

**CITY OF ANNA MARIA
CITY COMMISSION MEETING
APRIL 24, 2003 -- 7:00 p.m.**

Call To Order

Pledge To The Flag

Roll Call: Mayor SueLynn, Commissioner Tom Aposporos, Commission Chair John Quam, Commissioner Chuck Webb, Commissioner Linda Cramer, Commissioner Duke Miller.

Also present: Ingrid McClellan, Keep Manatee Beautiful; Joe Duennes, Holmes Beach Building Official; Suzie Fox, Turtle Watch; City Attorney Jim Dye, Sheriff's Deputy Sgt. Kenney, Code Enforcement Officer Gerry Rathvon, Deputy City Clerk Diane Percycoe, Administrative Assistant AnnMarie Thorpe, Minutes Clerk Sylvie Reichmann

Press: Sun, Islander, Herald

CONSENT AGENDA

1. Approval of Minutes: Special Meeting 3/11/03; Special Meeting 3/11/03; Regular Commission Meeting 3/27/03; Special Meeting 4/8/03
Commissioner Linda Cramer noted that the reference to the IDOTC in the March 27th minutes should be amended to read "Island Emergency Center", and that the motion made by Commissioner Duke Miller to approve the the lot split application had been seconded by Commissioner Tom Aposporos, not Commissioner Linda Cramer.

2. Approval of Proclamations: Elder Law Month – May; Civility Month – May

MOTION: Commissioner Chuck Webb moved to approve the Consent Agenda as amended, seconded by Commissioner Linda Cramer.

Vote: All Ayes. Motion carried.

Arbor Day 4/25/03

Mayor SueLynn read the Proclamation of National Arbor Day on April 25, 2003 for the City of Anna Maria.

MOTION: Commissioner Linda Cramer moved to approve the Proclamation of National Arbor

Day in the City of Anna Maria, seconded by Commissioner Chuck Webb.

Vote: All Ayes. Motion carried.

Commission Chair John Quam introduced Ms. Ingrid McClellan, Executive Director of Keep Manatee Beautiful, who expressed appreciation for their partnership with the City of Anna Maria. She made a request for replacement of Tom Skoloda on their Board of Directors. She said in other cities, usually the Board member is a member of the Public Works Department when it is not possible for a Commissioner to accept the appointment.

REPORTS & UPDATES

Commissioner Linda Cramer said she had attended the Anna Maria Island Community Center Board meeting, and reminded those present and interested at this evening's meeting to obtain tickets for the upcoming Affair to Remember fundraiser. The Commissioner said she had also attended the Historical Society Board meeting, where they discussed the recruitment of Linda Stevenson at the approximate cost of \$13,000, to do the historical background and data necessary for the grant for Belle Haven, which they may be applying for. She said the Historical Society is asking the City to support the restoration of Belle Haven and is looking for help and fundraising ideas from the community to defray the cost of applying for the second grant. Mayor SueLynn added that Public Works Director George McKay would be working with Mike Miller to clean up the historical park. Commissioner Cramer said that Pat Fletcher had indicated that he is willing to work with the City, Mr. McKay, the Mayor and the Historical Society to draw up a scope of work required.

Commission Chair John Quam obtained consensus from the Commission to have the Minutes Clerk record motions that have failed for lack of a second. He noted that this is not required by Robert's Rules.

Chair Quam reported that along with Mayor SueLynn, he attended the County Commissioner

and Mayors meeting on April 23, 2003, where he said that the trolley noise issue had been addressed. He said that Ernie Padgett had reported a trial costing \$5,000 was under way to retrofit one vehicle to reduce noise by 30 - 40%. Mr. Padgett said the County is considering retaining the free rider status until further notice. Commission Chair Quam said the County is also looking at ways to support the Island Community Center, through grants or other means. He said the 1/2 cent sales tax proposed for referendum in May had been postponed indefinitely due to the current economic situation. Commissioner Quam noted that Longboat Key Mayor John Redgrave had been working on a new, simplified edition of Robert's Rules for small government, to be published this Fall.

Commissioner Duke Miller noted, regarding the Code Enforcement Report, that rear door trash pickup was \$2.42 per month. Code Enforcement Officer Gerry Rathvon said the cost was now approximately \$7.00 a month. Commissioner Miller said he had two people call and tell him that if the property is a rental, they rarely pick up the trash. He indicated a need to complain about this to Waste Management, especially if rates are being raised. Code Enforcement Officer Rathvon said rear pickup locations will now be highlighted to their drivers. Commissioner Duke Miller asked about the guidelines for cutting trees in the rights-of-way. He confirmed with Gerry Rathvon that trimming of trees does not have to be done all the way up, which can virtually destroy some trees, but should be done only to the height where it affects the movement of people and vehicles. Mayor SueLynn asked Code Enforcement Officer Rathvon to comment on the property on the corner of North Shore and Fern. Code Enforcement Officer Rathvon said she had been out there ten times, and stopped the property owners from putting in a few things along the way. She said Holmes Beach Building Official Bill Saunders joined her to inspect the property. The Code Enforcement Officer indicated that ground cover plants were acceptable on the first 8 ft. of the right-of-way. She said the

property owners had been notified that if the City needed to use the right-of-way, they would need to remove the plants at their own expense. Chair John Quam asked if the property owners had also planted trees in alleyway. Code Enforcement Officer Rathvon said they had planted them to replace damaged oleanders. She said she had given the property owners a sheet to apply for an exemption.

MOTION: Commissioner Tom Aposporos moved to suspend rules to hear public comment, seconded by Commissioner Chuck Webb. Vote: All Ayes. Motion Carried.

Public Comment

A resident said that the City was allowing people to add fill to the right-of-way and that this practice should be discouraged for drainage reasons. Another citizen noted a second concrete retaining wall had been installed to hold landscaping on the corner of North Shore and Fern, and confirmed that this structure is actually an encroachment on the easement. He objected to building land up higher than 8 in. from the crown of the road. The resident asked to have the legality of the wall investigated and also to determine who gave them permission. Chair Quam confirmed with Mayor SueLynn that she would follow up on this.

Another resident asked for clarification of how the wall got there. Code Enforcement Officer Gerry Rathvon said it was on the right-of-way but beyond the first 8 ft., which is the only part addressed in Code. Another resident said the property owners should have to provide a survey, and if the wall is not on their land, it should come down, so as not establish precedent. Mr. Larry Albert, CIAC Chair confirmed that planning for improvements is impeded by objects in the rights-of-way. He said total City rights-of-way on city streets are mostly 40 ft. Mr. Albert indicated a need for the City to formulate a definite policy regarding rights-of-way and alleyways. A resident asked the Commission to obtain a survey and have the Code Enforcement Officer make a thorough study of the property.

A resident said that other issues existed in the city where things were being allowed that shouldn't be, and indicated a desire to know who in the City government had been responsible for permitting this.

**MOTION: Commissioner Tom Aposporos moved to resume rules, seconded by Commissioner Linda Cramer.
Vote: All Ayes. Motion carried.**

MAYOR'S UPDATE AND ANNOUNCEMENTS

Mayor SueLynn said she was in Tallahassee on April 2nd, lobbying on behalf of the Manasota League of Cities against the wireless plan in Senate Bill 145 and House Bill 1307. She reported that strong concern and lobbying had resulted in substantial amendments to a number of the objectionable provisions in the bill relating to local government in the Senate Bill. The Mayor said there is still room for improvement, and local governments are continuing to lobby for further revisions. Mayor SueLynn asked City Attorney Dye to monitor Senate Bill 145 and House Bill 1307 while she is out for several weeks. City Attorney Jim Dye said he would contact the Manasota League of Cities and Craig Kahn.

Mayor SueLynn noted that two meetings had taken place with the architect, relative to the remodeling of City Hall. She said there would be more meetings with City staff regarding the details and no blueprints were yet available.

The Mayor said that on April 8th, she met with – Tom Grossman who represents a group of citizens on Magnolia and Tarpon who are concerned about the deeding of the land underneath the canal to each of them from Steve Lardas. She said she met with Tom Breider, Steve Lardas, City Attorney Jim Dye on April 14th. It was clarified at this meeting that deeding and dedication are different issues. The conclusion at that meeting was that the City did not need to have the property deeded to them, and the

property would be deeded back to each of the individual landowners. It turned out that the submerged property had not been properly dedicated to the City of Anna Maria, because the legal description of the property had not been included in the deed transfers and other documents. The Mayor explained that half of that canal from the center line over to the CSR Development property was owned by that company, and that the half being discussed was the remainder of the canal. She indicated that Steve Lardas wished to accomplish the deeding to the various property owners as quickly as possible. Mayor SueLynn asked City Attorney Dye to update the Commission regarding recent phone calls on the subject. City Attorney Jim Dye said he had been contacted by the attorneys of several lot owners. The City Attorney said he did not see any reason why the City would want to own the bottom of the canal, since it enjoyed all the benefits and responsibilities as dedicated. He said the lot owners' attorneys are interested in deeding the submerged property to the City, as there appeared to be a belief that if the canal bottom was owned by the City, it would assume the liability for maintaining it. City Attorney Dye said that while the majority of the canal bottom is in very good shape, an issue is possible future maintenance. He said that if dredging were needed in the future, the payment for it would be based on the facts and circumstances as they exist at the time, and ownership would be irrelevant. The City Attorney said he was waiting for the lot owners' attorneys to get back to him.

Mayor SueLynn asked if Commission wished to discuss this topic at a future work session. Commissioner Chuck Webb said he agreed with the City Attorney that the City did not need to own the submerged land and the liabilities that went with it. He said dedication to the public was another issue. **There was consensus among the Commissioners that the City of Anna Maria did not wish to own the bottom of the canal.** City Attorney Jim Dye noted that one of the attorneys he had spoken with had said he would write a letter to be put on the next work session agenda. The City Attorney said he

would alert this attorney to the Commission's consensus at this evening's meeting.

Mayor SueLynn said that on April 9th she met with two representatives of the Trust for Public Lands and they walked on several City properties. She said they were particularly interested in two properties on the Gulf, 12108 Gulf Drive and 747 North Shore. The representatives said that federal funds were more readily available for Gulf front properties. The Mayor said she asked the representatives to look into purchasing the two properties on behalf of the City. She again explained the function of the Trust for Public Lands in assisting Cities to purchase property for the public good. The Mayor said the properties are usually used for open space or green space in perpetuity and that they would help guarantee a view of the Gulf to the public in the future. Mayor SueLynn asked those present if anyone knew anyone else who would like to sell their land to the City through the Trust. She said they could continue to live on the land until they choose to transfer it, even if only at death.

Commissioner Chuck Webb reminded the Commission that the City also has the power of eminent domain. He said he was not necessarily advocating that but would like the Commissioners to keep that in mind if necessary. Commissioner Duke Miller confirmed with Mayor SueLynn that this is a national trust, and does not cost the City anything.

Mayor SueLynn reported that on April 10th the Manatee Community College Institute of Government met at City Hall and talked about developing a new management leadership series in which she would be involved.

The Mayor said that on April 21st she attended the ITPO meeting with Commission Chair Quam, and also expressed the hope that the test trolley modification results in a significant reduction of noise.

Mayor SueLynn reported that on April 23rd there had two meetings at City Hall among parties involved in the South Bay Blvd. issues. She said that Bill King the general manager of Galati's and several citizens attended, along with City Engineer, Code Enforcement and Public Works representatives. The Mayor said they had a good discussion and an opportunity to ask questions and noted that everyone left the meetings satisfied and looking forward to changes to be made at Marina.

Chair Duke Miller asked what the plans were, and Mayor SueLynn said that Galati's was not ready to make their plan public, but would bring it to the Commission and City staff. Mayor SueLynn said she would meet with the group again in two or three months. The Mayor said the problem had been lack of communication.

Mayor SueLynn said that 'No Parking' signs were suggested by the City Engineer for the north side of the street. She noted the City does not yet have an ordinance to support placement of signs. City Attorney Jim Dye said the Chief of Police could do it with City Commission's permission. He said he was concerned that the Charter requires that an ordinance be passed for any regulation which carries a fine for its violation. He said without ordinance, signs could be put up, but fines could not be assessed. Mayor SueLynn noted the Traffic Engineer was finishing work on a list of all signs in the City where there would be a fee violation, and that this list could be included in the ordinance. She confirmed with City Attorney Dye that the list in the ordinance could be amended and updated on a regular basis. He noted that many other communities update their ordinances three or four times a year. Commissioner Duke Miller suggested in the meantime allowing signs to be put up on South Bay Blvd. immediately to afford the local residents some measure of relief. Chair John Quam pointed out that since this topic was not an agenda item, no vote could be taken by the Commission at this evening's meeting. Commissioner Tom Aposporos noted there are already signs not backed up by ordinance in Anna Maria, and that Mayor

SueLynn and the consulting engineers were addressing this. He suggested allowing a little more time to do this properly.

BUILDING OFFICIAL SERVICES / HOLMES BEACH

Commission Chair John Quam introduced Joe Duennes, from Holmes Beach, acknowledging that the Building Department of Holmes Beach had been providing Building Official services to the City of Anna Maria since August 2002. He noted the Commission now had two choices before it: To continue with Holmes Beach services or hire a part time Building Official (20 hrs.) for Anna Maria. He asked the Commissioners for their comments.

Commissioner Tom Aposporos noted there was a desire in the City to separate the Public Works Director and Building Official positions in Anna Maria. He noted that people need answers at City Hall on a regular and ongoing basis regarding building questions, necessitating a Building Official's expertise. He asked if the City could still fall back on Holmes Beach services if necessary.

Commissioner Chuck Webb said he had understood that the City would contract with Holmes Beach, and Commissioner Duke Miller expressed the same understanding. Commissioner Linda Cramer said she had had many calls on the issue, and that many citizens had voiced a desire to have a dedicated City of Anna Maria Building Official. She acknowledged the need among contractors and citizens for questions to be answered on an ongoing basis. She mentioned the possibility of contracting with West Coast Inspection, and City Attorney Dye said that State law mandates that there be a publicly employed Building Official. Mayor SueLynn said if Anna Maria decided to go with Holmes Beach, she would need to meet with Mayor Whitmore and Joe Duennes to identify and agree on areas to address regarding contractual liability.

Commission Chair John Quam confirmed with the City Attorney that a part time Building Official would qualify under the Statute. Chair Quam said there could be a problem with timely coverage of

needs and backup if using Holmes Beach services. Commissioner Duke Miller asked what was wrong with people asking their questions at Holmes Beach instead of Anna Maria City Hall, and Commissioner Chuck Webb agreed.

MOTION: Commissioner Chuck Webb moved that the Commission direct Mayor SueLynn to meet with Mayor Whitmore and the Holmes Beach Building Official to develop a scope of services, and a calculation of costs * for a future interlocal agreement for contractual services for Building Official functions for the City of Anna Maria. Commissioner Tom Aposporos seconded.

Commissioner Chuck Webb recommended that the Commission examine the scope of Holmes Beach services, and continue to look at its options. Commissioner Webb explained the interlocal agreement the City of Anna Maria has with Holmes Beach for the services of Building Official. He confirmed to Commissioner Duke Miller that permits would be issued by Bill Saunders and Joe Duennes on behalf of the City.

Chair John Quam asked Joe Duennes if he had any clarification. Mr. Duennes said his understanding of the final interlocal agreement would be that Holmes Beach would review sets of plans and permit applications, check off, and deliver the package to the Anna Maria Building Clerk, and she would issue the permits.

Commissioner Linda Cramer asked if liability is covered with the Clerk actually issuing the permits. City Attorney Jim Dye said the interlocal agreement statute says two or more government entities can do anything one or the other can do. The paperwork would be approved by the Holmes Beach Building Official, and the Building Clerk would just type up the permit. Liability is covered, since the Clerk is not performing any different function than she ordinarily would.

(continued)

Commissioner Tom Aposporos noted it may well be that the issue of a part time dedicated Building Official may need to be revisited. He said he saw a potential for a practical problem in referring people to another City to ask questions. Mayor SueLynn said quarterly and semi annual reviews could be built into the agreement. She said her understanding of the original agreement was that it would be for a one year trial. The Mayor suggested that after the second review, the contract could be allowed to run for the rest of the year without review.

Public Comment

A resident said she would advocate for a part time Building Official. She asked if the HB building inspector would be sufficiently familiar with Anna Maria's Codes, and inquired how the charges would be incurred. Mayor SueLynn confirmed that consultation and question answering would be compensated functions. Another resident said this would be the first step towards consolidation of the cities and quality would be compromised. He said that when problems arise, the cities would point fingers at each other. A resident wanted to know what the Holmes Beach Building Official cost would be., and agreed that the City needs a dedicated Building Official. She said there would be other work for a full time position if Code Enforcement activities were included.

A resident asked what would happen in a conflict between cities, since both have same attorney. A contractor said that the Holmes Beach Building Department was very professional and does a good job. However, he had often found it difficult to contact them, because they are so busy. He said he saw the service of a dedicated Building Official as one the City was obligated to provide. The contractor said he was hearing from others who deal with Anna Maria's Department, that the Clerk was not sufficiently knowledgeable to answer the necessary questions. He said that builders often need an immediate answer. Another resident said that other departments could be farmed out, but the Building Official should be in the City of Anna

Maria. A resident agreed with the other residents who spoke, and said a dedicated Building Official acquires a feel for the nature and characteristics of a town from interacting with elected officials and citizens. The resident noted the straw vote was 3 to 1 to have a dedicated Building Official. Another resident supported the preceding comments, and asked the Commissioners to figure out what a part time Building Official could do during other hours. Commission John Quam agreed that coverage would be needed more than part time, and added that backup services could also be required.

Commissioner Duke Miller confirmed that the functions of the Anna Maria Building Official had been estimated to take 55 hours a month. Commissioner Linda Cramer noted this was not counting time spent answering questions.

A resident said she would have liked the motion on the floor to include a provision for some estimate of costs.

*** MOTION AMENDED**

MOTION: Commissioner Chuck Webb moved to amend his motion to include an estimation of costs, seconded by Commissioner Duke Miller. Vote: All Ayes. Motion carried.

MOTION: Commissioner Chuck Webb moved that the Commission direct Mayor SueLynn to meet with Mayor Whitmore and the Holmes Beach Building Official to develop a scope of services, and a calculation of costs * for a future interlocal agreement for contractual services for Building Official functions for the City of Anna Maria. Commissioner Tom Aposporos seconded.

Vote: All Ayes. Motion carried.

A resident confirmed that a Part Time Building Official would work four hours a day, five days a week. Another resident recommended a full time Building Official. Commissioner Linda Cramer agreed that the previous Building Official spent a

great deal of time working for the department as a whole.

The Mayor said she would be unavailable for this meeting for at least three weeks, and that the agreement would take several months to develop. She noted that in the meantime, business would need to be done as usual. Mayor SueLynn confirmed to the Commission that she would be asking the Holmes Beach Building Officials to continue their services in the interim. She said it would be at least 6 weeks to develop the scope of services.

MOTION: Commissioner Chuck Webb moved to advertise for a part-time, Florida State certified* building official for 20 hours a week. Commissioner Tom Aposporos seconded.

Commissioner Webb said his understanding was that there are very few qualified building officials out there. He suggested that the ad be worded to read that Anna Maria is considering providing the Building Official position, and requesting that salary requirements be submitted.

***MOTION AMENDED at the suggestion of Commissioner Duke Miller.**

MOTION: Commissioner Chuck Webb moved to advertise for a part-time, Florida State*certified building official for 20 hours a week. Commissioner Tom Aposporos seconded. Vote: Four Ayes. One Nay. Motion carried.

A resident suggested that instead of advertising for a non-existent position, the Commission should appoint one of its members to investigate the advantages and disadvantages of having a part time or full time position in Anna Maria.

Mayor SueLynn said she also did not think that advertising for a position that did not exist would be an honest approach. She noted that Holmes Beach was not willing to work with a part-time Building Official, and would only provide back up in such circumstances.

Commissioner Tom Aposporos said it would be important to determine whether there is anyone interested in such a position. He noted the motions made were not intended to be conclusive, and were simply a method of gathering the necessary information.

Public Comment

A resident suggested writing an ad for a full-time Building Official / Code Enforcement Officer. Another resident said that Anna Maria would need to know what the going rate is on an hourly basis and that this should be researched. A resident said the League of Cities publishes this information for Florida.

A resident said this subject had been discussed for months and the options remained the same. He said that since the public seems to know what it wants, he would recommend doing what they desire now and revising the decision later, if necessary. A resident supported the Mayor in that would be bad policy to advertise for a position that did not exist. Another resident agreed, and said that the Building Official should be a full time position for the City of Anna Maria and this is what the advertisement should be for. Another resident asked what had changed to make the City no longer need a full time Building Official, and recommended past experience be examined and that the opinion of the majority of the public be followed.

Chair John Quam called for General Public Comment for 5 to 10 minutes.

PUBLIC COMMENT

A resident announced the Talent Show and Ice Cream Social for 7:00 p.m. on the 24th of April. Another resident commented regarding South Bay Blvd. and cited the nuisance ordinance. He called for action from the Commission. Commissioner Duke Miller said he would ask to put this topic on the agenda for the next regular Commission meeting. Commissioner Chuck Webb noted it would be difficult to use the nuisance ordinance for

the parking issue. A resident asked about the enforcement of parking violations and how the money was being collected, as well as tracking of tickets. Deputy Clerk Diane Percycoe said a collection agency was used for unpaid tickets. She said it appeared that revenue from parking tickets had gone up in the last two months. The Deputy Clerk said the collection agency collected the majority of the tickets, and charged a percentage for this. The resident asked for a monthly report summarizing the issuance and collection status of tickets. Mayor SueLynn said the matter would be looked into, and Administrative Assistant AnnMarie Thorpe indicated that she would work on this while the Mayor is away. The resident volunteered to assist.

Mayor SueLynn confirmed to a resident, relative to the dedication of canal, that the waterway is usable by anyone.

**MOTION: Commissioner Linda Cramer moved to adjourn for a 10 minute break, seconded by Commissioner Chuck Webb.
Vote All Ayes. Motion carried.**

**MOTION: Commissioner Chuck Webb moved to continue the meeting, seconded by Commissioner Duke Miller.
Vote: All Ayes. Motion carried.**

Commission Chair John Quam noted that while Mayor is out, he will not be able to vote as Deputy Mayor, and asked Deputy Chair Chuck Webb to assume the Chair and prepare the agenda for those meetings. Mayor SueLynn confirmed she would not be back until May 13th. Chair Quam asked if, as acting Mayor, he could discuss agenda topics with the other Commissioners. City Attorney Jim Dye said care needed to be taken relative to extending beyond Mayor SueLynn's return. Chair Quam confirmed that he would communicate by one way memo.

DIRECTOR OF PUBLIC WORKS SALARY ADJUSTMENT

Chair John Quam noted that as a result of the previous meeting, there had been consensus that an adjustment to salary may be in order. He asked Mayor SueLynn to elaborate on the duties to be compensated. She said that over the years, the Public Works Director position had evolved to include water testing, dredging of canals and Lake LaVista. She said a great deal of work was involved. The Mayor said the Public Works Director is also responsible for obtaining bids for projects and equipment. She noted that recently the need for a debris management plan had been identified. Mayor SueLynn said the work for this is complex, involving the coordination of FEMA, County and City regulations. She informed those present that debris management is relevant to additional situations besides hurricanes. The Mayor said that once an employee manual is adopted, a performance appraisal system would need to be developed and adopted, with semi annual reviews involving many factors. She said all City employees, as well as herself, are beginning to put in a lot of extra time. The Mayor recommended an increase in salary of \$3,000 now, keeping in mind cost of living increase in upcoming budget.

Commission Chair John Quam recommended a \$3,000 - \$5,000 per year increase. Commissioner Webb asked what other Public Works officials make in cities of a similar size to Anna Maria. Mayor SueLynn said she thought it was in the area of \$50,000. Commissioner Cramer said Holmes Beach paid \$43,000, and Chair Quam indicated that Bradenton Beach paid \$45,300. Commissioner Linda Cramer noted \$6,000 additional approved previously by the Commission was to do two jobs Building Official, and Public Works Director. She recommended a salary increase at budget time. Commissioner Chuck Webb agreed. He said that the tasks Mayor SueLynn had mentioned were routine parts of a typical job description for the position, and that right now the salary was in line, and could be reviewed at budget meetings. Commissioner Duke Miller agreed. Commissioner

Tom Aposporos asked which budget line transfers would be involved. He said inattention to this could lead to problems down the line.

MOTION: Commissioner Duke Miller moved to postpone the subject until the time of the normal budgeting process, seconded by Commissioner Chuck Webb.

Vote: All Ayes. Motion carried.

PERSONAL WIRELESS SERVICES FACILITIES -- APPROVE KREINES & KREINES TO WRITE ORDINANCE / FEE PLUS EXPENSES

MOTION: Commissioner Chuck Webb moved to approve the Kreines & Kreines contract for \$6,000 plus expenses. Commissioner Linda Cramer seconded.

Vote: All Ayes. Motion carried.

Commissioner Chuck Webb confirmed the contract had not been included in this meeting's packet, and requested that the relevant documents be included in the future.

TURTLE ORDINANCE – 03-605 SECOND READING AND PUBLIC HEARING.

Commissioner Tom Aposporos read the ordinance by title.

City Attorney Dye noted two errors, one on Page 6, in the last line of paragraph (9) noting in the last line, Section Four "CC" should read "AA"; and the second error was that a new signature page was needed.

Commission Chair John Quam asked the Commissioners if they had any questions. Commissioner Duke Miller asked how far back the property on the beach needed to be removed.

Mayor SueLynn referred to "B" definition of beach, and confirmed that it applied to Page 7, Section 8d. She asked if chairs and other property should be moved to in front of the fore dune or behind it. Commissioner Miller suggested it should be behind

it. Suzie Fox of Turtle Watch confirmed this. Commissioner Duke Miller recommended that the wording be changed. City Attorney Dye said that it would translate to 'crest of the fore dune' in the beach definition.

Chair Quam asked who would be responsible for storing and tracking confiscated property. Mayor SueLynn said that she had been discussing this with Sgt. Kenney and Public Works Director George McKay. Commissioner Linda Cramer noted that a procedure regarding abandonment was in place with the Sheriff's office and Code Enforcement.

Commissioner Duke Miller asked relative to the \$100 penalty for the first violation of the ordinance, why the City did not just confiscate the property, and sell it back to owners for that amount. Mayor SueLynn suggested making this part of the administration of the ordinance. City Attorney Jim Dye said the City could not sell property that it did not own. He noted the ordinance relative to abandonment applies after 90 days.

Public Comment

A resident questioned the definition of beach and the movement of property, and said this could cause damage to the dunes. Commissioner Duke Miller suggested defining beach as going to landward of the line of permanent vegetation. A resident said she opposed the ordinance because some residents have no yards and thought such residents should be allowed to use a portion of the beach. She said it was overly restrictive.

MOTION: Commissioner Chuck Webb moved to adopt Turtle Ordinance 03-605, with the change to Section 4 (b) to add "the crest of the fore dune", change the signature page to reflect the current Commissioners, and change '(CC)' to '(AA)' on Page 6 Section I. Commissioner Linda Cramer made the second.

Roll Call Vote: Motion unanimously approved.

(continued)

ATTORNEY FOR CODE ENFORCEMENT OFFICER

Code Enforcement Officer Gerry Rathvon noted it came to light recently that the City Attorney represents the Code Enforcement Board, and that she needs an attorney to represent her. She said Gavin O'Brien and Susan Hartmann Swartz had been considered for these duties.

Commissioner Chuck Webb said it would not be necessary to have an attorney prosecuting a Code Enforcement case. City Attorney Dye noted that Statute prohibits a City Attorney from representing prosecuting officer. He added that some cities hire an outside firm to assist Code Enforcement staff. The City Attorney advised that if specifics of a particular case are involved, this gets into the realm of Code Enforcement prosecution and violation of Statute.

Commissioner Linda Cramer suggested a Special Master. Commissioner Webb said a Special Master would take the place of the Code Enforcement Board. He said such an approach avoids undesirable citizen against citizen situations, in small communities. The Commissioner added that this makes a lawyer available to hear a case with an expertise not normally found among citizens. Commissioner Webb said appointing a Special Master would take a special ordinance. Commissioner Cramer asked if the Code Enforcement Board would not need to be abolished. Commissioner Webb confirmed that the City would need to have one or the other, but not both.

Commissioner Chair John Quam asked how often an attorney would be needed to represent the Code Enforcement Officer. Commissioner Webb said another disadvantage of working with two attorneys – one prosecuting and the City Attorney, would be that there would be differing opinions. Commissioner Linda Cramer added there would be two bills to pay. Commissioner Duke Miller suggested for the time being to hire someone on an hourly basis to help the Code Enforcement Officer with currently pending business.

Commissioner Linda Cramer asked how many cases needed to go before the Board at this time. Code Enforcement Officer Gerry Rathvon said she had three. Commissioner Cramer recalled the possibility of the revocable permit process, and possibility of amending City ordinances. She asked at what point the Commission was going to address the issues of rights-of-way and revocable permits. She said she was concerned about going forward with prosecution of right-of-way issues with the Code Enforcement Board when the revocable permit process had not been addressed.

Code Enforcement Officer Rathvon clarified that the pending cases were issues in progress and that she did not foresee any urgent need to bring more right-of-way cases before the Board until the Commission had resolved their issues under discussion. She noted that there were other prosecutable situations where she did not feel comfortable without professional representation. City Attorney Dye suggested that he work with Code Enforcement Officer Rathvon and that an outside attorney could sit with the Code Enforcement Board. Commissioner Chuck Webb agreed. He asked if, since a contractor was being discussed, if the position would need to be advertised or put out for bid. City Attorney Dye said that he thought the City would need to go through the same process as for recruiting the two candidates currently being considered, and needed to say that the job description had changed. Commissioner Webb confirmed with Code Enforcement Officer Gerry Rathvon that the next Code Enforcement meeting would be on May 12th.

MOTION: Commissioner Chuck Webb moved that the Commission hire an attorney to advise the Code Enforcement Board, and request Mr. O'Brien's resume, to be brought before the Commission at a Special Meeting at 5:45 p.m. May 8th, 2003, where the Commission will vote on the choice of attorney. Commissioner Duke Miller seconded.

Vote: All Ayes. Motion carried.
Deputy Clerk Diane Percycoe confirmed with

Commissioner Chuck Webb that she would inform the Commission which budget line items the transfer should come from.

CODE ENFORCEMENT: NOISE, HIGH GRASS AND WEEDS, AND JUNK VEHICLES ORDINANCE MODIFICATIONS

Code Enforcement Officer Gerry Rathvon agreed to bring this topic to the Commission Work Session.

ATV PURCHASE / LEASE

Mayor SueLynn asked Sgt. Kenney to report to the Commission on this topic. Sgt. Kenney said he had bids for new ATV's with prices ranging from \$3,999 to \$6,300. He said the one his department had been using had served well and was comparable to the \$3,999 model. Sgt. Kenney indicated that the higher end model has a winch and is 4 x 4. He confirmed that this was more versatile and currently being used by Holmes Beach. Sgt. Kenney noted that the mid-range model costs \$5,658. He said an ATV is needed to patrol the beach on a regular basis.

MOTION: Commissioner Duke Miller moved to purchase the Honda ATV at \$3,999 with the money to be taken from reserves*.

Commissioner John Quam seconded.

Vote: All Ayes. Motion carried.

***MOTION AMENDED** at the suggestion of Commissioner Chuck Webb.

MOTION: Commissioner Duke Miller moved to amend the motion to include the words, "with the money to be taken from reserves".

Commissioner Chuck Webb seconded.

Vote: All Ayes. Motion carried.

Sgt. Kenney said the purchase would need to be made by April 30th in order to hold the price.

Commissioner Duke Miller requested that in the Commission be provided with the recommendation in their meeting packets.

DR. DEANS' BAY EROSION PROJECT – DALE WOODLAND'S PROPOSAL

Chair John Quam asked Mr. Woodland for his comments. Mr. Woodland said that his January 24th memo was self-explanatory, with a key element being that the City could save \$10,000. He said he would be happy to answer any questions.

Mayor SueLynn said her concern was the lack of experience of the people involved and their level of commitment, adding that she did not question the capability of Mr. Woodland. She said she would prefer that he work directly with Dr. Dean. Mr. Woodland said this project would be easier than the one accomplished for Lake LaVista. Chair John Quam asked what purpose tracking back erosion would serve. Commissioner Miller said that if Dr. Dean felt Mr. Woodland could assemble the qualified people, he was comfortable. The indicated that the point is to find out whether it is cyclical or some other problem. He said if it is not cyclical, a grant would need to be applied for, and at that point, an engineer would need to present the evidence. Commissioner Chuck Webb referred to protocol and where the layman would fall within the spectrum. Commissioner Webb and Commissioner Miller said Dr. Dean needed to be asked what the protocol would be for gathering data and whether it requires a level of expertise. They said they would prefer to ask the Mayor to follow up on this. Commissioner Aposporos said perhaps Mr. Woodland should be asked to follow up. Dale Woodland said Dr. Dean did mention using graduate students. Commissioner Miller suggested Mr. Woodland return to the Commission with the required information. Mr. Woodland said it would probably be inappropriate for him to contact Dr. Dean, and that some member of the City staff should do this. Chair Quam confirmed with Mr. Woodland that he could accomplish #1 & #2, and would be forwarding his information to Dr. Dean.

MOTION: Commissioner Linda Cramer moved to accept the recommendation of Mayor SueLynn to contract with Dr. Dean regarding task IIa and IIb, and to have her speak with Dr.

Dean about whether there could be any help given by the City to lessen the cost, with the estimated cost of up to \$10,000 to be transferred from reserves. Commissioner Duke Miller made the second.

Vote: All Ayes. Motion carried.

There was consensus among the Commissioners to skip to Item 15 on this evening's meeting agenda.

Commissioner Linda Cramer asked for updates on Agenda Items #13 and #14 before the next work session.

PUBLIC SCHOOL INTERLOCAL AGREEMENT UPDATE (#13)

City Attorney Dye said he was expecting a letter to the School Board after it meets on May 5th.

GRUBBS EMERGENCY SERVICES UPDATE AND RESOLUTIONS (#14)

City Attorney Jim Dye said he had drafted a letter to Grubbs for the Mayor to sign. He said he had also prepared a change to the bidding process, which was not done in time for inclusion in this evening's meeting packet.

BUDGET WORK SESSION DATES

Mayor SueLynn confirmed with Deputy Clerk Diane Percycoe that there were three budget work sessions last year, with the preliminary having taken place on May 29th 2001, and the others in June and July. **Commissioner Chuck Webb asked for a memo from the Mayor to the Commission with recommended dates.**

The Commissioners announced their availability as:

18th June – July 9th – Commissioner Duke Miller will be out

June 10 – June 20 – Commissioner Linda Cramer will be out

1st 2 wks August – Commissioner Chuck Webb will be out

Commissioner Chair John Quam said he would be

available throughout the summer.

ADJOURNMENT

MOTION: Commissioner Duke Miller moved to adjourn, seconded by Commissioner Linda Cramer.

Vote: All Ayes. Motion carried.

The meeting adjourned at 10:43 p.m.

Respectfully submitted,

Alice Baird
City Clerk

Date Approved: 5/22/03