

**CITY OF ANNA MARIA
CITY COMMISSION REGULAR MEETING
MEETING HELD AT ANNA MARIA COUNCIL CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
THURSDAY, NOVEMBER 19, 2009
7:00 P.M.**

CALL TO ORDER

Chair Quam called the Regular Meeting to order at 7:00 p.m.

PLEDGE TO THE FLAG

ROLL CALL: Mayor Fran Barford, Commissioner Jo Ann Mattick, Deputy Chair 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, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander.

- 1. Approve Minutes of:
City Commission Regular Meeting held October 22, 2009.**

MOTION: Commissioner Woodland moved that the Minutes of the Regular City Commission Meeting held October 22, 2009, be approved as written. Commissioner Webb seconded the motion.
Motion carried – All Aye.

- 2. Commissioner Reports.
Commissioner Mattick**

Commissioner Mattick asked that the Holiday Party for the volunteers and City Staff be changed from December 16 to Monday, December 14, 2009. She asked that each Commissioner give their \$100 portion for the party to either City Clerk Baird or Finance Director Percycoe no later than December 1.

- 3. Mayor's Report.
Water Resources Development Act - Opportunity from Congress**

Mayor Barford announced there was an opportunity from Congress whereas every two years they solicit studies for the Water Resources Development Act. The next study will be held in 2010.

Mayor Barford said she felt Anna Maria fit an area of study in regard to the Bay side erosion issue. She spoke with both Congressman Buchanan and Washington to verify. A new designation has been given for the Bay side area – from critical inlet shoreline to critical shoreline – thus placing Anna Maria in a different category for funding sources to help correct the erosion problem around the Rod & Reel Pier.

Mayor Barford stated she submitted a letter to Congressman Buchanan requesting assistance to help the City fit the criteria. The request is to only jumpstart the study. Any agreement between the Corp of Engineers and Anna Maria will be presented to the City Commission for final approval.

SWFMUD – Corporative Partner Opportunity

Mayor Barford informed that she, City staff, and Commissioner Woodland met with other Island City officials relating to a corporative partnership for a SWFMUD funding opportunity for 2010 for the Stormwater project. She explained that the City has nothing budgeted and it would not be a binding effort with the other Cities. A December 4, 2009 deadline has been set for the Island Cities to show interest in participating.

After discussing the opportunity with Commissioner Woodland, Mayor Barford stated that the advantage to Anna Maria would be the gathering of data available for watershed and flood evacuation issues that will help with the CRS process. The City currently has to purchase that data.

Mayor Barford stated that Holmes Beach is willing to begin the process since they have the greatest flood and evacuation issues. Anna Maria can partner with the other Cities and if find there is no benefit can withdraw at any time. A letter has been mailed from Mayor Barford stating that the City is interested at this time. Any issues requiring funding or further action will be submitted to the City Commission for final approval.

Commissioner Woodland felt the opportunity is worth exploring and stated it was important to submit an application for the funding now for the September 2010 approval. The City plans to use the time between now and September by meeting monthly with the other Island Cities to further evaluate the opportunity.

City Pier Lease Update

Three meetings have been held with the City Pier Lessee relating to the City Pier Lease extension. The City continues to work with the Lessee towards a resolution no later than March 2010 to determine if the lease will be extended or if the City will go out for bid.

Stimulus Project Update

Mayor Barford said there had been some misunderstanding that the stimulus projects had not been approved by the Commission. She confirmed that all projects had been approved by the Commission on April 9, 2009. The stimulus project issue began to form in January 2009 and monthly reports were provided by Mayor Barford.

Gulf Dr. and Pine Ave. are currently in the process of being paved. Bridges will be addressed on February 10, 2010. The North Bay Blvd. and Crescent bridges will face rehabilitation in April 2010.

4. City Boundary Map.

Building Official Bob Welch reminded that the Commission had discussed the need to update the City boundaries. A surveyor had been employed for the purpose of providing a legal description and map of the area in order to proceed with getting the Legislative process started.

Staff is in agreement with the legal description and map provided.

City Attorney Dye informed that the boundary on the water side is 10-ft. below the mean low water mark on the Gulf and Tampa Bay side, except around the Rod & Reel Pier, City Pier, and Lake LaVista. The boundary line around the Bimini Bay side is proposed as 30-ft. outside of the mangrove fringe. The proposed boundary will take into the City's jurisdiction any foreseeable situation that the City may have an interest in. The drawing has been forwarded to the County Attorney's office for their input and to Holmes Beach City Attorney Patty Petruff who will present it to Holmes Beach Mayor Bohnenberger for any input. The Holmes Beach overlap will be cured once the description is officially written and with the Commission's approval, the drawing will be taken to the Legislative Delegation for their final approval. It is anticipated that any future dock construction will be within the proposed boundary line.

Commissioner Woodland expressed his objection with the legal description as proposed. He felt it was "overkill" by adding the Piers and areas including the docks. He felt an Interlocal agreement between the County and City should be pursued that will allow the City to permit the Piers and any docks within the County's jurisdiction.

City Attorney Dye explained that the two Piers and anything located outside the sand on the Island is under the jurisdiction of the County – City’s jurisdiction stops at the water’s edge. Though not being an issue for some time now, issues have arisen over the past year where the City has been unable to resolve the issue. Explanation followed relating to the homeowner wishing to obtain a variance to build a dock in Bimini Bay. Due to being out of the City’s jurisdiction, the homeowner spoke to the County who refused to permit the dock. However, the homeowner voluntarily agreed to build the dock in accordance to the County’s regulations. *City Attorney Dye* felt in order to avoid further situations of this type, the solution was to incorporate the areas into the City limits.

Commissioner Webb informed that he has a client directly involved in the boundary line issues. After discussion, *City Attorney Dye* stated that the change will affect every property that borders Bimini Bay, the Gulf of Mexico, and Tampa Bay. It was agreed that *Commissioner Webb* would not have a conflict of interest and could vote on the issue.

Commissioner Webb did not feel it was necessary for the City to include the docks in the City limits due to the County and DEP having jurisdiction and regulation, and the owning of sovereign rights.

Commissioner Mattick did not feel it was fair to the property owners – that the dock area should not be included within the city limits.

City Attorney Dye explained that DEP did not regulate docks for the same purpose as would the City. He pointed out that the City only has more influence on the City Pier since the City owns it; however, the Rod & Reel Pier is not owned by the City.

City Attorney Dye stated an Interlocal agreement would allow for the County’s permitting regulations to be followed rather than the City’s. He further pointed out that one of the other major land use issues the City is trying to resolve involves Galiti’s Marina. The slips at the Marina are located in water under County jurisdiction.

Discussion followed relating to the zoning category the areas would fall into once incorporated into the City. *Building Official Welch* informed that the adjacent zoning is E-1 and E-2 and that the areas would most likely be placed into those districts.

MOTION: Commissioner Mattick moved to proceed to petition the State Legislature with the amended City limits as submitted in Section 201 – Corporate Limit Description. Chair Quam seconded the motion.

Public Comment

Jim Conoly, N. Shore Dr., stated that an agreement change with the Manatee County Sheriff’s Department would be required in the event the two Piers are included the City boundaries. He said the Sheriff’s Deputies were not allowed to leave the Island except for official business. He said technically they would not be allowed to eat lunch at the City Pier.

After discussion, *Commissioner Woodland* determined that the agreement was better in the long run for the City and said he would support it.

ACTION: Motion carried on a vote of 4 to 1 with Commissioner Webb voting No.

5. Authorize Mayor's Signature – City and FEMA National Flood Insurance Program regarding Flood Hazard ID and Mapping Process.

Building Official Welch said he attended a meeting sponsored by FEMA at the Manatee County Public Works Department relating to the new digital flood information rate map to be put into place countywide within the next three years. Each administration within the County has an administrative duty to join the NFIP (National Flood Insurance Program) and obligated to sign on to the scoping of the project.

All areas of Manatee County that have been digitally mapped will be studied. The flood risk lines will all be reassessed. No lines will be re-delineated within the City due to no coastal study being completed. However, a coastal study will be conducted within the next three to five years.

As participants in the NFIP, once the new digital flood rate map is produced (between 2011 and 2012), the City will be required to adopt it. According to Building Official Welch, the new map may have a few changes due to switching from the old analog maps to a digital map that has curvature of the earth, etc.

In answer to *Commissioner Woodland's* question if there would be any cost to the City or any reduction in cost as far as records storage retention, etc., Building Official Welch informed there are no costs at this time. The project is a Federal project sponsored by Federal monies. The money for the project will be funded through SWFMUD. He did feel the City may be seeing a reduction of costs in some areas. Further explanation followed.

MOTION: Commissioner Woodland moved to authorize the Mayor to execute the Federal Emergency Management Memorandum of Agreement. Commissioner Webb seconded the motion. Motion carried – All Aye.

6. City Driveway and Parking Codes – ROR District.

Commissioner Stoltzfus discussed the concerns he has relating to the backed out parking for any new development along Pine Ave. He said he realizes many of the properties are now grandfathered.

Commissioner Stoltzfus said he has reviewed the Comp Plan and LDR's and has found language in conflict with the new development – such as new development at 216, 303, 15, 317, 401, and 403 Pine. Ave. He stated that a person could not leave the parking spaces at 315 and 317 without moving into the right-of-way. He suggested that it be reviewed as to why the decision was made that allowed for the parking situation to be approved.

City Attorney Dye responded that it was matter of interpretation. He stated that the Site Plan at 315 went through the design process by the staff, P&Z Board, and the City Commission who all found it to comply with the standards. The Commission could make the decision to place the standard under scrutiny, if so desired.

Commissioner Stoltzfus stated that the conflict involved the way the curb cuts and driveways were addressed in the LDR's. City Attorney Dye explained that there's more leeway during the Site Plan process.

Commissioner Stoltzfus said he, Building Official Welch, and City Planner Garrett met for lunch to discuss his concerns. He suggested that a better definition of driveways be adopted or that language be established for the presumptive driveway line.

Mayor Barford informed that Planner Garrett was unable to attend the meeting that evening. She felt it was important for him to be in attendance for his input.

Commissioner Woodland referred to the memo written by Commissioner Stoltzfus and sent to the Commission relating to the driveway and parking codes in the ROR. Commissioner Stoltzfus had suggested that the City Attorney provide a legal opinion, however, Commissioner Woodland said he did not feel that was necessary. Commissioner Woodland further suggested that Commissioner Stoltzfus determine options and present his recommendations to the P&Z Board or Commission for their consideration.

Mayor Barford said a committee could be formed for the purpose of making recommendations and the Commission could discuss it further at a future Work Session. Members of the committee should be a cross-selection from recommendations by each Commissioner and Sheriff Turner should also participate.

Commissioner Webb responded stating he had reviewed the Comp Plan and agreed that the code was very ambiguous. He pointed out that the City appears to have one regulation for both residential and commercial versus separate regulations for each. It was his opinion that once a Site Plan had been approved, the City would be unable to make changes on it without the City paying for any losses. He suggested the City review the City of Holmes Beach and Bradenton Beach's parking regulations. He further suggested that an advisory committee be formed, a Traffic Engineer be involved, and that the P&Z Board should first consider any Ordinance changes.

Chair Quam felt that no further Site Plans or permits on new construction that created any additional unsafe parking issues should be allowed. He felt that a moratorium should be put in place on any new construction until the safety issue was resolved. He stated that safety was much more important than value.

Lengthy discussion followed by the Commission. *Commissioner Mattick* pointed out that she had originally addressed the issue and had recommended that a meandering sidewalk be placed in front of the vehicles so that the pedestrians were out of harm's way. She said when suggesting that approach, the Commission did not indicate there was any urgent concern. She questioned what had changed.

Commissioner Mattick voiced her opposition to changing the parking requirement in the ROR District. Explanation followed. She stated that the lots on Pine Ave. were clearly intended for business use and to adopt new parking requirements that the business owner would be unable to meet would destroy the value of the lots as commercial use and the result would be a legal challenge. She was also opposed to any moratorium; however, felt the Commission should consider options.

Commissioner Stoltzfus said he had considered the idea of sidewalks but felt that a person would take the quickest route to their destination and would divert the sidewalk. A worse hazard would take place and additional parking barriers would occur.

City Attorney Dye provided a brief overview of the requirements for putting a moratorium in place. He pointed out that the Ordinances in place at the time an applicant's files an application were what the City would need to follow.

After discussion, it was agreed that a Work Session be scheduled for Thursday, December 3, 2009 at 6:00 p.m. for the purpose of discussing the City Driveway and Parking Codes – ROR District. Commissioner Stoltzfus will draft a one-way memo listing the code sections to be discussed. Staff recommendations will be provided. Rather than having a Traffic Engineer in attendance at the Work Session, staff will present recommendations to the Commission by contacting the appropriate persons. It was the unanimous consensus of the Commission that funds be authorized for that purpose.

Public Comment

Ernie Moon, 314 Spring Ave., suggested that both Pine Ave. and Gulf Dr. be discussed. He voiced concern about the new sidewalks that are being installed on Gulf Dr. and that there will be no parking for the businesses along that area.

Micheal Coleman, Pine Ave. said as a citizen in Anna Maria he just sat through the budget session where he heard that any additional funds were not available. He pointed out that a business had even donated \$4,000 to pay towards the City's portion of the Trolley expenses.

Mr. Coleman then addressed the letter sent to the City that same day by his Attorney. He had asked an Attorney to provide research to provide to the City's Attorney for the purpose of informing the City Commission about the decision on moving forward, the City's budget, finances, etc. He said that the letter was sent to the City for informational purposes only.

Mr. Coleman said his goals has and will continue to be to work within the Comp Plan guidelines for Pine Ave. He said he saw the issue that evening as a monkey wrench issue that didn't appear to him as a solution but rather a stoppage of the projects. He stated that his business had made the good-faith investment of purchasing twenty-one lots based on the Comp Plan, the Land Use, and the recommendations as a result of the joint session held by the City Commission and P&Z Board in August 2008.

Mr. Coleman felt the simplest answer to backing across the sidewalks was to move the sidewalks. He said he wanted to work proactively with the City to come up with real solutions for real problems and not be placed in a combative environment where solutions are established for problems that are made up. He welcomes a discussion about safety but was concerned about safety suddenly be an issue.

Boyd Hoskins, Fur St. agreed that everyone was entitled to their property rights but disagreed with Mr. Coleman regarding the safety factor. Mr. Hoskins said he rode his bike to the Post Office on a daily basis and has almost been hit twice. He said he would ride his bike on the opposite side of the street if it were to have a sidewalk.

Charlie Daniels, 725 Holly Rd., said the issue of safety was now being brought up in the community, therefore, even though not brought up in the past it should be discussed now.

Robin Wall, 112 Palmetto, felt that due to the recent development on Pine it is a less safe place to walk. She agreed that it should be discussed. She did not agree that a Traffic Engineer should be hired and suggested that Ordinances from other Cities be researched. Ms. Wall used the example of the Sun Plaza and the Bayview Plaza and further felt that both the ROR and C-1 Districts should be looked at.

7. Metro Bench Contract expiring April 16, 2010 – 10-Year Term.

Mayor Barford explained that the City had entered into a 10-year contract in April 1980 for providing benches at the Trolley shelters. The Metro Bench Contract is the only contract that will continually renew itself for ten-year periods, and staff now recommends discontinuing the contract.

Mayor Barford informed that the Transportation Enhancement Grant will provide Trolley benches for the shelters and the City is currently working with Manatee County for additional shelter placement.

Public Comment

Andrew Moose addressed the Commission as State Chairman for the Lion's Club bench project for the State of Florida and Bahamas. He informed that the benches were a project of the Bradenton Lions Club that has been in existence for almost thirty years. Out of all the bench programs throughout Florida, this is the only community where no display advertising has been added to the bench, except for the Trolley system. He questioned the objection to renewing the agreement that was originally entered into in good faith by Metro and the Lion's Club. He pointed out that the agreement states an automatic renewal every ten years and if Metro or the Lions Club were to default on any of the conditions of the agreement, written notice shall be given and a reasonable time allowed to correct the issue. Mr. Moose questioned what they did wrong.

Mr. Moose gave a report on the new style of recycled plastic benches that are now available to replace the current wooden and concrete benches. The new benches have arm rests, are designed to avoid skate boarders skating across them, and to avoid sleeping on them. There are currently twelve benches at Trolley Stops and five along the beach.

Mayor Barford asked Mr. Moose if there were other contract opportunities available. Mr. Moose noted that Patty Petruff, who is in the same firm as City Attorney Dye, serves as their Attorney.

After discussion, it was agreed that the contract will continue. *Commissioner Stoltzfus* suggested that the extra benches be placed at the beach access areas. Mr. Moose confirmed that if there were extra benches the Lions Club would be glad to pick them up.

8. Update on Resolution R09-663 – Designating Elected Positions for Inclusion in the Elected Officer' Class (EOC) of the Florida Retirement System from the Current FRS Regular Class.

City Attorney Dye stated that he had a question relating to the prohibition in the City's Charter about the City Commissioner's voting on increasing their compensation while in office. However, after researching the issue, he found that the City already participates in the retirement system for the elected officials and the State is only asking that the City consider placing the elected officials into a different class. The Commissioners are currently in the general class and a new special class for elected officials has been created under the retirement system.

A Resolution is required for the change to be implemented. City Attorney Dye said he is no longer concerned about any conflict pursuant to the City's Charter language since the City's payment made for the Commissioner's in the retirement system is mandated by Statute. There is no discretion on part of the City of the amount paid into the system and he did not feel the Charter restriction would affect the decision to adopt R09-663.

Commissioner Woodland referred to the previous memo presented to the Commission by Finance Director Percycoe stating that there is a current budget of \$3,300 and the new classification would require increasing that amount to \$5,500. He said he was surprised to find out that the citizens were paying for the Commissioner's retirements.

City Attorney Dye informed that individuals were allowed to opt out of the system.

Commissioner Webb explained how the additional amount would actually balance out. He informed that each Commissioner has the choice of any increased amount being taken out. The total increase will amount to \$28.

Resolution R09-663 will be considered for adoption at the December 17, 2009 meeting.

9. Water Vessel Crime Watch.

Commissioner Webb stated that one of his clients discussed the recent crimes that had occurred on the Island and possible solutions to the organized gang's theft situation. As a result, Commissioner Webb suggested that each City look at a joint volunteer Crime Watch for the entrance at Lake LaVista, Bimini Bay inlet, and the inlet in Holmes Beach. He asked that Mayor Barford be requested to have Sergeant Turner provided a recommendation before the City Commission on how to proceed.

Mayor Barford agreed to follow-up.

10. New Business Issues to be discussed at Future Work Session.

The Commissioners asked that the following items be added to the New Business Items. City Clerk Baird will compile a list of all items and forward it to the Commission. Any additional items are to be provided to City Clerk Baird.

Commissioner Woodland

- Review of Permit Fee Schedule
- FLUM and Zoning Map

City Clerk Baird reported that the process for rezoning the C-1 District to the ROR has been started. Notices have been mailed announcing the P&Z Board's hearing on the rezoning.

Mayor Barford announced that the Commission had agreed to revisit the fee schedule every six months. The fee schedule discussion has been set for January 2010.

Commissioner Stoltzfus

- Stated that during two one-hour meetings with Planner Garrett, Mr. Garrett had expressed concerns about his role on both the planning and approval side of a Site Plan. Commissioner Stoltzfus asked that the Site Plan process review and approval be reviewed for stronger checks and balances.

Chair Quam

- Also wants to discuss the Site Plan process.
- Stated he heard concerns regarding the Fee Schedule during his campaigning.
- Asked that Chapter 74 revisions, Wireless Communication Facilities, and LAP be placed under Old Business discussions.

11. Consent Agenda

- a. **Special Event: Ginny's & Jane E's – Flea Market @ 9806 Gulf Drive – December 6, 2009 – 8:00 a.m. to 3:00 p.m.**
- b. **Special Event: Privateers Christmas Parade – (Waive Permit Fee \$100) December 12, 2009 – 8:00 a.m. to 1:00 p.m.**
- c. **Resolution R09-665 – Opposing Offshore Drilling in Gulf.**
- d. **Proclamation – Intergenerational Week – December 1 – 7, 2009.**
- e. **Appointments to EEEC – Sherry Oehler and Trevor Kegin.**

MOTION: Commissioner Webb moved that the Consent Agenda be approved. Commissioner Woodland seconded the motion.
Motion carried – All Aye.

13. Written Reports and Updates:

- 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. **Financial Report.**
- h. **Line of Credit Report.**

Public Comment –**Offshore Drilling**

Tom Turner, N. Shore Dr. commented on the approval of Resolution R09-665 opposing offshore drilling in the Gulf. (Ref: Agenda item 12.c.)

Mr. Turner said he did not understand why the State of Florida did not want to approve offshore drilling. He said he was unaware of any oil wells breaking and pointed out that China has an agreement with Cuba to drill off Key West in international waters. He felt that offshore drilling should be approved.

Safety Issues on Pine Ave.

Micheal Coleman, Pine Ave. said he had an 11-yr old son who skate boards up and down Pine Ave. He said it was not that he wasn't concerned about the safety issue on Pine but was concerned about who would be paying for further researching the issue. He suggested that a meeting addressing the safety issues be held.

Press Comment – None.**Adjournment**

On motion made by Chair Quam and seconded by Commissioner Webb, the meeting was adjourned at 9:00 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____