

**CITY OF ANNA MARIA  
CITY COMMISSION  
JANUARY 22, 2004  
7:00 P.M.**

**CALL TO ORDER**

**PLEDGE TO THE FLAG**

**ROLL CALL:** Chair John Quam, Commissioner Carol Ann Magill, Deputy Commission Chair Linda Cramer, Mayor SueLynn, Commissioner Duke Miller, Commissioner Dale Woodland

**Also present:** City Attorney Jim Dye, Sheriff's Deputy Sgt. John Kenney, Public Works Director George McKay, Building Official Kevin Donohue, City Clerk Alice Baird, Minutes Clerk Sylvie Reichmann

**Press:** Sun, Islander, Herald

**CONSENT AGENDA**

1. **APPROVAL OF MEETING MINUTES: City Commission Special Meeting 12/11/03; Regular Meeting 12/18/03; Special Meeting 12/22/03; Special Meeting 1/8/04**

**Appointment of Frank Pytel to P&Z Board**

**MOTION:** Deputy Commission Chair Linda Cramer moved to approve the consent agenda, seconded by Commissioner Dale Woodland.

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

2. **REPORTS & UPDATES**

Mayor SueLynn noted that the financial report included in this evening's meeting packet is from the current budget, and does not yet reflect recently approved line item transfers. She said a concern had been raised regarding the City Engineer line item, that 78% of the funds had been used to date. The Mayor said the audit in February would reflect that these expenditures occurred in last year's budget.

Chair John Quam requested that the Public Works Director supply a list of small drainage projects completed in his report to the monthly regular Commission meeting.

**MAYOR'S REPORT**

Mayor SueLynn announced that there is a vacancy on the Capital Improvement Advisory Committee and asked that anyone who wished to apply at City Hall may do so. She noted the committee is looking for a new member with expertise in construction or engineering.

The Mayor said she would meet next Wednesday with the architect and Southern Cross and would be discussing issues that the Commission raised, such as how

long the project would take, and penalties for exceeding the agreed upon date of completion.. Mayor SueLynn said that the architect had told her that the start date would be the date the permit is issued. Building Official Kevin Donohue said that the permit could be issued within two days of receiving the application. The Mayor confirmed that work should then begin the first part of March. She asked citizens to be patient during transition of City offices. Mayor SueLynn reported that the Community Center had reserved space for the Commission's regular meeting for six months. She said she was working on identifying places for the other Boards and Committees to meet. The Mayor said she would continue to update the Commission, and confirmed that the contract would be provided by the architect at the meeting with Southern Cross on January 28<sup>th</sup>, 2004.

Commissioner Dale Woodland asked about the schedule for the BIEO meetings and whether a time change to evening would be considered. Mayor SueLynn noted that the group's next meeting would be at Anna Maria City Hall on February 13<sup>th</sup> at 3:00 p.m. She said she had suggested a time change at January's meeting, however members present had wished to keep the same time.

Chair John Quam reported that the City had received a fax on January 12<sup>th</sup> from the agent for the owners of 203 Coconut requesting that the hearing of their variance request be delayed until the February regular Commission meeting. City Clerk Alice Baird confirmed with Commissioner Duke Miller that the P&Z Minutes reflecting their discussion and recommendation regarding the request would be available in the Commissioners' mail slots before the February meeting.

Deputy Commission Chair Linda Cramer asked if Roser Church could be used for meetings. Mayor SueLynn indicated that she had approached them but they could not guarantee the space. The Mayor said that the City was open to considering any other space within Anna Maria City limits.

## **2. DRAINAGE IMPROVEMENT PROJECTS / DESIGN AND PERMITTING COSTS**

Chair John Quam noted that at yesterday's roundtable with the Commissioner and the CIAC, BDI's list of seven priority projects was reviewed and discussed, with the consensus that the City would begin with two projects:

- Pine / Crescent Drive Outfall Improvement (CIAC Priority #1)
- North Shore Drive South of Pine

Chair Quam reported that the joint Commission / CIAC had approved that BDI go ahead with the design and permitting of these projects, with each one costing approximately \$25,000. Chair Quam noted that these costs are included in the total cost shown for each item. Mayor SueLynn noted that it was possible for BDI's fees to come out slightly under \$25,000 each. Chair Quam said that at the end of the design and permitting process, the Commission would decide which of the two projects to go ahead with first.

Commissioner Duke Miller confirmed with Chair Quam that the permits would last for five years.

Commissioner Woodland noted that he had inquired at the roundtable as to what would be involved in capturing actual cost for each project separately, reflecting individual amounts for design, permitting, and construction. Mayor SueLynn responded that when a project is initiated, it would become a separate line item under the Capital Improvement Budget so that it could be tracked. She said that the only exception would be that professional fees would fall under a different line item, per the auditor's request. Mayor SueLynn said the Commissioners would also be able to tell which professional fees were associated with a particular line item. Commissioner Woodland requested that actual costs vs. budget be shown separately for design, permitting and construction categories, for each of the two drainage projects being initiated.

**MOTION: Chair John Quam moved to authorize BDI to proceed with the design and permitting for the Pine Avenue / Crescent Drive outfall improvements and North Shore Drive (South of Pine) drainage improvement with the cost of up to \$25,000 for each project, seconded by Commissioner Duke Miller.**

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

**Public Comment**

A resident confirmed the Commission-approved costs would be for SWFWMD permits and design, and asked what the cost of the permit alone would be. Mayor SueLynn said that the City Engineers had told her that permit costs are based on the parameters of each individual project. Another resident asked if any of the projects were to be submitted for grant funding. Mayor SueLynn responded that one large project, near Bean Point, had been submitted for grant monies, however, she had no knowledge from BDI's grant experts of other grants available for the two projects being discussed at this evening's meeting.

**3. PARTIAL BUILDING MORATORIUM ORDINANCE #04-615, SECOND READING AND PUBLIC HEARING**

Commissioner Duke Miller read the ordinance by title. Chair John Quam declared the public hearing open and asked for comments from the Commission. City Attorney Jim Dye reported that another section (6), had been added for governmental projects, in order to allow the renovation of City Hall to move forward.

Deputy Commission Chair Linda Cramer asked if possible Community Center remodeling would fall under governmental projects, and City Attorney Dye responded that the lease provides for the Community Center to act as an independent entity responsible for upkeep and changes to the structure, and as such, it would need to apply for a building permit using standard procedure.

Commissioner Miller asked, if the Community Center were to remodel while the code was being changed, if adherence to current code would apply. City Attorney Dye said that this would be an excellent topic to review during the moratorium. Commissioner Miller asked that those involved in reviewing and revising the land development codes consider his question. City Attorney Dye indicated that he would be meeting with City Planner Joel Freedman and Building Official Kevin Donohue the week following this current meeting, and that they would address Commissioner Miller's request.

Mayor SueLynn noted that there had been quite a few unintended consequences affecting existing properties.

**MOTION: Deputy Commission Chair Linda Cramer moved to adopt Ordinance 04-615, as amended, seconded by Commissioner Duke Miller. Roll Call Vote: All Ayes. Motion carried unanimously.**

#### **Public Comment**

A resident at 301 Pine in the ROR district took the floor and explained that her family had purchased the lot in the hope of building a home and starting a retail business. She said the moratorium would cause hardship and delay, with an estimate of the additional cost to be \$30-40,000. She indicated that notice of intent to pass a moratorium should have been made available last Fall to those intending to purchase or sell. The resident asked if there was a mechanism available to the Commission to help people caught in the middle of the transition in land development codes.

Chair John Quam suggested shortening the length of the moratorium. Commissioner Dale Woodland noted that he had recommended this at the last meeting. Deputy Commission Chair Linda Cramer noted that the termination date put on the moratorium was going to be the worst case scenario. Mayor SueLynn confirmed that if work continued on schedule, it could be completed as early as the beginning of March. City Attorney Dye updated the Commission regarding the P&Z Board's progress relative to process and policy changes. He said that the substantive regulations had not yet been addressed, and he felt this would be a substantial part of the project. Chair Quam confirmed with City Attorney Dye that if the moratorium length is changed to April 15<sup>th</sup> or the beginning of May, the moratorium could be extended beyond that date if necessary.

City Attorney Dye noted that the residents could apply for a building permit for a residence, if there was some way to focus only on the dwelling part of the project to begin with, but that the City would not be able to issue a permit to build the commercial part of the structure while the moratorium is in effect.

Chair John Quam recommended changing the expiration date of the moratorium to May 1<sup>st</sup>, 2004. Commissioner Duke Miller suggested April 1<sup>st</sup>, 2004. Commissioner Cramer said that she thought the original date should be kept, since

there was still a substantial amount of work to be done on the land development regulations. **The majority of the Commissioners agreed to change the moratorium termination date in Section IV. of the ordinance to April 1<sup>st</sup>, 2004; and at the recommendation of City Attorney Dye, the date for the beginning of hearings provided for in Section III. to March 1<sup>st</sup>, 2004.**

A resident of Bradenton, a general contractor, said the word ‘moratorium’ is devastating to the industry. He said that he thought that each issue should be handled by the City on a case-by-case basis, instead of imposing a moratorium, and asked the Commission to consider other options.

An architect took the floor, representing an owner at 411 Pine Ave., where currently three residences exist on an ROR property. They want use changed to convert the northernmost part of a residential property to a small real estate office. **He said remodeling plans for the building remain within the existing footprint, and asked for the following change in the wording of the last sentence in #2: strike “the” and put in “allowable”.** The architect noted the definition of “intensity”, which City Attorney Dye read aloud as “increasing the square footage of existing structures”. The City Attorney said that making the suggested changes would be a matter of policy for the Commission. **There was consensus to make the changes.**

A resident suggested excluding Pine Avenue from the moratorium.

**4. SWIMMING POOL SETBACK ORDINANCE #03-610, SECOND READING AND PUBLIC HEARING**

Commissioner Dale Woodland read the ordinance by title. Commission Chair John Quam declared the public hearing open.

**MOTION: Commissioner Carol Ann Magill moved to adopt Ordinance #03-610, seconded by Commissioner Dale Woodland.**

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

**Public Comment**

None offered.

**5. NOISE ORDINANCE #04-616, SECOND READING AND PUBLIC HEARING**

Commissioner John Quam read the ordinance by title. Chair Quam declared the public hearing open, and noted that all language relating to decibel level measurements had been removed, and that there had been an addition to Sec.26-93, beginning on Page 10, relative to citations and including a fine schedule. City Attorney Jim Dye asked the Commissioners to review the new section and fine schedule.

Commissioner Linda Cramer said she thought that \$50 for the first offense, \$150 on the second, and \$250 on the third would be a more appropriate fee schedule. Commissioner Dale Woodland said he thought that \$35 for the first offense would be more appropriate than \$25, and Commissioner John Quam agreed. **There was consensus to change the first offense fine to \$35, and leave the rest of the fines the same.** Chair John Quam said that he thought this schedule could be a little steep for some residents. Commissioner Linda Cramer said she still had problems regarding the enforcement of the ordinance in residential or in commercial zones.

Commissioner Duke Miller asked if the City really was doing the right thing by removing the decibel language. City Attorney Dye recalled that he had noted at the last meeting that leaving that language in would do no harm.

Commissioner Carol Ann Magill reported that according to Chuck Webb, the ordinance would not be effective without the decibel measurement language. The Commissioners noted that neither Manatee County nor the City of Anna Maria had the required specialized calibrating equipment, nor trained and qualified operators.

Mayor SueLynn noted that the trolley is running on a three-year grant and is locked into the terms of the grant for hours of operation. She said that she has been assured that when the grant runs out, the operating times could be reviewed working with the City residents.

Deputy Commission Chair Linda Cramer asked if there was a way for owners of booming sound systems in vehicles to be pulled over and asked to turn them down. City Attorney Dye said that if a noise could be categorized as ‘unreasonable’, then it would constitute a violation of the ordinance.

Sgt. Kenney said that a complete investigation and offense report would be made, as well as the issuance of a citation, so that back up would be available in case the citation is contested in court.

**MOTION: Deputy Chair Linda Cramer moved to adopt Ordinance #04-616, with the amendment, seconded by Commissioner Duke Miller.  
Roll Call Vote: All Ayes. Motion carried.**

### **Public Comment**

A resident said she thought commercial establishments should be considerate of their neighbors. As examples, she mentioned the open speaker on Galati’s property, and loud music at commercial establishments. A resident asked if a quiet time had been considered. Chair John Quam indicated that 7:00 p.m. to 7:00 a.m. was the designated quiet time in the ordinance. City Attorney Dye indicated that a noise could be considered ‘unreasonable’ regardless of whether or not it occurred during quiet time. A resident said she thought the whole idea behind developing this ordinance had been a problem with musical bands playing

into the early morning hours. City Attorney Jim Dye noted that the prohibition of music after a certain time had been struck down by a Sarasota court.

Mayor SueLynn noted that it would be left up to law enforcement to determine reasonable vs. unreasonable, with regard to noise. City Attorney Dye affirmed this, stating that the officer would need to be backed up by surrounding facts.

Sgt. John Kenney said that in reviewing the ordinance, he had noticed language which read more like a Notice to Appear, and recalled that the City had been discussing simply adding violation of this ordinance to the list of possible violations currently printed on traffic and alcohol citations. He noted another issue was where the individual was required to sign, with refusal to do so constituting a second degree misdemeanor. Sgt. Kenney recommended the option of the posting of a bond, relative to an individual's refusal to sign a citation. City Attorney Dye indicated that procedures in the ordinance were based on the State traffic ticketing statutes, and a person refusing to sign has the option of paying the fine or going before a judge. City Attorney Dye indicated to Commissioner Miller that the City had three enforcement options: code enforcement, civil suit for injunction, and ticketing.

City Clerk Alice Baird noted that the Manatee County Clerk of Courts had confirmed to her that in addition to parking tickets, City Hall itself would be able to collect the noise ordinance fines, and also the alcohol violation fines. The City Clerk indicated that the City now has had new citations printed up to include the alcohol ordinance violation, as well as a space for 'other' ordinance violations, to be marked in as needed. City Attorney Dye noted that anyone that gets a ticket has a right to contest it in court, and that Section VIII in the ordinance authorizes the Mayor to make administrative arrangements with the Manatee County Courthouse. He said that these arrangements would be similar to the current agreement relative to alcohol ordinance violations.

#### **6. OVER-PAYMENT OF ELECTED OFFICIALS**

Chair John Quam noted that three of the five past commissioners had repaid in full, and that one commissioner had paid in part, and another, nothing at all. The person who repaid nothing is now living in another state. Mayor SueLynn noted that the certified letters to Gary Deffenbaugh and Doug Wolf were all returned undelivered.

Commissioner Carol Ann Magill asked if anyone had sent anything to Doug Wolf in South Carolina. Mayor SueLynn noted that the second letter sent to Wolf had been picked up from the Anna Maria post office.

Deputy Commission Chair Linda Cramer asked why the attorney's fees owed from a lawsuit against former elected official Mr. Chumard in the amount of \$2,500 shouldn't be reimbursed to the City. She noted that the overpayment being discussed at this evening's meeting had arisen out of a mistake made by the

City, and said she felt this measure would send the wrong message. The Commissioner noted that the former commissioners who had not repaid the City had also volunteered countless hours to City Hall.

**MOTION: Chair John Quam moved to have the Mayor turn the uncollected overpayment compensation to former elected officials over to a collection agency, seconded by Commissioner Dale Woodland.**

**Vote: Four Ayes. One Nay. Motion carried.**

**Public Comment**

A resident said that she thought that the former Mayor who spent City money for his own legal case had had the subject of repayment dropped by that Commission. She said that she agreed with Chair Quam.

**PUBLIC COMMENT**

None offered.

**PRESS COMMENT**

None offered.

**ADJOURNMENT**

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

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

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

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City Clerk

\_\_\_\_\_  
Date