

**CITY OF ANNA MARIA
REGULAR COMMISSION MEETING
JULY 28, 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

Absent with excuse: Commissioner Duke Miller

Also present: Robert Eschenfelder (Assistant County Attorney, Manatee County), Mayor SueLynn, City Attorney Jim Dye, Public Works Director George McKay, Deputy City Clerk Diane Percycoe; Minutes Clerk Sylvie Reichmann

Press: Sun, Islander

1. CONSENT AGENDA

- a. **Approval of Minutes: Special Commission Meeting 6/14/05 – 6:30 p.m.; Special Commission Meeting 6/14/05 – 7:00 p.m.; Regular Commission Meeting 6/23/05 – 7:00 p.m.; Special Commission Meeting 6/29/05 – 6:00 p.m.; Special Commission Meeting 7/06/05 – 6:15 p.m.; Special Commission Meeting 7/06/05 – 7:05 p.m.; Special Commission Meeting 7/20/05 – 7:00 p.m.**

Commissioner Carol Ann Magill requested removal of the Minutes of the Special Commission Meeting on 6/14/05 – 7:00 p.m.; the Special Commission Meeting on 6/29/05 – 6:00 p.m.; and the Special Commission Meeting of 7/20/05 – 7:00 p.m. for correction, as well as Items C. and D. for discussion.

MOTION: Deputy Commission Chair Linda Cramer moved to approve the remainder of the Consent Agenda, seconded by Commissioner Dale Woodland.

Vote: All Ayes. Motion carried.

Relative to the Minutes of the Special Commission Meeting on 6/14/05 – 7:00 p.m., Page 3, fourth paragraph, Commissioner Carol Ann Magill requested that the minutes be amended to read “errors on the Capital Improvements priority lists comparing the one presented at this evening’s meeting to the one presented to the Commission in April, 2005.” and there was consensus for this.

In the same meeting minutes, on Page 5, second paragraph from the bottom, Commissioner Carol Ann Magill requested adding the language “for example, the ones discussed in January 2005, and April 21st, 2005.” *[upon checking the tape, it was found that the verbatim language was “almost a year ago”]*

Relative to the Special Commission Meeting Minutes of 6/29/05, Page 5, third paragraph, and Marie White’s comment, Commissioner Carol Ann Magill

said she believed that Mrs. White meant that the traffic pattern should be modified to allow the cars to go around and eliminate the need to back out into Spring Avenue. Regarding the paragraph beginning with “Thomas Ritchie”, the Commissioner pointed out that the correct spelling is “Ricci”. Referring to the same paragraph, Commissioner Magill said that she did not believe that Mr. Ricci had said that he was an ADA expert. *[upon checking the tape, it was found that Mr. Ricci’s introductory words “ADA expert” had been recorded verbatim]* Moving on to Page 8, second paragraph, in the same meeting minutes, Commissioner Carol Ann Magill further clarified that she had referred to a letter from Manatee County dated February 3rd, 2005 regarding the decking being placed over the right-of-way, and that the County, (quoting from that same letter at this evening’s meeting), had indicated that it could require its removal.

Regarding the Special Commission Meeting Minutes of 7/20/05, Page 7, fourth sentence from the bottom, Commissioner Carol Ann Magill indicated that instead of “required”, she had used the word “presented” *[the tape was reviewed and the minutes amended to indicate that no SWFWMD permit application form or fee had been required, but that the Commission had been advised to obtain copies of the Applicant’s SWFWMD application letter and all attachments, as well as any responses from SWFWMD]*. **Referring to Page 4 of the same meeting minutes, Commissioner Magill questioned the correctness of the sentence in the last paragraph, relative to the effect of the variance making the ‘structure less sound’, and there was consensus to amend the minutes to reflect the true (and opposite) meaning.**

- b. Appointment of JoAnn Mattick to EEEEC Committee**
- c. Interlocal Agreement with Manatee County for Debris Management and Debris Situation Monitoring**

Commissioner Carol Ann Magill noted, regarding the scope of services, Exhibit A, that Waste Management would not accept any mixed debris, and that rejected loads would be sent back at the City’s expense. She asked if the contractors doing the transporting had anything in their contract that expressed their liability if the debris were mixed, and not the City’s. Public Works Director George McKay said there would be monitors taking care of the possibility of mixed debris, and that they would bear the liability for errors. Mayor SueLynn indicated that this was a good observation on the part of the Commissioner and that she would verify that the City was protected from such liability.

- d. Surplus Item List: Public Works Maintenance Yard and Building**

Commissioner Carol Ann Magill noted that #2 was still on the list of Surplus Items. Public Works Director George McKay asked that Item #2 be pulled from the list, and said that he had intended to request this at tonight’s meeting. Mayor SueLynn confirmed with Mr. McKay that Gravely mower #2 would be removed from the list.

e. **Dawn Moore Special Event – August 27th, 2005, 7:40 p.m. firework display**

f. **Guggino v. City of Anna Maria / Dismissal**

MOTION: Deputy Commission Chair Linda Cramer moved to approve the Special Commission Meeting Minutes of 6/14/05 – 7:00 p.m.; Special Commission Meeting Minutes of 6/29/05 – 6:00 p.m.; and the Special Commission Meeting Minutes of 7/20/05 – 7:00 p.m., as amended, seconded by Commissioner Carol Ann Magill.

Vote: All Ayes. Motion carried.

2. REPORTS AND UPDATES

Commissioner Carol Ann Magill, referring to the Sheriff's report, wondered why no alcohol on the beach arrests had been made during the holidays. Mayor SueLynn responded that the deputies needed to have actually seen someone in the act of drinking before they could apprehend a violator. Commissioner Carol Ann Magill noted that it was difficult to enforce alcohol on the beach around the Sandbar. Mayor SueLynn agreed and noted that some properties extend into the beach. Commissioner Carol Ann Magill suggested that if this ordinance was so difficult to enforce, perhaps the City would want to relax it. The Mayor indicated that she would follow up with Sgt. Kenney.

Mayor SueLynn referred the Commission to the Code Enforcement Officer's report, noting that the activity of putting "informational signs on trash cans" had been taking a great deal of the officer's time. The Mayor said that she was considering coming back to the Commission to ask for some kind of fee or fine in order to discourage the practice of improperly setting out the trash.

Mayor's Report

Mayor SueLynn called attention to the number of people who had recently died from the heat wave. She called on citizens, not just out of concern for the heat, but on an ongoing basis, to notice elderly people in the city living alone and not being checked on by their relatives and neighbors. The Mayor noted that recently several very unfortunate situations had occurred, and asked neighbors to please check on their neighbors, especially if they notice a change in their daily behavior.

3. Cable Consortium Interlocal Agreement

Assistant County Attorney Robert Eschenfelder explained that Verizon had approached the County and the City of Bradenton regarding a cable franchise. The attorney said that discussion then began relative to drafting an interlocal agreement so that all the local entities could negotiate at the same time. He said that the concept of a cable television consortium was not unique, although there were no others in Florida, but these had been put in place and were working elsewhere in the country, for example, in Denver. Mr. Eschenfelder noted that

Chapter 163 allows the authority to exercise governmental powers jointly. He noted that the mayors' reactions had been positive, and that they were encouraging their Commissions to adopt resolutions. The County Assistant Attorney noted that the City of Bradenton had adopted the interlocal agreement two nights previous to this meeting.

Assistant County Attorney Robert Eschenfelder described the proposed governing board as follows: three County Commissioners, the Mayors of the two largest cities, and one representative for the Island communities. He said that since cable had the component of an education access channel, with the possibility of an additional one, one member of the School Board was included on the governing board.

The attorney said that the city partners would pay monthly dues, with 10% of the increased burden being spread among the cities. Mr. Eschenfelder said that the cost for the City of Anna Maria would be \$329 per year. He explained that with the interlocal agreement in place, the City would not have to handle cable franchising, should they be approached directly. The Assistant County Attorney said that reservations in the agreement allowed for the individual cities' charging for permit fees and for retaining their portion of the Communications Services Tax. He confirmed that there was a termination, withdrawal provision included in the agreement. Robert Eschenfelder said the issue was not particularly controversial, and that citizens had often asked governments to work together where they can. He noted that smaller cities, because of their populations, do not have the bargaining power to get the best deal from the cable companies.

Commissioner Dale Woodland asked, relative to Page 6, Section 7, what the procedure would be if a party wished to withdraw, i.e., would it need a vote of 'the governing body'. Mr. Eschenfelder responded that this meant the Commission, not the governing body of the Consortium.

Commissioner Carol Ann Magill asked, if the City did not approve entering into this agreement at this time, if it would be possible to join later. The Assistant County Attorney indicated that the City could join any time.

Commissioner Carol Ann Magill asked Mayor SueLynn when the current contract with Brighthouse would be up. Mayor SueLynn said she believed the contract was for ten years, but would need to check. Commissioner Carol Ann Magill said that some members of the community had asked why it should join the consortium if the Brighthouse contract was in effect. City Attorney Jim Dye clarified that the Brighthouse contract was non-exclusive, therefore a resident would have the choice of two or more cable providers. Mr. Eschenfelder said that the federal government prohibited exclusive franchises, and if Verizon came to ask for a franchise, the City would need to give it one.

Mayor SueLynn said if Verizon came in without the City being in the consortium, she would not have anyone in the City with the expertise to negotiate such a contract. She recommended that the Commission approve the City's entrance into this consortium.

Commissioner Carol Ann Magill confirmed with Mr. Eschenfelder that those with Brighthouse would not need to change to Verizon if they didn't want to. The Mayor noted that when the Brighthouse contract came up for renewal, the consortium would be able to negotiate it for the City.

Mr. Eschenfelder noted that in other states, there is a trend towards pressuring the State governments to take away franchising rights from the counties and cities. He said the more the municipalities could show that they can voluntarily co-operate, the more they possibly would be able to preserve their rights.

Commissioner Carol Ann Magill noted that Holmes Beach was still debating whether or not to join the consortium, and asked what effect there would be on the consortium if that city decided not to join. Mr. Eschenfelder said that the representatives of the governing body were allocated according to population, and that allowing for more than one Island representative would have put a skew on the voice of the public as compared with the rest of the County.

Commission Chair John Quam said he would be in favor of entering into this agreement, since it brings in competition, and noted that there was a 90-day exit clause.

He asked City Attorney Jim Dye if Resolution #605 was ready to be read and voted on at this evening's meeting. The City Attorney responded that his copy of the Resolution still had some blanks to be filled in, and that he had a couple of items to discuss in the agreement itself, relating specifically to the City of Anna Maria. City Attorney Dye noted that the charters of the City of Anna Maria, as well as Holmes Beach, say that a franchise needs to be granted by ordinance, therefore the consortium cannot grant a franchise for the City.

Mayor SueLynn asked if language could be added to the agreement so that if franchises were passed by ordinance in the cities of Anna Maria and Holmes Beach, they would be valid. Mr. Eschenfelder indicated that this would be too cumbersome a process to make negotiations effective.

Commission Chair John Quam asked Mr. Dye and Mr. Eschenfelder to work together on a continued presentation of this agenda item for next month's Regular Commission meeting and the attorneys agreed to do so.

4. Second Reading – Ordinance No. 05-641, Alleyway Vacation – 407 Magnolia Avenue, Anna Maria, Florida

Commission Chair John Quam read the ordinance by title.

MOTION: Deputy Commission Chair Linda Cramer moved to adopt Ordinance #05-641, and Commissioner Dale Woodland seconded the motion. Roll Call Vote: Commissioner Dale Woodland – Aye; Commissioner Carol Ann Magill – Aye; Commission Chair John Quam – Aye; Deputy Commission Chair Linda Cramer – Aye. Motion carried unanimously.

5. Set Hearing Date to Consider the Pending Site Plan Application of 303 Pine Avenue

City Attorney Jim Dye referred to his letter of July 19th, 2005, recommending that the City not appeal the decision of Judge Gilner. He noted that another public hearing regarding the Hunt's site plan needed to be scheduled.

MOTION: Deputy Commission Chair Linda Cramer moved that the City of Anna Maria not appeal the decision of Judge Gilner, seconded by Commission Chair John Quam. Vote: All Ayes. Motion carried.

There was consensus for the Site Plan Hearing regarding 303 Pine Avenue to be an agenda item for the Regular Commission Meeting on August 25th, 2005.

6. First Reading of Ordinance No. 05-642 – Local Communications Tax

Deputy Commission Chair Linda Cramer read the ordinance by title.

Mayor SueLynn explained that this was a tax that the City had only been administering at the very lowest rate since the tax was allowed in 2001, and that she had learned that this tax had never been formally set by the Commission. City Attorney Jim Dye noted that when a City grants a franchise to an entity, a franchise fee is usually involved. He said that when the State legislature took away franchise fees in 2001, it levied a statewide tax upon communications providers, with the proceeds to be divided up among the cities and the counties. City Attorney Jim Dye said that as far as it is known, the City had never charged a franchise fee for telephone, and this is why the Commission did not address the change in the law when it occurred. Mayor SueLynn confirmed to Mr. Dye that the City was authorized by the State to charge 5.22 percent, which would give the City an additional \$60,000 this year.

Commissioner Carol Ann Magill asked if the consumer would see the effect of this increase on their bills. City Attorney Jim Dye confirmed that this was the case, and that the more services the consumer buys, the higher the amount of money contributed to tax.

Mayor SueLynn indicated that neighboring cities had been collecting this tax for almost five years.

Public Comment

Jim Conoly asked when the public hearing was held on this matter. Commission Chair John Quam said that the public hearing would occur in August. Mr. Conoly pointed out, as per his comment at the budget work session, that this tax becomes linked to the amount of property tax being charged.

Commission Chair John Quam announced the second reading of this ordinance would be on August 25th, 2005.

7. **Establish a Date, Time and Place for the First Public Hearing on the 2005 / 2006 Budget and Set a Tentative Millage Rate**

MOTION: Deputy Commission Chair Linda Cramer moved to set the tentative millage at 2.23 for the Fiscal Year 2005 / 2006 proposed budget with the rolled-back rate at 1.7040, and further moved that the date, time and place of the first public hearing shall be Wednesday, September 7, 2005 at 6:30 p.m. at the City of Anna Maria City Hall, 10005 Gulf Drive, Anna Maria, Florida. The motion was seconded by Commissioner Dale Woodland. Vote: All Ayes. Motion carried.

8. **Forestry Grant Matching Funds – Line Item Transfer**

Public Works Director George McKay explained the work being done and confirmed the four Line Items that the money would be coming from with Commission Chair Quam.

In response to a question from Commissioner Carol Ann Magill, Mayor SueLynn said that the bridge work had been done for less money than anticipated, and that next year, the remaining money would roll over into reserves. Commissioner Carol Ann Magill responded that, referring to a memo regarding bridge repair, there remained things to be done that could not be funded this fiscal year. Mayor SueLynn reiterated that the work had cost less than anticipated, and that now the funds were available to possibly accomplish forestry work in this year's budget that would not have been funded, and that the additional work on the bridges could not be done this year as well.

MOTION: Deputy Commission Chair Linda Cramer moved to transfer amounts from four Line Items in the current budget, #93, #135, #204 and #207, totaling \$19,876, to Line Item #180 – Forestry Grants, to allow funding of #9427. The motion was seconded by Commissioner Dale Woodland. Vote: Three Ayes. One Nay. Motion carried.

Mayor SueLynn told the Commission that now that a system was in place to track all the grants, this situation would not happen again.

9. Suggested Wording for Proposed Ballot Referendum on Merger of Island Cities.

Mayor SueLynn said that the three Island mayors had met and noted that the referendum needed to be in the Supervisor of Elections office by September 19th. She said that question to be put to the public in November, was whether the citizens were willing to invest in studying the feasibility of consolidating the Island cities. “Should AM participate in exploring studies to consolidate (ck tape)”

Deputy Commission Chair Linda Cramer said she had no problem with the language, but felt some idea should be given as to who would be consulted and what the approximate cost would be. Mayor SueLynn responded that the elected officials had explored “not to exceed” language.

Commission Chair John Quam said that his estimate would be \$100,000 for the consultants; then the negotiations would begin between the cities. He noted that if a roadblock were encountered, the investment in consultants would be lost. He recommended putting in language to the effect that such cost would not exceed \$100,000.

City Attorney Jim Dye confirmed that this was a non-binding referendum.

Commissioner Dale Woodland said he also had no problem with the language or the referendum. Said he thought the Commissioners should have an opportunity at a meeting to discuss the consolidation subject. He said to be fair to citizens, two consultants, one pro and one con, should be hired to present both sides to the public. Mayor SueLynn said that she would like to see a professional facilitate working with the community, and in this way gather opinions and facts for both sides of the question. Commissioner Dale Woodland said he did not feel it would be realistic to expect a contracted consultant to come up with an impartial result.

Commissioner Carol Ann Magill said she did not recall any citizen coming forward to ask that the subject of pursuing Island city consolidation be revisited. She said she felt that she had somehow been left out of the loop. She objected to this being rushed through, and noted that many residents were now away for the summer. She said that she was leery of the language as written, especially since the citizens did not know how much it would cost. She recommended that the City conduct some town meetings before considering putting the question to the ballot. The Commissioner said she would not vote to proceed with any ballot language at this time.

Mayor SueLynn confirmed to Deputy Commission Chair Linda Cramer that City Attorney Jim Dye could be asked to work on ‘not to exceed’ cost language.

Commissioner Dale Woodland noted there were six weeks between now and September 19th for the Commissioners and citizens to discuss the matter. Commission Chair John Quam recommended a Town Hall meeting before August 25th.

There was consensus to ask for a ‘not to exceed’ dollar clause, and clarification that the decision was non-binding, to be added to the ballot question language.

Public Comment

Jim Conoly said this was putting the cart before the horse. He said that people needed to consider that it would cost each resident and business money to get addresses changed, and that there would be employees who would lose their jobs and need to work elsewhere.

Jean Murray of 321 Hardin commented relative to the referendum, that she had never known a large government to save money.

There was consensus to hold Town Hall meetings relative to the referendum on Tuesday August 23rd, 2005 at 4:00 p.m. and 7:00 p.m.

PRESS COMMENT

None offered.

PUBLIC COMMENT

Jeff Murray of 321 Hardin asked if money for new chairs could be provided, and the Commission confirmed that it was in the proposed budget.

Ed Schroeder thanked the Commission and the citizens of the City on behalf of the Anna Maria Island Community Center’s Board of Directors and staff.

Jean Murray of 321 Hardin said she saw the deputies confiscate a great deal of fireworks on the 4th of July, and asked where these went. She suggested the City ask to keep them. Mayor SueLynn explained that the City had no safe place to keep them. City Attorney Jim Dye added that the fireworks would be of unknown origin and unusable.

Marsha Mayers of Spruce Street said that she had a petition from the citizens of Spruce and Tuna. She said the residents there want resident parking only because of the lack of bathroom facilities.

ADJOURNMENT

MOTION: Deputy Commission Chair Linda Cramer moved to adjourn the meeting, seconded by Commissioner Carol Ann Magill.

Vote: All Ayes. Motion carried.

The meeting adjourned at 8:57 p.m.

Respectfully submitted,

City Clerk Alice Baird

Date