

**CITY OF ANNA MARIA
REGULAR COMMISSION MEETING
MAY 26, 2005
7:00 P.M.**

CALL TO ORDER

PLEDGE TO THE FLAG

ROLL CALL: Commissioner Dale Woodland, Commissioner Carol Ann Magill, Commission Chair John Quam, Deputy Commission Chair Linda Cramer, Commissioner Duke Miller

Also present: Mayor SueLynn, Sgt. John Kenney, Sheriff's Department; City Attorney Jim Dye, Building Official Kevin Donohue, Public Works Director George McKay, City Clerk Alice Baird, Minutes Clerk Sylvie Reichmann

1. CONSENT AGENDA

- a. Approval of Minutes: Special Commission Meeting 4/28/05 – 6:00 p.m.;
Regular City Commission Meeting 4/28/05 – 7:00 p.m.
- b. Special Event: Anna Maria Community Center Fishing Tournament – June 17th, 18th and 19th
- c. Proclamation: Memorial Day – May 31, 2005
- d. Proclamation: Blood Drive – June 11th to 12th
- e. Resolution No. 602 Allowing for Interlocal Agreement re: Manatee County Cable Television Consortium
- f. Special Event: Sandbar Fireworks – July 4th
- g. Special Event: Privateers July 4th Parade
- h. Appointment of Mayor, City Clerk and Deputy Clerk as Audit Selection Committee
- i. Bridge Opening Time Change Response to Metropolitan Planning Organization (MPO)

Commissioner Carol Ann Magill asked for more information on Item 'e.' Resolution No. 602.

MOTION: Commissioner Dale Woodland moved to approve the Consent Agenda, with the exception of Resolution No. 602, seconded by Deputy Commission Chair Linda Cramer.

Vote: All Ayes. Motion carried.

Commissioner Carol Ann Magill asked what impact on the community the cable franchise would have. Mayor SueLynn responded that she would need to get more detailed information from Carol Gettman on the County Commission. She confirmed that the County was simply asking the City if it would like to be involved.

Commission Chair John Quam said that the County has an exclusive contract with a company right now and this Resolution would bring in competition. He pointed out that the wording in the Resolution clearly says “desire” and this document would not be a binding agreement in any way.

MOTION: Deputy Commission Chair Linda Cramer moved to approve Consent Agenda Item ‘e.’ Resolution No. 602, and Commissioner Dale Woodland seconded the motion.

Vote: All Ayes. Motion carried.

2. REPORTS & UPDATES

Deputy Commission Chair Linda Cramer reported that the Historical Society had recently completed the restoration of Belle Haven Cottage. She said that Carolyn Norwood had indicated that they were currently in the process of organizing the General Store. Commissioner Cramer invited Mayor SueLynn and the Commissioners to attend an informal gathering of Board members and local business owners scheduled for the Tuesday following the date of this evening’s meeting at 1:00 p.m.

Commissioner Carol Ann Magill said that she recently attended the Anna Maria Island Community Center Board Meeting, where they discussed putting in budget requests to the Island cities. She said that the Board would be producing a pamphlet, which they hoped would help encourage the cities to increase their donations, and understand the nature of the need and where the money would be going.

Commissioner Dale Woodland thanked DP for producing the Income Statement spreadsheet, which he described as very helpful. Relative to 201 Coconut, he reported that he had gone through the structure with Building Official Kevin Donohue and that he had no intent to pursue the matter any further at this time.

Commission Chair John Quam called two Special Meetings: one for Thursday June 2nd, 2005 at 6:00 p.m. to reschedule the Negele Shade Meeting; and one for Thursday June 2nd, 2005 at 7:00 p.m. to review Section 114-135 relating to non-

conforming properties, as requested by the P&Z Board at their May 23rd, 2005 meeting and to discuss related issues.

Mayor's Report

Mayor SueLynn announced that Anna Maria's own Sgt. Kenney had received the Manatee County Sheriff's Department Deputy of the Month award for his courageous professional conduct during a recent dangerous situation in Bradenton Beach. She expressed pride on behalf of the City, and gratitude for the privilege of having such a fine law enforcement professional serving the Island's residents.

The Mayor encouraged the Commissioners to attend the SWFWMD Public Meeting at 6:00 p.m. on June 7th, 2005 where project design information would be presented relative to the grants that the City had received. She said that the public comment would be welcomed at the meeting.

Mayor SueLynn said that staff had learned that they might not have the ad valorem estimate by the first week of June, as she had specified at the last work session, for the Commissioners to receive their copies of the budget. She said she would further advise the Commissioners as to when they would be receiving a copy of the budget calculated with the ad valorem estimate.

Mayor SueLynn added the EEEEC had decided to apply for the Kodak American Greenways grant for which must be submitted by May 31st. She asked for permission to submit the grant, which would not exceed \$2,500 but would most likely require \$500 to \$1,500. She said that these matching funds would be coming from the EEEEC budget. The Mayor asked for the Commission's approval to submit the grant at this time. Commission Chair John Quam said he did not know how to approve items for next year's budget. **There was consensus from the Commission to move forward and authorize the submission of the grant application.**

3. Anna Maria Island Historical Society Requesting a Variance to Code of Ordinances, Section 82-82 (2) for Relief from the Flood Prevention Ordinance (Planning & Zoning Recommendation)

Deputy Commission Chair Linda Cramer said she believed that Flood Plain Manager Kevin Donohue's memo clarified the issues.

MOTION: Deputy Commission Chair Linda Cramer moved to approve the Variance to Code Ordinance Section 82-82(2) for Relief from the flood Prevention Ordinance. Commissioner Dale Woodland seconded the motion. Roll Call Vote: All Ayes. Motion carried unanimously.

Commissioner Dale Woodland noted that Building Official Kevin Donohue had only addressed paragraph 2.c under Variances, and said that he would not like to vote on this variance without going through the remainder of the criteria. He

suggested that Public Works Director George McKay could clarify them for the Commission.

Commission Chair John Quam noted that if this variance were not granted, the Belle Haven structure would need to be elevated, indicating that this would relate to the hardship criterion.

Public Works Director George McKay said that if the cottage were required by the Commission to be elevated, it would present a hardship for public access. He informed Commissioner Dale Woodland that flood insurance and the CRS rating were the driving considerations behind this proposed City action.

Public Comment

None offered.

4. City Pier – ADA Compliance – City Participation in Cost to Upgrade Entrance Ramp

Commissioner Carol Ann Magill recalled that residents had recently expressed concern regarding her apparent opposition to contributing to the costs of the ADA bathrooms, and clarified that her primary concern had been regarding the possible liability of the City relative to making the ramp and approach to the restaurant ADA compliant.

Commission Chair John Quam noted the facts that: The Commission had confirmed that the lease clearly states that all maintenance and improvements are the responsibility of the tenant; and on January 23rd, 2003, the Commissioner had voted to offer \$10,000, representing 50%, in the spirit of continuing the City's good relationship with the tenant.

Deputy Commission Chair Linda Cramer said she would be in favor of asking the City Attorney to draft a letter to the tenant regarding the tenant's responsibility to uphold the lease and all City, County, State, and federal codes. She said that an expert that sits on the State Building Code had confirmed to her that the tenant is responsible for the ADA regulations and maintenance of the bathrooms, as well as the approach to the restaurant. The Mayor said that she did not think the Commission would be unfair in deciding, since the rent was negotiated for a very reasonable \$66,000 per year. Commission Chair John Quam said that Mr. Schoenfelder had already agreed to comply with the lease, and simply expressed that he was disappointed. He questioned the prudence of further involving the City Attorney.

City Attorney Jim Dye said that if the Commission desired to contribute \$10,000, there would need to be a quid pro quo element benefiting the public for this expenditure of its money. He recommended exploring additional items or issues for which the City could justify spending additional dollars. Mayor SueLynn said the tenant had concurred that they are responsible for ADA improvements, and

that the \$10,000 approved by a previous Commission was not to contribute toward the tenant's responsibility for the structures overall.

Commissioner Dale Woodland referred to the Minutes of January 23rd where the Commission voted to contribute \$10,000, and suggested that the City consider whether its word and honor could satisfy quid pro quo.

Commission Chair John Quam said he would be happy just to see the needed improvements to the ramp.

City Attorney Jim Dye confirmed to Commission Chair John Quam that there was no tangible benefit to the public to contribute \$10,000.

Commissioner Duke Miller confirmed with City Attorney Jim Dye that this could legally be considered a gift, and recalled that the minutes stated that the Mayor had recommended this be done 'in good faith'. The City Attorney said that this did not prevent the City from negotiating any new options it could perceive in its favor.

Deputy Commission Chair Linda Cramer asked if handicapped parking had been an issue mentioned by Commissioner Carol Ann Magill at the previous meeting. Commissioner Magill clarified that her primary concerns had been the ramp and the parking facilities.

Commissioner Dale Woodland recommended putting the money toward the ramp, with a stipulated time frame for it to be repaired as soon as possible, so that the City could be protected from liability.

City Attorney Jim Dye said that if there would be an ADA suit filed, it would involve the City as well as the Tenant. He explained that this relates to joint and severable liability, which means that all parties are equally responsible as far as the Court is concerned. He added that whether or not a tenant complies with the terms of a signed lease agreement could be grounds for a separate case.

Commission Chair John Quam recommended a deadline of September 30th, 2005 for completion of the improvement to the ramp. Commissioner Duke Miller confirmed with City Attorney Jim Dye that the City is liable for failing pilings, when the tenant does not honor his commitment to the lease by maintaining or replacing them as needed. City Attorney Jim Dye confirmed that it is the landlord's responsibility to enforce the lease.

City Attorney Jim Dye suggested renegotiating the lease, so that the tenant and the City can discuss multiple issues and could include stipulations regarding the money.

Commissioner Dale Woodland said he would be in favor of specifying ADA repairs to the ramp and stipulating September 30th, 2005 as a deadline for completing the work on the ramp.

Commissioner Duke Miller recommended advising the tenant that the \$10,000 would be paid on October 1st, 2005.

Mayor SueLynn advised that if state or federal permitting is required, it could take more than 120 days to complete the project.

Commission Chair John Quam noted that the tenant had been required to do this for years now, and said he was of the opinion that if the work would not be done on September 30th, the City should not pay the \$10,000.

Deputy Commission Chair Linda Cramer suggested tabling the issue and addressing it at a future meeting where discussion of the lease, the structure and the issues both from a liability, and a negotiable standpoint. She said she believed that giving the tenant \$10,000 without looking at these issues at this point would be premature.

MOTION: Commissioner Dale Woodland moved that the Commission reimburse the Lessee for the cost of making the ramp on the leased property ADA compliant by September 30th 2005, with payment to be made on October 1st 2005, and to be paid from funds allocated in the 2005 – 2006 budget.

Commissioner Dale Woodland recommended, in response to a question from City Attorney Jim Dye, specifying ‘50% for the cost of ADA compliance, not to exceed \$10,000’.

City Clerk Alice Baird said that the \$25,000 currently in the earmarked budget line item would go into a reserve account if not spent this fiscal year.

Deputy Commission Chair Linda Cramer asked if the design cost would be included. Commissioner Dale Woodland responded that this would include everything the tenant would have to do to make the ramp compliant.

AMENDED MOTION: Commissioner Dale Woodland moved that the Commission reimburse the Lessee for 50% of the cost, not to exceed \$10,000, for making the ramp on the leased property ADA compliant by September 30th 2005, with payment to be made on October 1st 2005, and paid from funds allocated in the 2005 – 2006 budget. Motion seconded by Commissioner Duke Miller.

Roll Call Vote: Commissioner Carol Ann Magill – Nay; Commissioner Dale Woodland - Aye; Commission Chair John Quam – Nay; Deputy Commission

Chair Linda Cramer – Nay; Commissioner Duke Miller - Nay. Motion failed, four to one.

Commissioner Duke Miller asked how long the lease was, and Mayor SueLynn responded ten years.

Commission Chair John Quam questioned discussing this again as part of the next year's budget. City Attorney Jim Dye confirmed that passing this motion this evening would obligate the City to budget for this money.

Deputy Commission Chair Linda Cramer recommended tabling the topic to discuss the items she had mentioned earlier. Commissioner Dale Woodland said that this was not a case of making a decision, it was simply a case of moving forward. Commissioner Duke Miller agreed with this statement. Deputy Commission Chair Linda Cramer said that she believed there was a great deal of information the City needed to receive, particularly from Jim Taylor.

Commission Chair John Quam noted that these intricate details are administrative in nature.

Public Comment

MJ said she was very familiar with leasing, and that it should be made clear that the City not be held liable in the future. She said that the tenant, as an international businessman, was familiar with the lease and his responsibilities toward the property.

Sandy Oldham objected to spending City money in this manner.

City Attorney Jim Dye informed the Commission that if this money were given, it would involve an amendment to the lease.

Georgia Van Cleave asked whose responsibility it was to enforce the lease, since it appeared that no one had been addressing maintenance and issues such as pilings. Commissioner Duke Miller noted that the tenant had allowed the property to deteriorate, and the City would need to bring the property up to standard when it wished to lease it to someone else.

Joe White recommended that inspection of the structural problems should be on the City's agenda.

5. Proposal to Hire a Part-Time Planner to Review Recurring Issues with the City's Code of Ordinances

Relative to the Mayor's memo, Commissioner Carol Ann Magill asked if Tony Arrant was expected to look at LDR's. Mayor SueLynn said that Tony Arrant had not been contracted to do anything more than review the LDR's. She said the EAR has not yet been approved, and that Tony Arrant probably would not be

looking at the City's related codes for another six to nine months. The Mayor clarified that Mr. Arrant had no desire to be the City's planner, since he is a consultant based in Tallahassee.

Commissioner Duke Miller suggested that it would be premature for any planner to look at the Code based on an outdated Comprehensive Plan.

Commission Chair John Quam noted that the Sign Ordinance was just one example of just the ordinances a planner could help with, where interpretation issues have taken up much of City staff's time.

Commissioner Dale Woodland said that parking ordinances would be another area the Mayor had mentioned, and confirmed that he believed the work the Mayor is proposing is essential for the City.

MOTION: Deputy Commission Chair Linda Cramer moved to authorize the Mayor to hire a part-time planner to review the LDR's, with an amount not to exceed \$5,000 to be taken from budget Line Item 135. Commission Chair John Quam seconded the motion.

Vote: All Ayes. Motion carried.

5. Proposal to Purchase a Lot on Pine Avenue

Mayor SueLynn said that the lot adjacent to the one the City owns had been sold. She said the person who had purchased this lot had approached her and said that he would be willing to sell it to the City for \$625,000. **The Mayor indicated that since the recent P&Z Board Meeting, she felt it would be inappropriate for the Commission to discuss this topic at this time, and there was consensus among the Commissioners not to discuss it.**

7. Volunteers for EOC Assignment

Commissioner Dale Woodland said if there were a mandatory evacuation, he would not be available to serve at the EOC. Commissioner Carol Ann Magill said she also could not be available.

Deputy Commission Chair Linda Cramer and Commission Chair John Quam volunteered. Commissioner Duke Miller indicated no specific commitment at this time.

8. Proposal of Services and Fees from Environmental Affairs Consultants (EAC) – Exotic Species Removal at the Gulf Front Park

Mayor SueLynn noted there had been much miscommunication and controversy relating to this issue. She noted that the City had been removing exotics from alleyways and r-o-w's for some time. She said that this is necessary because of State laws relative to invasive species, and that these laws are enforced by the

DEP. The Mayor said that these bushes and trees are removed because they are hazardous to property or other vegetation.

The Mayor clarified that Gulf Front Park, located between Palm and Oak, is slated for the removal of Australian Pines. She said there are no plans to remove Australian Pines from Bean Point or anywhere else in the City. She said they would remove all the Brazilian Peppers in the park, as well as Aussie Pines less than 6 ft. high. She said funds in the amount of \$3,000 would come out of existing line items in the current budget.

Commissioner Dale Woodland asked for clarification regarding the mulching of Brazilian Peppers by June, and asked for assurance that if it did not get done by the end of June, that the City would not incur additional cost.

MOTION: Deputy Commission Chair Linda Cramer moved to approve the EAC Task 1.1, to be completed by June 30th, 2005 in the amount of \$3,000, seconded by Commissioner Duke Miller.

Vote: All Ayes. Motion carried.

Public Comment

Steve Zalo of 206 Archer Way asked for the cost for removal of the large Australian Pines. Commission Chair John Quam and Mayor SueLynn said the action at hand would only concern trees 6 ft. tall and under. They provided the resident with a copy of the complete proposal for an answer to his question.

Jim Conoly of North Shore asked who would be in charge of the project, and expressed concern about endless projects. Mayor SueLynn confirmed that the EAC would be responsible for the work, and that the Public Works Director and herself would be responsible for supervising on the behalf of the City.

A resident of 602 Gladiolus noted that the City is a bird sanctuary. He said that Australian Pines are favorite nesting places for the Great Blue Heron, and other species. The resident agreed with the prohibition of planting new exotic trees, but objected to the removal of large trees that had taken years to grow. He noted that the shade providing trees are a part of the Island's character and benefit everyone. The resident said he felt the City should devote the resources to repairing the roads and addressing other issues. He noted that a mulcher had sprayed parts of an Australian Pine onto his property as it was being removed from across the street. He also noted that the cost of removing large Pines is very high.

9. Set Date for Special Meeting with Mr. Steve Minnis – Southwest Florida Water Management District (SWFWMD)

Commissioner Dale Woodland said he would contact Mr. Minnis with the date chosen by the Commission for June 14th at 7:00 p.m. The Commissioner said that he would be distributing an agenda prior to the meeting for the Commissioners' review, and that he would like to keep it short and simple. He said he was

primarily concerned regarding information on resources available from SWFWMD for stormwater management.

MOTION: At 9:00 p.m., Deputy Commission Chair Linda Cramer moved to continue the meeting to complete the agenda, seconded by Commissioner Dale Woodland.

Vote: Three Ayes. Two Nays. Motion carried.

10. Water Taxi – Bradenton Beach to Sarasota – Requesting a ‘Letter of Support’ be sent to the Florida Department of Transportation (FDOT)

MOTION: Deputy Commission Chair Linda Cramer moved to authorize the Mayor to write a letter of support, seconded by Commission Chair John Quam.

Vote: Four Ayes. One Nay. Motion carried.

Commissioner Carol Ann Magill confirmed with Commission Chair John Quam and Mayor SueLynn that Bradenton Beach residents had been made aware of the project at public meetings and general discussion. She further confirmed that this letter would not obligate the City to have a water taxi station.

PUBLIC COMMENT

Resident Georgia Van Cleave commented regarding the lot on Pine Avenue, recalling that back in the Eighties, the City had given away part of the land it had been recently considering purchasing.

Relative to the EAC, a resident asked the City to review Statute, since he calculated that the entire proposal amounts to more than \$35,000.

MJ said she would be in favor of the City purchasing the adjacent lot to its property on Pine. She said she felt that this would be an excellent investment. The resident referred to the Comprehensive Plan as a basis for such a purchase.

PRESS COMMENT

None offered.

ADJOURNMENT

MOTION: Commissioner Dale Woodland moved to adjourn the meeting, seconded by Commissioner Carol Ann Magill.

Vote: All Ayes. Motion carried.

The meeting adjourned at 9:13 p.m.

Respectfully submitted:

Alice Baird
City Clerk

June 24th, 2005
Date