made a presentation at the last work session. She stated that she and the staff made a decision to not request the City Engineer attend the meeting that evening and apologized for not having him there.

**Boyd Hoskins**, Anna Maria, suggested that a load limit be placed on the bridges.

*Mayor Barford* responded and acknowledged that the load limit was a major consideration. She said when speaking to law enforcement on how best to manage the situation they were informed that it was difficult to enforce the determination of load amounts and recommended stop signs be installed on either side of the bridge. The First Reading of Ordinance No. 08-696 (agenda item # 10) for the installation of stop signs would be considered.

*Mr. Hoskins* stated that Sarasota has load limit signs.

**MOTION:** Commissioner Woodland moved to authorize the Mayor to sign an agreement and purchase order with Uretek an amount not to exceed \$20,100 for the purpose of repairing the approach described in agreement for the N. Bay Blvd Bridge # 135000, to include that the 10-year warranty be included in the agreement. Chair Quam seconded the motion.

*Commissioner Tollette* stated she would like additional information to be provided by City Engineer Wilcox.

**ACTON:** The motion failed due to a lack of majority vote.  
Roll Call Vote -  
Commissioner Woodland – Aye  
Chair Quam – Aye  
Commissioner Tollette – No  
Commissioner Mattick – No

*Mayor Barford* said she would like to have a Special Meeting when Mr. Wilcox could be available in order to move the bridge repairs forward.

--- **MOTION:** Noting it was 9:00 p.m., Chair Quam moved to extend the Commission Meeting until the agenda was complete. Commissioner Woodland seconded the motion. Motion carried. All Aye.

**9. Exempt Low Income Property Owners from the Stormwater Utility Fee.**

-- **Second Reading – Ordinance No. 08-695.**

*Chair Quam officially opened the Public Hearing.*

*City Clerk Baird read the Ordinance by title.*

*Commissioner Tollette* asked for clarification on who qualified for the additional exemption.

*City Attorney Dye* explained that the additional exemption was available to low income individuals, 65 years of age and over, with an annual income of \$24,000 or less.

**MOTION:** Commissioner Woodland moved to adopt Ordinance No. 08-695. Commissioner Tollette seconded the motion. On Roll Call vote, the Motion carried unanimously.

**10. Request to Install Stop Signs at the North Bay Bridge No. 135000, and the Crescent Drive Bridge No. 135001.**

-- **First Reading – Ordinance No. 08-696.**

*Mayor Barford* asked that the Commission consider the Ordinance in order for the stop sign process to begin when the bridge repairs are complete. Installing stop signs will allow the City to be proactive in order to prevent any further damage to the bridges.

*City Clerk Baird* read the Ordinance by title.

*Commissioner Woodland* asked if stop signs were necessary for the Crescent Bridge.

*Mayor Barford* said since damages were seen on the Crescent Bridge, installing stop signs would serve as a proactive measure.

*Public Works Director McKay* stated that the traffic would be diverting to Crescent if the stop signs were only on the N. Bay Blvd. Bridge.

*Commissioner Woodland* asked if it would be necessary to continue having stop signs after the N. Bay Bridge is repaired.

*Mayor Barford* will ask the contractor to give an expert opinion.

*Finance Director/Deputy City Clerk Percycocoe* suggested the number of axels be limited.

*Commissioner Tollette* pointed out that Urettek's proposal states that the load abilities will be more sufficient. She felt the Engineer should provide a recommendation. She further suggested that the Commission consider when the City will have to completely replace the bridge.

*Commissioner Woodland* stated that the installation of the stop signs would not be favorable with the citizens. He asked if only certain type vehicles could be required to stop versus all vehicles.

*Commissioner Mattick* voiced her concern relating to traveling over the N. Bay Blvd. Bridge and traffic coming out of the parking lot at that location. She agreed that stop signs should be installed.

**ACTION: Ordinance No. 08-695 will be considered for Second Reading at the Commission's November 20, 2008 7:00 p.m. meeting.**

**11. CONSENT AGENDA.**

- a. **Proclamation – Southwest Chapter of Medical Assistants of the Florida Society of Medical Assistants Recognition Week - October 20 – 24, 2008.**
- b. **Appoint Citizen Recognition Committee Members.**

**MOTION: Chair Quam moved to approve the Consent Agenda. Commissioner Mattick seconded the motion.  
Motion carried – All Aye.**

**12. REPORTS AND UPDATES – All Written Reports**

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

**Public Comment**

**Jim Conoly**, N. Shore Dr., stated that there is many more large trucks traveling over the streets in Anna Maria and felt the City should consider the damage occurring on the streets. He suggested that it be required that deliveries be made in a smaller van versus large trucks. Mr. Conoly said he had spoke with

Sergeant Kenney regarding how the large trucks do not adhere to the 15 mph speed zone. He also indicated that there were several potholes that need repair.

**Laura Gee**, 502 S. Bay Blvd., asked that the City reimburse her for her legal expenses totaling over \$15,000 incurred as a result of the Commission granting a variance to the Olesen's that she had strongly urged not be granted. She pointed out that Commissioner Miller was the only vote in her favor.

Ms. Gee provided the Commission with a background of the Olesen's variance request and the lawsuit she filed. She stated that the variances did not meet the eight criteria as set out by Code and the Commission voted against the P&Z's recommendation of denial.

Ms. Gee said her only hope was to file a lawsuit in hopes that an impartial judge would reverse the decision. On June 30, 2008 Judge Logan ruled that the variance did not meet the criteria. She felt if the City would have followed their own codes and guidelines, she would not have had to spend \$15,000 of her own money to file suit. She asked that the Commission "right a wrong" and reimburse her the amount of \$15,000.

*City Attorney Dye* advised he did not know of any procedure, policy, or Ordinance allowing the City to reimburse a person fees for bringing a lawsuit - even if they prevail. The general policy through the State and Country is that a prevailing party gets legal fees if there is a statute that authorizes it or a contract between the parties that would authorize it. He stated that neither conditions were present in Ms. Gee's case. He said the only way would be a finding by the Commission that reimbursing the legal fees is in the public interest or provides a public purpose.

City Attorney Dye informed that he had discussed the issue with Attorney Greg Hootman who was in agreement with him.

**Press Comment – None**

**Adjournment.**

**On motion made by Chair Quam and seconded by Commissioner Woodland, the meeting was adjourned at 9:26 p.m. Motion carried unanimously.**

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**Alice Baird, CMC, City Clerk**

**Minutes approved:** \_\_\_\_\_