



# City of Anna Maria

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## MINUTES CITY COMMISSION REGULAR MEETING DECEMBER 15, 2011 – 6:00 P.M.

**Pledge of Conduct:** We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

### CALL TO ORDER

**PLEDGE TO THE FLAG** 

### ROLL CALL

**Present:** Mayor Michael Selby, Commissioner Jo Ann Mattick, Vice-Chair Dale Woodland, Chair Chuck Webb, Commissioner John Quam, and Commissioner SueLynn.

**Also Present:** City Clerk Alice Baird, Finance Director/Deputy City Clerk Diane Percycocoe, City Attorney Jim Dye, Planner Allen Garrett, and Public Works Director George McKay.

### 1. Discussion - City Attorney Jim Dye's Opinion Letter Regarding Wireless Ordinance Reviews.

*City Attorney Dye* provided a brief overview on how the Bradenton Beach and Anna Maria Ordinances differed and their different approaches to the wireless regulations.

City Attorney Dye felt the standards and criteria in Anna Maria's current Ordinance need to be reviewed to insure they are not in violation of Federal law. The City needs to look at the provisions in order to determine which would be the best procedural approach to take – whether to stay with a tiered system or whether to use a conditional use permit approach.

*Commissioner Woodland* asked if Anna Maria's 37-ft height restriction would apply to cell towers.

*City Attorney Dye* explained that one provision of the Ordinance allows matching the heights of surrounding trees. However, it is difficult to determine how they are measured. There is also a provision that will govern whatever the height restrictions are in the zoning district the cell tower would be located. However, it is difficult to determine which of the two provisions should be governed. Argument examples followed.

*Commissioner Quam* said he was in favor of utilizing the City's current Ordinance with amendments based on the remarks recommended by Consultant Rusty Monroe.

**MOTION:** That City Attorney Dye contact Consultant Rusty Monroe to review the City's current Ordinance and bring back an amended proposal for the Commission to review at an upcoming Commission Work Session.

**ACTION:** Moved by Commissioner Quam, Seconded by Commissioner SueLynn.

**Motion carried – All Aye.**

### 2. Anna Maria Island Community Center Cell Tower Discussion.

*Randy Langley*, Longboat Key, FL, spoke as Treasurer of the Community Center's Board of Directors. Mr. Langley stated that the Board had met several times after being approached by some cell tower providers. He informed that the Community Center's Board of Director's understand that their lease does not allow them to sublet - and that they would need to obtain permission from the City first. They would, however, be available to discuss any options the Commission may have if they were to consider the Community Center being a good site for a cell tower.

*Commissioner Mattick* asked Mr. Langley what the Community Center felt about the funds from the cell tower and whether they are under the assumption the funds would go to the Community Center or back to the City.

Recognizing that the Community Center is the City's property, Mr. Langley did state however, that the Community Center would desire to participate in the proceeds from a cell tower in order to help pay off the Community Center's mortgage.

*Commissioner SueLynn* questioned if the health implications of a cell tower had been looked into and suggested the City further research the issue. *Mr. Langley* said he was unaware of the impact.

#### **Public Comment**

*Diane Caniff*, Anna Maria resident, commented on the issue.

#### **3. Continued 503/507 Pine Avenue – Site Plan Amendment.**



*Chair Webb* announced that the Applicant has asked for a continuance due to illness. They have requested the Hearing be rescheduled for the January 12, 2012 Work Session at 6:00 p.m.

**MOTION: Move to continue the Hearing for the 503/507 Pine Avenue Site Plan Amendment until the time and date certain of January 12, 2012 - Work Session at 6:00 p.m.**

**ACTION: The motion was made by Commissioner Woodland, Seconded by Commissioner SueLynn.**

**Motion carried – All Aye.**

#### **4. A Public Hearing to Consider a Variance from the Provisions of Section 114-423(4) for an Eight-Foot Rear Yard Fence for 204 Elm Avenue.**

**Applicant: Penelope Naylor**



*Planner Garrett* noted that the application was duly advertised with proper notification to surrounding neighbors. The Planning & Zoning Board recommended approval on a 5 to 2 vote.

*City Clerk Baird* administered the oath to all persons wishing to speak.

#### **Applicant Presentation**

*Penelope Naylor*, 204 Elm Avenue, stated that she is requesting a variance for an 8-ft fence across her back property line due to a hardship caused by a unique situation. She informed that the neighbor behind here at 207 Sycamore constructed an engineered paving system across their entire backyard almost up to the border of her property. She explained that the system is built of thick paving bricks - laid one on top of the other - to a height of 20-inches above grade. As a result, the system reduced the effectiveness of her 6-ft privacy fence by almost 2-ft and denying her the visual rights of the 6-ft fence. She encouraged that the City no longer approve that type paving system in the future.

Acoustics are also a real problem by the sounds bouncing off the pavers. Explanation and examples followed. She informed that Mike Brinson of AMI Accommodations - rental agent for 207 Sycamore - has also witnessed her situation and has informed that he and the owner have agreed to do whatever they can to help expedite and solve the situation.

Ms. Naylor said she was requesting the variance to install the best sound buffering type fence available. She presented the different options that included the type of fencing that is currently installed around her pool equipment.

Ms. Naylor then informed that her neighbor at 205 Sycamore has indicated she does not want an 8-ft fence along her backyard.

*Commissioner Mattick* said that she thought the City had guidelines that would prevent elevating the yard.

*Bob Welch, Building Official*, stated that the property owner met the guidelines at the time they were installed. Explanation followed.

*Commissioner Woodland* disclosed that he takes care of the Applicant's pool and attested there was an issue relating to the noise level.

*City Attorney Dye* recommended that Commissioner Woodland recuses himself from voting since he has a financial involvement with the Applicant.

#### **Public Comment**

*David Teitelbaum*, Bradenton Beach, informed he has been in Ms. Naylor's home and can attest to the noise.

**MOTION: Move to approve the Variance from the Provisions of Section 114-423(4) for an Eight-Foot Rear Yard Fence for 204 Elm Avenue and based on the P&Z Recommendations and following findings:**

- 1) **There are substantial practical difficulties and hardships in carrying out the strict letter of the regulation, and these difficulties and hardships are due to existing special conditions and unique circumstances which are peculiar to the specific property involved and which are not generally applicable to other properties or structures in the same district;**
- 2) **The condition giving rise to the requested variance is due to unique circumstances not created by the applicant or any person presently having an interest in the property;**
- 3) **The variance request is not based exclusively upon a desire to reduce the cost of developing the site;**
- 4) **N/A**
- 5) **The proposed variance will not substantially diminish property values in, or alter the essential character of, the area surrounding the site;**
- 6) **The variance request is not based on the presence of nonconformities in the district or adjoining districts;**
- 7) **The proposed variance is the minimum modification of the regulation at issue that will afford viable relief; and**
- 8) **The effect of the proposed variance is in harmony with the general intent of the comprehensive plan, this chapter, and the specific intent of the subject area of the provision.**

**ACTION: Moved by Commissioner SueLynn, Seconded by Commissioner Mattick.**

**VOTE: Approved on vote of 4 to 1 with Commissioner Woodland "abstaining".**

#### **5. Waste Management Contract Renewal Recommendation.**



*Mayor Selby* reviewed and explained the "November 15, 2011 City of Anna Maria/Waste Management Options for Discussion with Additional Points" in detail as presented to the Commission. Mayor asked the Commission for direction as to whether or not to pursue the Waste Management contract or to go out for Request for Proposals.

*Rose Quin-Bare*, representing Waste Management, clarified that a person could opt for the small container rather than the larger one; however, the additional fee amount would be mandatory. Discussion followed relating to the past-due collections. Ms. Quin-Bare stated it was very clear that it was Waste Management's responsibility to collect on any past-due accounts. Discussion followed relating to the side-yard pickup procedure.

#### **Public Comment**

*Diane Caniff*, Anna Maria, questioned how the proposed Anna Maria costs compared with those in Tampa and Bradenton.


*Rose Quin-Bare* responded noting it was hard to compare due to differences in the contracts. However, the contract prices are competitive.

**Andy Toler**, District Manager for Waste Pro, spoke and stated that Waste Pro has very competitive pricing. He informed that Bradenton Beach recently contracted with Waste Pro at \$16.04 per home and a 12% Franchise Fee return. Mr. Toler stated there was very good competition in the market area. He asked for the City's business stating Waste Pro would be very competitive in the pricing.

**MOTION: Move to finalize the Franchise Contract between the City of Anna Maria and Waste Management**

**ACTION: Motion made by Commissioner Mattick, Seconded by Commissioner SueLynn.**

**Motion carried – All Aye.**

**6. Request Permission to Move the Warren Spahn “Infield” House to the Historical Society Site on Pine Avenue.** 

*Chair Webb* announced he had a voting conflict noting that the current owner of the “Infield House”, Gregory Spahn, is one of his clients.

*Melissa Williams*, Anna Maria Historical Society President, informed that Mr. Warren Spahn's son was interested in donating one of the last remaining baseball houses to the Historical Society. The offer was that the home would be donated to the Historical Society; however, the Historical Society would be responsible for paying for the home to be moved, any engineering fees, permitting fees, etc. After touring the home, the Anna Maria Historical Society Board feels there is a great potential by moving the house and felt it embodies an Island cultural that has been very big on the Island for many decades.

*Ms. Williams* and *Public Works Director McKay* spoke regarding the various location options on the Historical Society Complex.

*Mayor Selby* stated that Joe Chiles also will be donating his old home to the City if the City wants it.


**Public Comment**

*Betty Yanger*, Historical Society Boardmember, encouraged the Commission to approve allowing the structure to be placed at the Historical Society Complex.

**MOTION: Moved to give the Historical Society permission to move the Warren Spahn “Infield” House to the Historical Society Site on Pine Avenue.**

**ACTION: Moved by Commissioner Quam, Seconded by Commissioner SueLynn.**

**Motion carried on a vote of 4 to 1 with Chair Webb abstaining.**


**7. Water Shuttle Service Discussion – Capt. Tracey Dell/Kathleen Dell** 

*Captain Tracey Dell*, 301 30<sup>th</sup> St, Bradenton, spoke to the issue requesting permission to bring a Water Shuttle Service to the City Pier and ultimately to the rest of the Anna Maria Island. The goal is to potentially connect with other outlying regions. The 50-ft vessel purchased for the service is of adequate size to cross Tampa Bay and is in the process of being refurbished with a Florida Island taste in mind. It is hoped that service can begin in February 2012.

*Commissioner Quam* addressed the concerns mentioned by David Sork in an email sent to Mayor Selby. Concerns included increased stresses on the limited parking at the Pier, the potential for damage to the Pier structure, the possibility for having to make modifications to the City Pier, the use of restroom facility issues during the peak season, and if payment would be made to the Pier leaseholder Mr. Schoenfelder. *City Attorney Dye* responded advising that the first discussions should be with the City Pier Leaseholder.

**ACTION:**

**After discussion, the Commission informed Captain Dell that he should contact the tenant of the City Pier with Commissioner SueLynn, who serves as the City's liaison for the Pier.**

**8. First Reading Ordinance 12-730 - Extension of Potable Water Franchise with Manatee County.** 

*City Clerk Baird* read the Ordinance title.

*Commissioner Woodland* referred to a letter from Attorney Dye regarding the level of service, water pressure, etc. and asked if the proposed Ordinance addresses those issues.

*Public Works Director McKay* and *Mayor Selby* responded. Mayor Selby informed that the County will work with the City regarding creating a loop to alleviate water pressure.

Chair Webb stated that the County has a level of standards in the County's Comprehensive Plan that could be inserted into the Franchise Ordinance.

**Public Comment**

*Diane Caniff*, Anna Maria, said the water issue had been an interest of hers ever since the 8-years she had spent on the EEEEC. She questioned if language could be added in the agreement that the County not privatize the water source and surface during the life of the 15-yr contract. Discussion followed.

*City Attorney Dye* informed that the County had volunteered to address the Commission if there were any questions or concerns.

*Chair Webb* suggested County representatives address the Commission at their January 12, 2012 Work Session. It was agreed that Public Works Director McKay will contact the County to let them know what questions or issues the County representatives would need to address, and also to put the standards in the Ordinance.

**9. First Reading Ordinance 12-731 - Extension of Sewer/Wastewater Franchise with Manatee County.** 

*City Clerk Baird* read the Ordinance by title.

There was no public or Commission comment. It was agreed that both Ordinances 12-730 and 12-731 will be considered for Second Reading and adoption at the January 12, 2012 Work Session – 6:00 p.m.

**10. Transportation Enhancement Grant – Commissioner Mattick** 

*Commissioner Mattick* requested the City submit an application for another Transportation Grant for 2012 for the six lots recently purchased by the City - up Pine Avenue to Gulf Drive, and south on Gulf Drive to Palmetto Avenue at the end of the business district. She noted that the original application was submitted for the purpose of enhancing the business district and included elements such as Trolley shelters and benches, landscaping, along with solar-powered landscape lighting, etc. The new application would include these elements, along with features that have already been agreed upon for the six lots.

Commissioner Mattick informed that the application needs to be sent to FDOT by the end of February 2012 and the City will know if accepted by June 2012. The grants are on a five-year cycle.

**MOTION: Move to allow Commissioner Mattick to pursue another Transportation Enhancement Grant.**

**ACTION: Moved by Commissioner SueLynn, Seconded by Commissioner Woodland.**

Discussion:

*Commissioner Quam* stated that Commissioner Mattick did an excellent job with the grant approved for the Pier and that the improvements were needed. He said he did not have any objection to the other TEG requests, but did not see a need for a grant for the six lots. He said he and the citizens he has spoke to want to see the six lots used as open space.

*Commissioner Mattick* stated that she felt the proposal for some type of multi-purpose structure would make no difference. It can be placed on the property or if agreed upon would not have to be placed on the property. Therefore, in her opinion, there was no harm in including the request in the grant application.

**CHAIR WEBB CALLED FOR THE VOTE.  
MOTION CARRIED – ALL AYE.**

### **ADDITIONAL BUSINESS**

#### Rae Dowling – FPL Update

*Ms. Rae Dowling*, Florida Power & Light Area Manager, provided the Commission with an end-of-the-year update. Ms. Dowling stated that after the 2004/2005 hurricane season, FPL began focusing on areas such as reducing customer outages by: inspecting 81% of poles in Manatee County - including the Island; mainline improvements to feeders that service critical infrastructure; vegetation management – clearing lines; installing an infrared technology (thermo-scanning).; identified efficiency of plants; and have hired an Economic Development Director. Ms. Dowling informed that the Public Service Commission has approved \$15.5 million per year for the next five years for FPL provided businesses and home-owners for receiving rebates for solar heating and hot water heating.

Ms. Dowling informed that Anna Maria could be provided a Business Energy Evaluation for Commercial Customers. Mr. Don Sayre, Account Manager, FPL can come out and inspect City Hall and identify areas for power savings and rebate offers.

### **11. Mayor’s Report/City Commission Reports.**

#### Recognition of Newly Elected Commissioners

Mayor Selby acknowledged Commissioners SueLynn, Quam, and Woodland for their recent election to the Anna Maria City Commission.

#### Future Agenda Items

- *Chair Webb* agreed to place the discussion relating to vacation rentals on the January 12, 2012 Work Session agenda.
- New staff salaries and benefits will be placed on the February Work Session agenda.
- Commissioner SueLynn will discuss the issue of pools, implementing acoustical abatements for pools, etc. with Building Official Welch. The issue will be placed on a future Work Session agenda.  
*P&Z Chair Sandy Mattick* informed that the issue of pools will be discussed by the P&Z Board at their January 2012 meeting.
- Discussion relating to P&Z decisions will also be placed on a future Work Session agenda.



**12. CONSENT AGENDA: The following items are considered routine in nature and should be considered in a single motion. Items, which warrant individual discussion, should be removed from this list prior to the motion to adopt. Such items will be discussed separately.**

- a. **Approve Minutes – CC Organizational/Regular Meeting 11/17/11**
- b. **Children’s Academy Island Run – 5/5/12 - Request for fee waiver \$200**
- c. **Vokssporters Walk – North Anna Maria Island – 2/11/12 Request for fee waiver \$200**
- d. **Ginny & Jane E’s – Flea Market - 1/1/12**
- e. **Appoint members to Citizen Recognition Committee 2011 –**  
**Fran Barford - recommended by Commissioner Mattick**  
**Mady Iseman – recommended by Commissioner SueLynn**  
**Margaret Jenkins – recommended by Dale Woodland**  
**Tom Turner – recommended by John Quam**  
**Karen DiCostanzo - recommended by Mayor Selby**  
**Flora Webb - recommended by Chuck Webb.**

*Chair Webb* noted that both the Children's Academy Island Run and Vokssporters Walk were asking for fee waivers. He said he supported fee waivers whenever they are a charitable organization or event, but felt all others should be required to pay the fee. It was noted that both organizations were non-profit organizations, however, there was no indication as to whether or not they were charitable organizations.

**ACTION:**

**It was agreed that Consent Agenda items b. – Children's Academy Island Run – May 5, 2012 Request for Fee Waiver of \$200 and Agenda Item c. – Vokssporters Walk – North Anna Maria Island – February 11, 2012 Request for Fee Waiver of \$200 are tabled until further verification can be made relating to their charitable status.**

**MOTION: Move that Consent Agenda Items a, d, and e. are approved.**

**ACTION: Moved by Commissioner Quam, Seconded by Commissioner SueLynn.**

**Motion carried – All Aye.**

**13. Reports and Updates:**

- a. Sheriff's Report (Written)
- b. Building Department Report (Written)
- c. Public Works' Department Report (Written)
- d. Code Enforcement Report/City Pier Report (Written)
- e. Code Enforcement Report/City Pier Report (Written)
- f. Ordinance Update (Written)
- g. Financial Report (Written)
- h. EEEEC – Annual Report

**Public Comment/Press Comment** 

*Diane Caniff*, Anna Maria resident, said she did not hear the motion made for Agenda item # 1 and would have liked to have commented on the issue. *Chair Webb* explained the procedure.

**Adjournment-**

**The meeting was adjourned on motion made by Commissioner Woodland and seconded by Commissioner Mattick.**

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Alice Baird, CMC, City Clerk

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