

**CITY OF ANNA MARIA  
CITY COMMISSION MEETING  
MARCH 27, 2003 -- 7:00 P.M.**

Call To Order

Pledge To The Flag

Roll Call: Mayor SueLynn, Commissioner Tom Aposporos, Deputy Commission Chair Chuck Webb, Commissioner Linda Cramer, Commissioner Duke Miller. Absent with excuse: Commission Chair John Quam. Also present: City Attorney Jim Dye, Sheriff's Deputy Sgt. Kinney, Code Enforcement Officer Gerry Rathvon, City Clerk Alice Baird, Deputy City Clerk Diane Percycoe, Minutes Clerk Sylvie Reichmann. Press: Sun, Islander

**CONSENT AGENDA**

1. Approval of minutes:

Regular City Commission Meeting, 2/27/03;  
Special Meeting, 3/6/03

Commissioner Linda Cramer noted that during the February 27<sup>th</sup> Commission meeting, she had made a motion that failed for lack of a second prior to the motion made by Commissioner Aposporos and requested that it be reflected in the minutes. She also noted two typographical errors.

**MOTION: Commissioner Duke Miller moved to approve the minutes as amended, seconded by Commissioner Linda Cramer.**

**REPORTS & UPDATES**

Deputy Commission Chair Chuck Webb asked the Commissioners who had reports and updates to present them.

Commissioner Linda Cramer reported that she attended the Barrier Island Elected Officials (BIEO) meeting in Holmes Beach, on March 26<sup>th</sup>. She indicated that Bob Herrington president of the Manatee Metropolitan Planning Organization presented an update relative to six variable signs being considered for placement on the Island. He reported there were still outstanding matters to be finalized with the FDOT. Commissioner Cramer

indicated at the meeting that the City of Anna Maria's interest in having these signs had not yet been discussed by the Commission. She noted that the signs could be programmed with up to thirty different messages, and could be hooked up to the Island Emergency Center. Commissioner Cramer said that Commissioner Don Maloney reported that the skateboard park should be open by Memorial Day. She reported that the Florida Emergency Management Municipal Competitive Grant Program had sent a representative to the meeting to explain the process for application. She said citizens pay a surcharge on their homeowners and business insurance that goes into a trust fund. The Commissioner said the City could have the company come in and write the grant and help identify Anna Maria's mitigation strategy. She said the grant is for up to \$50,000, and could be used for generators and wiring for generators for City Hall and Public Works, and any other facility critical to operations. The representative indicated the chances of securing a grant for this type of program were very good. Commissioner Cramer said she would pass the information on to the Mayor, so that the City could get started on planning for the next grant cycle. She indicated that grants for more than \$50,000 would require matching funds.

Commissioner Duke Miller asked Code Enforcement Officer Gerry Rathvon for a report on status, relative to the Statement on the Code Enforcement report that Waste Management had indicated that back yard pick up was the best way to go for absentee homeowners and landlords. The Code Enforcement Officer said she recommended this at last month's EEEEC meeting and had spoken about it with the Mayor. She said she had been contacting Realtors by mail and had spoken to one of them earlier in the week, who had indicated they were advising all of their clients of the recommendation in writing. The Code Enforcement Officer said that use of back yard pickup should reduce the number of trash cans seen throughout the City.

(continued)

## **MAYOR'S UPDATE**

Mayor SueLynn reported that Commission Chair John Quam had successful surgery and would be recovering at home for up to two months.

The Mayor announced that Spring Cleanup Day would be on April 25<sup>th</sup> from 8:00 a.m. to 3:00 p.m., and that this would be residents' last opportunity for a while for disposing of unwanted items.

She said she spent the day of March 19<sup>th</sup> lobbying the legislature in Tallahassee. She said she was scheduled for 10 - 12 minutes with each representative in an eye-opening and whirlwind experience. Mayor SueLynn said she was there on behalf of the Manasota League of Cities, who sponsored the trip. She said that one item she had not been aware of, was that a Wireless Communication Tower and Antenna Senate Bill 1450 had been presented, attached to E911, relative to wireless emergency services. The Mayor said she was horrified, after everything the Commissioners had been working on, to read that a wireless telecommunications facility located on any state owned or local government owned property is not subject to local zoning regulations, but construction of the facility is subject to local building regulations. She said that the bill had been extensively amended in the Senate Communications and Public Utilities Committee to remove a number of objectionable provisions in the bill related to local government zoning authority. However, the Mayor said the League of Cities is still urging legislators to reject any comprehensive attempt by wireless communication providers to circumvent local zoning control of wireless towers and antennas. She said she would be paying close attention to developments relative to this bill in the legislature. Mayor SueLynn said she would return to Tallahassee on April 2nd for Statewide Legislative Day.

The Mayor reported that City Hall was closed Thursday and Friday of the week prior to this evening's meeting for organizational purposes, and would again be closed for two days in May. She

said that staff made great progress organizing years worth of documents. The Mayor said the offices of City Hall would be closed on Friday, April 25<sup>th</sup> from 9:00 a.m. to 5:00 p.m. for basic First Aid, CPR & defibrillator training of the entire staff. She said that elected officials were invited to participate.

Mayor SueLynn reported that she met the day of this evening's meeting with the City Engineer staff, who presented eight tasks to get started on ASAP. She said she would write a memo specifying these tasks to the Commissioners on March 28th. The Mayor requested a special meeting prior to the Commission Work Session on April 10<sup>th</sup>. She said that some tasks recommended by the City Engineer would go to the Capital Improvements Advisory Committee (CIAC) for recommendations. She noted that the CIAC would meet on April 1<sup>st</sup>, and there would be a delay in progress if they had to wait until the regular Commission Meeting on April 24<sup>th</sup> for approval of their recommendations.

Mayor SueLynn read a Proclamation relative to TV Turnoff Week, April 21<sup>st</sup> through 27<sup>th</sup>, 2003.

**MOTION: Commissioner Duke Miller moved to accept the Proclamation, seconded by Commissioner Linda Cramer.**

**Vote: All Ayes. Motion Carried.**

Mayor SueLynn announced that in conjunction with TV Turnoff Week, a group of citizens, led by Diane Canniff, will be presenting an Anna Maria Village Talent Show and Ice Cream Social on Friday, April 25<sup>th</sup>, 2003, from 7:00 p.m. to 8:30 p.m. and everyone is invited. Any Anna Maria resident older than 10 can participate in the talent show. Cards will be made available to turn into City Hall by those interested in presenting their talents at the show. The Mayor said more information will be forthcoming in the local press and at City Hall.

## **2001/2002 AUDIT APPROVAL**

Mayor SueLynn introduced Ed Leonard, CPA, from the independent auditing firm of Christopher, Smith, Leonard, Bristow, Stanell & Wells, PA. He

reviewed highlights of the report. Mr. Leonard thanked the City staff for their help and cooperation. Referring to the balance sheet, he said assets clearly exceeded liabilities, leaving a total fund equity in the general fund of \$1,364,735, of which \$1,121,820 was undesignated. Mr. Leonard said it was unusual for government to have no long term debt, and noted the City had very limited liabilities, and was in a very strong financial position. He said the general fund reflected an excess of revenue over expenditures of \$131,068. Mr. Leonard reported a positive budget variance of revenues of \$71,514, the most significant item of revenue being the FEMA Gabrielle storm cleanup reimbursements. He also reported a positive variance of expenditures of \$161,493. Mr. Leonard referred to Note 2 - Cash and Investments, indicating that funds were invested with appropriate agencies and were fully insured and collateralized.

He also referred to Note 4, relative to the Government Accounting Standards Board (GASB) No. 34, which was recently issued, but will not affect the way smaller cities like Anna Maria present their financial statements until the year ending September 30, 2004. He said the most significant changes will be that cities will have to depreciate fixed assets in a similar manner to commercial enterprises, and that more detailed, additional financial statements will have to be presented, again, similar to commercial practices.

He noted that his firm found no weaknesses in internal control over financial reporting. Mr. Leonard referred to the auditors' management letter in which it was reported that fixed asset records needed improved compliance with Auditor General Section 10.400, but said that this exception was not serious enough to be included in the previously mentioned reports. The management letter included a recommendation to use building permit software to track unpaid permits.

Mr. Leonard confirmed that the City's Financial Report agrees with the Audit and that the City is in compliance with Florida statute relative to

investment of public funds. He said his firm's comparison with other cities showed no negative trends. In conclusion, he confirmed that the City is not in a state of financial emergency.

### **Public Comment**

A resident asked at what point in time, if it is documented that the City has spent tax dollars for personal use, is there an obligation to present any documentation. Ed Leonard asked which expenditures were being referred to. The resident said a previous administration used cell phones for personal use, and that there was also a recent issue regarding overpayment of previous Commissioners. Mr. Leonard said a comment was included in the 2001 audit regarding telephone use, and the record keeping had been corrected. He noted the overpayment to previous Commissioner was being addressed. Mr. Leonard indicated that the Auditor reports directly to City staff, and does not as a rule accept inquiries from individuals in the public.

Another resident noted that almost 1 million dollars is with First Union Bank in a government checking account, and asked what the benefit was from having funds there. Mr. Leonard said it was possible for the City to earn more money by having funds placed with various agencies, but noted that money is also in a state pool in Tallahassee.

**MOTION: Commissioner Linda Cramer moved to accept the 2001/2002 Auditor's Report, seconded by Commissioner Duke Miller.**

**Vote: All Ayes. Motion carried.**

### **PLANNING & ZONING BOARD RECOMMENDATION:**

**a. Lot Split Request – 224 Periwinkle – re-vote as a result of new Charter Section 3.08c requires affirmative votes of three (3) or more of the Commissioners**

**MOTION: Commissioner Duke Miller moved to approve the application, seconded by Commissioner Tom Aposporos.**

**Vote: Three Ayes. One Nay. Motion passed.**

Deputy Commission Chair Chuck Webb said he had objected on the grounds that a substandard lot is being created.

### **TURTLE ORDINANCE –03-605 FIRST READING AND HEARING**

Commissioner Linda Cramer read the ordinance by title. She noted that Commission Chair John Quam’s recommendation regarding the definition of 'beach' had been added on Page 2, Section 4, B. City Attorney Jim Dye confirmed he had added a phrase to the definition. He also said on Pg. 9 there is language regarding enforcement and that a fine schedule needed to be set. Commissioner Linda Cramer asked Suzie Fox of Turtle Watch regarding Bradenton Beach fines, and she said she believed they were approximately \$200, comparable to the Code Enforcement fines. Deputy Commission Chair Chuck Webb asked the City Attorney if there was a statute limitation on the amount that can be charged for a fine, and he responded that he did not believe there was one.

**MOTION: Commissioner Tom Aposporos moved that the fine for a first violation be \$100 and for a second violation, \$200, with the insertion of language in D. 2. to the effect that each day the violation exists shall be deemed a separate violation. Commissioner Duke Miller made the second.**

**Vote: All Ayes**

#### **Public Comment**

A resident asked, relative to the definition of 'beach', if the language should be “landward from” not “for”. The City Attorney confirmed that this change would be made.

A resident suggested more money be charged for fines.

A resident asked if jail time could be imposed. Deputy Commission Chair Chuck Webb said yes, if it was a criminal penalty. Deputy Chair Webb and City Attorney Dye noted there were already federal

and state laws criminal codes protecting turtles themselves. The City Attorney noted the proposed ordinance governed more than protection of the individual turtle, e.g., leaving lights on, leaving items on the beach, etc., infractions which may not necessarily warrant criminal prosecution. He confirmed to Deputy Commission Chair Webb and Commissioner Cramer that enforcement would be by citation, which could be done by anyone authorized to write citations on behalf of the City, including law enforcement and code enforcement. Commissioner Tom Aposporos noted that some violations mentioned in the ordinance could be unintentional rather than malicious.

Commissioner Linda Cramer asked if warnings were given, and Suzie Fox said often Turtle Watch people speak with offenders upon discovering problem, and it is taken care of.

A resident expressed the opinion that second violations should have a higher fine than \$200.

Another resident suggested that a fine schedule for the ordinance should state that each succeeding day of violation is a new infraction. City Attorney Dye agreed that this would be a good idea.

A resident complained that the rules of engagement relative to public comment had been violated.

Deputy Commission Chair Chuck Webb confirmed that City Attorney Jim Dye would make the necessary changes to the ordinance, and that the next hearing would be on April 24<sup>th</sup>, 2003.

### **WIRELESS COMMUNICATIONS FACILITIES ORDINANCE 03-606 FIRST READING AND HEARING**

Commissioner Duke Miller read the ordinance by title. He noted a few typographical errors.

#### **Public Comment**

A resident asked if Ted Kreines had reviewed the ordinance in writing. She asked further if the City could make a formal request to the League of Cities

and to local and State legislators relative to the new bill referred to earlier by Mayor SueLynn. City Attorney Dye confirmed the ordinance had been sent to Kreines & Kreines for review and comment. Mayor SueLynn confirmed she would write a resolution and send it to the legislature.

A resident asked public members to be required to state their names. The previous speaker identified herself. The resident also requested that the volume on microphones be increased for members of the Commission.

Commissioner Cramer asked for Ted Kreines' response before the second reading of the ordinance.

Commissioner Miller had several questions regarding monopoles for City Attorney Dye.

A resident asked why there was a need for an ordinance or personal wireless facility structures when it had been said that there is an insufficient customer base on Anna Maria. She also noted a difference relative to the facilities being 2,000 ft from the high water line in County's ordinance. Planning & Zoning Board Chair Doug Copeland noted that the County has more land to work with and therefore can be more restrictive in some areas. Mayor SueLynn noted that Roser Church at one point was planning to have a cell tower on their property, and this is what she believes initiated this exercise.

A resident asked what approach had been taken towards taxation – if it would be on the value of the cell tower or gross revenues. The City Attorney said that would fall under the control of the Property Appraiser, and that office could approach it either way. The resident said the City has the authority to tax on gross revenues. City Attorney Dye said that the City could not value the property, since it is the responsibility of the Property Appraiser. Deputy Commission Chair Webb confirmed with City Attorney Dye that a franchise fee could be used for placements on rights-of-way.

The City Attorney said that if it is on City property, it could charge as a landlord. The resident said that basing taxes on gross revenues could be a significant fund raiser for the City, and suggested that the Commission read the detailed coverage of these issues in Kreines & Kreines' MWP.

A resident noted everyone's cell phones were working and said that he did not think there was a problem as far as Roser Church was concerned.

The City Attorney noted the second reading of the ordinance and hearing would take place on April 24<sup>th</sup>, 2003.

### **COMPREHENSIVE PLANNING SERVICES APPROVAL**

#### **a. Budget Amendment – Transfer of Funds from Reserves (\$14,000 April-September, 2003)**

**MOTION: Commissioner Duke Miller moved to accept Tony Arrant's proposal for Comprehensive Planning services, seconded by Commissioner Linda Cramer.  
Vote: All Ayes.**

#### **Public Comment**

A resident expressed the opinion that the contract is very expensive, and asked if other options had been discussed. He recommended a community-based planner, trained by Mr. Arrant during the two-year project, to provide continuity for the future.

Commissioner Linda Cramer noted previous discussions regarding what needs to be accomplished within the next two years. She said she believed that Mr. Arrant's services would be valuable, both now, and in helping staff to be prepared going forward into the next process.

Commissioner Duke Miller agreed that in the future, someone local needs to be involved and responsible in order to provide the City with continuity. He said he believed Mr. Arrant's proposed services provide good value for money.

**MOTION: Commissioner Linda Cramer moved to amend the budget to transfer funds from reserves in the amount of \$14,000 April through September 2003, seconded by Duke Miller.**  
**Vote: All Ayes.**

Mayor SueLynn said she would be in touch with Mr. Arrant.

**CITY HALL ARCHITECT CONTRACT –Dye**  
Deputy Commission Chair Chuck Webb asked the City Attorney if he had any comments regarding the contract. City Attorney Jim Dye referred to his letter to the Commission and recommended approval contingent upon adding an addendum to the contract to contain: clarification that City property cannot be liened; and a statement that any work product turned over to the City would still be subject to the Public Records Act, regardless of copyrights.

Commissioner Linda Cramer asked what had been budgeted for this, and Deputy City Clerk Diane Percycoe indicated \$153,000. The Commissioner noted that the total cost of the contract would actually be \$162,800, since the price, excluding the architect's compensation of \$12,800 was \$150,000. Mayor SueLynn said this had not been discussed, as the contract was only first distributed at this meeting.

**MOTION: Commissioner Tom Aposporos moved to table this item until the next Commission Work Session in order to give the Mayor time to review it, seconded by Commissioner Linda Cramer.**  
**Vote: All Ayes. Motion carried.**

Mayor SueLynn confirmed to Commissioner Cramer that she would prepare an outline of plans for review at that meeting.

#### **PUBLIC COMMENT**

A resident asked, relative to the bike path stopping on Willow Avenue, if money had run out to

complete the project. Planning & Zoning Board Chair Doug Copeland said citizens did not want it to continue down Pine and North Shore, therefore it had stopped at Willow. Another resident said that the City paid for the portion of the bike path that stops at Willow, and that there was at one time a grant for the rest of the bike path.

Planning & Zoning Board Chair Doug Copeland gave an update regarding two height variance application cases, both of which have been continued until May meeting. He said as soon as information comes in from Dr. S. Muthuswamy in Tallahassee, he would like to share it with the Planning & Zoning Board. Commissioner Duke Miller said he wrote the letter to Dr. Muthuswamy, and he is expecting a reply before the Commission Work Session scheduled for April 10<sup>th</sup>. He said as soon as it is received, he would share it with Mr. Copeland and anyone else who is interested.

A resident noted Code Enforcement is doing a great job in efforts to improve the look of the City. He said that one area that needs to be examined is a site on Pine Avenue, adjacent to the marina. He suggested the City put a fence up around a pile of dirt and concrete on public property. He also suggested re-addressing the policy of only allowing one comment per person during Public Comment.

A resident noted, from attending three visioning meetings, that he learned that the City needed more parking area, and didn't want to be overwhelmed by plants. He said the project around the power poles down by the Bay side waterfront did not appear to be what the visioning statement was after, since the planters use about five parking spots. A resident who had participated in the planting noted that guy wires impeded parking at that spot anyway. Mayor SueLynn noted the project was initiated during the last administration, approximately two years ago.

Commissioner Tom Aposporos noted he would not be able to be present at the Commission Work Session on April 10<sup>th</sup> and expressed concern that a lack of a quorum could be a problem. He suggested

having the Special meeting on April 8<sup>th</sup> at 6:00 p.m. Commissioner Duke Miller said he would try and get the letter from Tallahassee by then. City Clerk Alice Baird confirmed with the Commissioners that the architect contract could be included for review and approval at that meeting, and that a Work Session would follow at 7:00 p.m. **There was consensus for scheduling the Special meeting for April 8<sup>th</sup>, 2003 at 6:00 p.m., with the Work Session to follow at 7:00 p.m.**

## **ADJOURNMENT**

**MOTION: Commissioner Linda Cramer moved to adjourn the meeting, and Commissioner Duke Miller seconded.**

**Vote: All Ayes. Motion carried.**

The meeting adjourned at 8:45.

Respectfully submitted,

Alice Baird  
City Clerk

Date Approved: 4/24/03