

**CITY OF ANNA MARIA
REGULAR COMMISSION MEETING
NOVEMBER 15, 2005
7:00 P.M.**

CALL TO ORDER (7: 00 p.m.)

PLEDGE TO THE FLAG

ROLL CALL: Commissioner Dale Woodland, Commissioner Christine Tollette, Commission Chair John Quam, Deputy Commission Chair Linda Cramer, Commissioner Duke Miller

Also present: Mayor SueLynn; City Planner Alan Garrett; Building Official Kevin Donohue, Public Works Director George McKay, City Attorney Jim Dye, Deputy City Clerk Diane Percycoe; Minutes Clerk Sylvie Reichmann

Press: Sun, Islander, Herald

Chair John Quam announced that the next Regular Meeting of the Commission would be held at 7:00 p.m. on December 15, 2005, following the variance hearing scheduled for December 15, 2005 at 6:00 p.m.

CONSENT AGENDA

1.
 - a. **Approval of 10-27-05 City Commission Minutes**
 - b. **Special Event Permit – Christmas Parade on December 10, 2005**
 - c. **Special Event Permit – Anna Maria Holiday Walk on December 17, 2005 (5:00 p.m. – 8:00 p.m.)**
 - d. **Special Event Permit – Roser Church Bethlehem Walk on December 17, 2005 (2:30 p.m. – 8:30 p.m.)**

MOTION: Deputy Commission Chair Linda Cramer moved to approve the consent agenda, seconded by Commissioner Duke Miller.

Vote: All Ayes. Motion carried.

2. **REPORTS & UPDATES**

Mayors Report

Mayor SueLynn reported that City Clerk Alice Baird was still suffering from a back injury, and that she had received the resignation of Danielle Latkovich, Administrative Assistant for the Building Department. She asked the Commission and the public to have patience while the Deputy City Clerk, the City Administrative Assistant, and other City staff handle increased duties.

The Mayor said that on November 10th, she attended a Manasota League of Cities meeting featuring a speaker from the Sarasota Bay Estuary Program who gave an update on actions being taken relative to red tide. She indicated that there were

many studies currently underway, most of which will take a year to complete. Mayor SueLynn noted that at this point in time, the cause of red tide is completely unknown, and it now also appears to be growing in the nutrient poor waters far off shore.

3. **Establishing a Moratorium on Subdividing Property Seaward of the CCCL: Second Reading and Public Hearing on Ordinance No. 05-648**

Commission Chair John Quam declared the public hearing open. Deputy Commission Chair Linda Cramer read the Ordinance by title.

Public Comment

Tom Turner of 850 North Shore Drive said he thought the ordinance was a good thing, but the Conservation Line, Preservation Line, and the Coastal Construction Control Line (CCCL) should be considered as vital, and therefore all mentioned and differentiated. He noted that the preservation line could be moved back and no development could take place seaward of it.

Ricinda Perry introduced herself as counsel for the Sandbar Restaurant and said she had a final site plan yet to be reviewed and asked if the application would still be accepted after the moratorium. City Attorney Jim Dye said the Ordinance pertained to the subdividing of property, and not existing lots of record. Ricinda Perry confirmed with City Attorney Jim Dye that her client's application would fall outside the moratorium, since there would be no subdivision.

Commission Chair John Quam declared the public hearing closed.

Deputy Commission Chair Linda Cramer asked if the erosion and preservation lines needed to be mentioned. City Attorney Jim Dye agreed with Commissioner Duke Miller's comment that the two lines are seaward of the CCCL and therefore covered.

Commissioner Dale Woodland asked City Planner Alan Garrett if the overlay district would have any impact on the moratorium. Building Official Kevin Donohue said the CCCL was easily distinguishable at the time the decision was made to have a moratorium. He said the map that is being developed will reflect the flood hazard zones, and would include more land. City Planner Alan Garrett confirmed that the overlay district boundary was more landward than the CCCL.

MOTION: Commissioner Duke Miller moved to adopt City of Anna Maria Ordinance No. 05-648, seconded by Deputy Commission Chair Linda Cramer

Roll call vote: Commissioner Dale Woodland: Aye; Commissioner Christine Tollette: Aye; Commission Chair John Quam; Deputy Commission Chair Linda Cramer: Aye; Commissioner Duke Miller: Aye. Motion carried unanimously.

4. Commission Meeting Attendance Rules: Second Reading and Public Hearing – Ordinance No. 05-649

Commission Chair John Quam declared the public hearing open. Deputy Commission Chair Linda Cramer read the ordinance by title. City Attorney Jim Dye noted the only change was under Section 2, allowing the establishment of procedures by Resolution.

Chair Quam called for public comment and none was offered. Commission Chair John Quam declared the public hearing closed.

MOTION: Deputy Commission Chair Linda Cramer moved to adopt City of Anna Maria Ordinance No. 05-649, seconded by Commissioner Duke Miller
Roll call vote: Commissioner Dale Woodland: Aye; Commissioner Christine Tollette: Aye; Commission Chair John Quam; Deputy Commission Chair Linda Cramer: Aye; Commissioner Duke Miller: Aye. Motion carried unanimously.

5. Coastal Overlay District – Discussion and Procedures for Proposed Ordinance

Mayor SueLynn displayed the original 1971 zoning map for the Commissioners and the public and commented on how that map would have profoundly affected the single-family residential character of the city, had it not been subsequently changed to limit duplex and multi-family zoning. City Planner Alan Garrett noted that leaving the zoning the way it was on the 1971 map would have doubled the city's population.

The Mayor distributed copies of the Zoning Regulations of the City of Anna Maria to the Commissioners and interested attendees.

City Planner Alan Garrett indicated that the item for discussion was the draft ordinance for the coastal overlay district. He reminded those present that the overlay district is a boundary applied on top of zoning districts (in this case, the R-1, R-2, and C-1 zones), that would affect the re-development and subdivision of land in those districts underlying it.

City Planner Alan Garrett began by referring to Page 3, Item B, to begin discussion of the boundaries that would apply. He said the overlay district pertained to all lands seaward of the CCCL, combining the A-11, Elevation 11, and the V-9, Elevation 9 zones. The City Planner noted the yellow overlay area on the map started at the Sandbar, and followed the shore around Bean Point to properties seaward of North Shore Drive, and bayside of North Bay and South Bay to the City limits. Mr. Garrett confirmed to Commissioner Woodland that the inland boundary of the overlay district lay landward of the CCCL. He said that this was a line that was established by FEMA, and was something the City could relate to a flood rate map, to allow no ambiguities as to which properties lie inside or outside the overlay district. The City Planner expressed the opinion that

the district encompassed the area the City had been concerned with, such as the larger platted lots of record around Bean Point, and other lands seaward of Gulf Drive, and said he was confident that this would adequately control the increase in density.

Referring to Page 4, relative to Section 114-434, City Planner Alan Garrett explained that the overlay district would affect re-platting, and an existing lot of record would need to build under the underlying zoning district.

Relative to accessory uses, the City Planner noted the overlay district was trying to regulate large expanses of wood decking in the high hazard areas. Relative to prohibited uses, for lots platted after December 31, 2005, he noted that fences and walls (not including pool cages) would be prohibited, and that screening and buffering were to be accomplished using native vegetation. City Planner Alan Garrett explained that all enclosures on the ground level would need to be consistent with Section 82.82 which allows an elevated home to have 299 square feet on the ground for an entranceway. He noted that in velocity zones, walls and fences can become moving objects.

Relative to Page 6, Item #1, for lots platted after December 31, 2005, the maximum density is one dwelling unit per acre. City Planner Alan Garrett reviewed the lot dimensions, coverage regulations, and setbacks in the overlay district. He explained that the building setback line from the coast is a line drawn between the most seaward projections of the two principal structures on either side of the newly platted lot. City Attorney Jim Dye clarified that the old rules would apply to existing lots of record.

Relative to Number 5, City Planner Alan Garrett indicated that on newly platted lots, homes would be required to be no higher than 27 ft. above the crown of the road. He said this would be an excellent step in implementing the revised Comprehensive Plan.

Commissioner Duke Miller noted the newly platted lots' new dimensions would allow for a 10,000 sq. ft. home. City Planner Alan Garrett said the structure allowable would still be of a significant size, however, allowable height would be lower, and setbacks would be greater.

Commissioner Christine Tollette asked what the rationale for reducing the height allowance on newly platted lots to 27 ft. from the crown of the road. City Planner Alan Garret responded that the thinking was to look at the mass of an elevated structure relative to wave action. He said the idea was to allow one story over parking, however, it could be possible to construct two levels where the FEMA regulation for elevation from sea level.

Deputy Commission Chair Linda Cramer said she would like to discuss this point further, since she was not sure, with the larger lots and setbacks, as a hypothetical

owner, that she would like in addition to be limited to 27 ft. in height, were she wish to build on a newly platted lot in this overlay district.

Commissioner Duke Miller said he agreed with the language drafted by City Planner Alan Garrett. He said he would like to see wording that would allow the '0' height line mark to be set at the level established by FEMA for any lot in question. **City Planner Alan Garrett agreed that it would be a good idea to revise language to use the FEMA level, instead of the crown of the road, and there was consensus for this.** Building Official Kevin Donohue recommended using the height of sea level. City Planner Alan Garrett confirmed that this could be something to discuss further with the Commission. Commissioner Christine Tollette said she did not agree with the 27 ft. height limitation.

City Planner Alan Garrett said he would be glad to come back with examples of one level over parking, and two levels over parking. City Planner Alan Garrett noted that height and lot coverage go hand-in-hand. Building Official Kevin Donohue said when considering two stories for a structure of the size proposed, the setbacks would need to be increased because of fire hazard.

Commissioner Dale Woodland asked if there were any other communities he was aware of that were using the coastal overlay district for the reasons being discussed by the Commission. City Planner Alan Garrett responded that he had worked on developing an overlay district for Siesta Key. Commissioner Dale Woodland noted that on Page 4, Section A was deleted. *City Planner Alan Garrett explained that in the new draft, the E-1 district would not be eliminated.*

Commissioner Dale Woodland asked, relative to Page 6, what the rationale was for having one unit per acre, noting that throughout the Ordinance, he had been looking for the basis upon which the choices were made. City Planner Alan Garrett said that one acre was chosen relative to concerns regarding allowable density, reducing risk associated with the coastal high hazard areas, and that he felt the proposed overlay district supported the policies in the Comprehensive Plan. He said the one-acre size designation was up for discussion, noting that a 150 ft. wide by 275 ft. deep was a practical lot that could be platted along Bean Point, relative to existing lots, and that the size had been rounded out to one acre for discussion purposes. Commissioner Dale Woodland said he would rather see 10% lot coverage rather than 25%. He said that in subsection 5, he had noticed that the language was different relative to the underlying zone district. *City Planner Alan Garrett said he could amend the language to make it more consistent with the other sections of the Ordinance.*

Commissioner Christine Tollette suggested, if mass of structures is a problem, perhaps the allowable square footage could be reduced if a builder wanted to have two stories. City Planner Alan Garrett said that reduction of square footage and lot coverage could be explored to offer builders an option.

Public Comment

Tom Turner said he felt a can of worms was being opened.

Ricinda Perry introduced herself as counsel representing the Sandbar, Galati's, and Lockwood Holdings, all of whom opposed this Ordinance. She said that she did not see or hear anything relative to the safety purposes driving this Ordinance, relative to lot size, height restrictions, coverage or setbacks. She said if the intent was to protect people from hurricane damage, more focus should be on building materials and design of roofs, not just open space. Ms. Perry said the Ordinance would inordinately burden each of her clients' property rights and significantly reduce their properties' value. She notified the Commission that she saw it as a classic Burt-Harris Act issue, which would be pursued, if necessary. City Attorney Jim Dye responded that the focus of this Ordinance was to protect what people currently have. He said that as long as there is not a re-platting or subdividing of existing lots, this Ordinance would not affect current property owners.

Ed Chiles, of 113 Tern, said he was concerned that certain rights attached to his property would be taken away and that this would affect the value of his property.

Commissioner Duke Miller asked if this topic could be readdressed at the Commission's December 15th Regular Meeting. Commissioner Duke Miller suggested either a Work Session, where examples would be presented by Mr. Garrett, or at the Regular Meeting. **Commission Chair John Quam said he would prefer the first reading of the Ordinance to be held on December 15th, 2005 and there was consensus for this.**

Relative to Commissioner Duke Miller's suggestion that additional counsel be retained by the City to review this Ordinance, Commissioner Dale Woodland said he agreed with it. He said he had contacted an attorney relative to possible interest in assisting the Commission in this capacity, and the attorney had responded positively.

Commission Chair John Quam said he did not feel this was necessary, given the experience of Mr. Garrett, and the expertise of City Attorney Dye. Commissioner Duke Miller said he felt, nevertheless, that this would be appropriate. City Attorney Jim Dye noted that no one was going to be able to tell the Commission that the Ordinance would be bullet proof, i.e., not subject to challenge. Commissioner Christine Tollette said she agreed with Commissioner Duke Miller and Commissioner Dale Woodland.

Mayor SueLynn said if this were the wish of the Commission, she would like to see someone retained who is an expert in the Burt-Harris Act and issues regarding takings. City Attorney Jim Dye said, relative to land use issues, that counsel certified in local government law should be retained. Commissioner Duke Miller recommended that City Planner Alan Garrett and City Attorney Jim Dye make the

necessary inquiries as to appropriate counsel for a second opinion on this Ordinance. Commission Chair John Quam said he would also like to have an idea of what the cost of such a review would be before the Commission committed itself. *City Attorney Jim Dye confirmed that by December 15th, 2005, he and City Planner Alan Garrett could make a recommendation in this regard.*

City Attorney Jim Dye recommended that additional foundation language be inserted into the Comprehensive Plan to support this Ordinance, especially since the Plan is currently undergoing review. *City Attorney Jim Dye confirmed to Mayor SueLynn and Commissioner Duke Miller that he would bring this language on December 15th.*

4. **Revisions and Amendments to Site Plan Procedures**

City Attorney Jim Dye said the idea behind this was to put into place some changes based upon the experience recently with the new site plan review process. He said the object was to streamline the process, clarify certain areas, and make the process more user friendly. He said that the suggested change takes the Commission out of the approval process for the final plan approval, and possibly final subdivision plats. He said the idea behind this was that the preliminary stage had brought the plan before local government, and depending upon the Commission's approval or stipulations, the plan could be revised. He said since the Commission approved the preliminary site plan and possibly included conditions, approval of the final site plan was an administrative act, as long as the plan was not substantially changed from what the Commission had approved. He noted the Waterfront plan had six changes, which then needed to be brought before the Commission. The City Attorney said this was not perhaps the best use of the Commission's time.

City Attorney Jim Dye said the next change was on Page 5, following up on the desire of the Commission that the original draft language be restored to indicate that any major development, not just subdivision applications, would require holding a neighborhood workshop, to be announced via mailed out notices and posting of the property. Referring to Page 10, regarding other governmental permits, the City Attorney said that this change required the applicant to provide copies of the permits only, with the applications for the permits to be required by the City to be submitted upon specific request. On last two pages, City Attorney Jim Dye indicated minor changes were addressed, as well as the necessity to go back through the public hearing process. He noted that this Ordinance recommended that minor modifications be approved administratively.

Commissioner Duke Miller confirmed that Building Official Kevin Donohue would be the administrator involved in making the determination as to whether a modification was minor. Commissioner Duke Miller said he wanted to make certain that the applicants understood what allowable 'tweaking' was. City Attorney Jim Dye said that in most site plan ordinances he had worked with, there

is a certain amount of latitude allowed if the applicant could demonstrate to the Building Official and the Commission that an idea was sound.

Commissioner Dale Woodland asked if the Commission should issue a formal declaration or resolution upon approving a preliminary site plan. City Attorney Jim Dye confirmed that an Order written upon site plan review would be a good idea. He noted in Holmes Beach this was currently the procedure. City Attorney Jim Dye said a one-page notice could also be put in the public records to indicate that a site plan had been approved for a certain piece of property that affects what can be done with the property, which would cross-reference the City's file. He agreed that approval should be more formal than it is now. Building Official Kevin Donohue agreed that this language should be included in the Ordinance. He said he would like to order a stamp for the Commission, reading "preliminary approval", making the document, signed at the voting meeting, the controlling document. He confirmed to Mayor SueLynn that the writing of the Order was typically done by City staff.

Commissioner Christine Tollette asked if the applicant had the right to appeal, and to which board. Building Official Kevin Donohue said perhaps on all issues, the appeal should first come before the P&Z Board.

Deputy Commission Chair Linda Cramer said she was not comfortable with the Commission not being involved in final site plan approval. Building Official Kevin Donohue noted that the only reason the Commission did not finalize their approval at the preliminary site plan review was that the builder needed to obtain permits. He clarified that with substantial change, the site plan would be redirected through the preliminary approval process.

Commission Chair John Quam asked what assurance there was to prevent favoritism on the part of a future Building Official. Commission Chair John Quam confirmed that the words "the City" denoted not only the Building Official.

Mayor SueLynn said she was concerned that the Building Official's authority might be undermined, which would affect his ability to make statements to applicants. Commissioner Duke Miller reminded those present that the subject was site plan review.

There was consensus to have the first reading of this Ordinance at the Commission's January 2006 Work Session.

Public Comment

Carol Ann Magill of 113 Spring said she agreed with Deputy Commission Chair Linda Cramer's concern about removing the Commission from final site plan approval. She noted, regarding the Waterfront final site plan review, that there had been a number of issues the Commission wished to discuss, adding that the public may sometimes wish to comment on something. Ms. Magill said that she

believed any deviation from an ordinance in the site plan should require a variance application and go back before the Planning & Zoning Board.

Commission Chair John Quam asked if the Commission would be advised of final site plan approval. Building Official Kevin Donohue reminded the Chairperson that the conditions approved at the preliminary site plan approval would be met, and only minor, not substantial, changes would be approved by the Building Official. City Attorney Jim Dye noted the preliminary site plan approval actually writes a miniature zoning ordinance for the Building Department to administrate.

Deputy Commission Chair Linda Cramer suggested that the Building Official could draw up a report, with a list of any minor changes, for the Commission to vote upon for final approval. City Attorney noted that Commissioner Cramer's suggestion was for the holding of another hearing.

7. Proposed Mileage Reimbursement Adjustment: Discussion on Proposing an Ordinance

Mayor SueLynn referred to a memo she had written to the Commission, indicating that gasoline costs had gone up. **Deputy City Clerk Diane Percycoe noted that Holmes Beach uses the IRS rate, and there was consensus to have an Ordinance drafted to implement the increase (i.e., 45 cents per mile).**

There was consensus to have the first reading of the Ordinance at the December 15th, 2005 Regular Meeting.

Public Comment

None offered.

PUBLIC COMMENT

Tom Turner asked what happened to the 1991 zoning map that used to be on the Commission Chamber wall. Mayor SueLynn reported that this was in storage.

PRESS COMMENT

None offered.

Deputy Commission Chair Linda Cramer asked for Old / New Business be addressed at the January 2006 Work Session.

ADJOURNMENT

MOTION: Commissioner Duke Miller moved to adjourn the meeting, seconded by Deputy Commission Chair Linda Cramer.

Vote: All Ayes. Motion carried.

The meeting adjourned at 8:59 p.m.

Respectfully submitted,

City Clerk Alice Baird

December 15th, 2005
Date