

**CITY OF ANNA MARIA  
CITY COMMISSION  
MARCH 25, 2004  
7:00 P.M.**

**CALL TO ORDER**

**PLEDGE TO THE FLAG**

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

**Also present:** City Engineer Tom Wilcox (BDI), Hugh Holmes, Jr. (Holmes Contracting), Architect Tom O'Brien, City Attorney Michelle Hall, Planning & Zoning (P&Z) Board Vice-Chair Bob Barlow, Building Official Kevin Donohue, Sheriff's Deputy Sgt. John Kenney, Public Works Director George McKay, City Clerk Alice Baird, Minutes Clerk Sylvie Reichmann

**Press:** Sun, Islander

**CONSENT AGENDA**

**APPROVAL OF MEETING MINUTES:** City Commission Special Meeting 3/11/04; Regular Meeting 2/26/04

**MOTION:** Deputy Commission Chair Linda Cramer moved to approve the Consent Agenda, seconded by Commissioner Duke Miller.

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

**REPORTS & UPDATES**

Deputy Commission Chair Linda Cramer thanked the Commission and Public Works Director George McKay on behalf of the Historical Society for their parts in presenting a successful Heritage Week, and announced an upcoming Community Center fundraiser.

Commissioner Dale Woodland said that he had met with the Mayor and Deputy City Clerk Diane Percycoe regarding budget format changes, and that he was very pleased with the outcome.

Commissioner Carol Ann Magill said that the BDI estimated cost vs. City of Anna Maria cost, dated 2/26/04 in the Public Works Report relative to drainage projects, looked like it had turned out to be much more than the amount approved by the Commission.

**MAYOR'S REPORT**

The Mayor noted that Spring Cleanup Day would take place on April 14th, and that it would be an annual cleanup for general waste. She said that the holdup with the swing set at Bayfront Park, is that a rubberized safety surface needed to be applied over a large area. Mayor SueLynn indicated that she would need to leave the meeting this evening at 9:00 p.m.

Commission Chair Quam said that a request had been received to delay the Work Session relative to Remodeling Community Hall until April 8th. Mayor SueLynn indicated that the number of items the Commission had requested had made it impossible to gather all the information needed in time for tonight's meeting.

The Mayor also requested discussion of Agenda Item Number 8 before Number 9.

**MOTION: Deputy Commission Chair Linda Cramer moved to address Agenda Item #9 before #8, seconded by Commissioner Dale Woodland.**

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

**APPROVAL OF CITY AUDIT REPORT – Ed Leonard, C.P.A.**

The Auditor thanked the Commission and City staff for their cooperation with this year's audit. He presented an overview of the audit. Mr. Leonard announced that the City had received the highest level a CPA can assign to a City financial report.

The Auditor noted that new accounting standards would require the City to depreciate assets in the upcoming fiscal year. He added that the new standards would mean that the financial report would be more detailed next year.

The Auditor said that when he looked at internal operations, he noted two items: The fixed asset records had not been updated to include this year's additions (and the Clerk had said this will be done when new software is installed); and relative to document control, the Building Department needed to make sure that all the permit numbers are accounted for.

Mr. Leonard said that in a comparison of the City with other similar cities in the state, he had certified that the City is not at risk of financial danger.

Commissioner Linda Cramer asked how many years the Auditor had been with the City of Anna Maria, and Mr. Leonard responded that it had been 15 years.

Commissioner Dale Woodland asked, regarding page 2, relative to undesignated reserve, (which, he noted, the Commission had currently set at 35% of the City's operating budget) what percentage Mr. Leonard would recommend, and Mr. Leonard replied that the City of Anna Maria is at the bottom of the range with 35%. He said that the average is 62%. Mr. Leonard also noted that in a beach community, the ability to have available funds after a disaster is more important.

Commissioner Dale Woodland asked, relative to Page 3, how long it had been in that format. He said that he had looked at various financial statements, and the formats had changed. Mr. Leonard said he thought that this format had been in place at least 3 years. He said that any additional information could be provided in cooperation with the Mayor and the Clerk's office.

Commissioner Woodland asked for Mr. Leonard's opinion relative to borrowing. Mr.

Leonard noted that the City was currently planning expenditure against reserves. He said that he would rather see the City use reserve funds rather than borrowed money.

Commissioner Woodland asked, relative to Page 10, for clarification of the language “for the purpose of expressing our opinion of the financial statements and not to assure...”. Mr. Leonard responded that the internal control is examined and tested, however the purpose of the audit is not to render an opinion of the overall internal control.

Commissioner Woodland asked the Auditor, relative to Page 12, and his comments about the chartered account, if it would be possible to correlate the budgeted line items with the chartered account identifier. Mr. Leonard responded affirmatively.

**MOTION: Commissioner Linda Cramer moved to approve 2003/2004 Audit Report, seconded by Commissioner Dale Woodland.**

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

**VARIANCE REQUEST – Garcia Residence, 769 North Shore Drive, Request to enclose total area under Proposed 2 Story House with Breakaway Walls, P&Z Board Recommendation**

Chair Quam asked all those wishing to speak to stand and be sworn in by the Minutes Clerk.

Planning & Zoning Board Vice-Chair Bob Barlow reported that the Board had heard the request on February 23<sup>rd</sup>, and that the Board had recommended granting the request, with the stipulation that it would not cost the residents of Anna Maria more in flood insurance premiums. He noted that Mr. Hugh Holmes, Jr., the contractor, had written the City a letter regarding FEMA’s assurance that if the variance is granted, it would not cause premiums in the City to rise.

The Holmes Contracting representative repeated for the Commission the presentation he had given to the P&Z Board. He said that the breakaway walls would provide better security for elderly family, and that the owners had already spent a significant amount of money on the project. Mr. Holmes noted that if they had applied for the permit a couple of weeks earlier than they actually did, they would not have been required to seek a variance.

Chair Quam asked Mr. Holmes to describe his clients’ special hardship associated with their request. The contractor said that the location of the property compromised the Garcia’s safety, and that of the property they were trying to store.

Mayor SueLynn said that she had spoken with the Garcias relative to the fact that many people were now using this area to fish and congregate on the beach, especially during the summer. The Mayor said that she understood the concerns about security, as many people walked through the property at all times of the day and night..

Commissioner Carol Ann Magill said that she had spoken with the Building Official after reading the letter from Holmes Construction relative to insurance rates. She said he had

recommended that if the Commission wished to grant the variance, it include the P&Z's stipulation relative to insurance.

Commissioner Woodland said that he would have looked at this case differently at this meeting, if everyone had known ahead of time that the rules were changing. He added that he considered the approximately \$30,000 the owner had already spent on the project before the rules changed to be sufficient hardship.

**MOTION: Deputy Commission Chair Linda Cramer moved to approve the Planning & Zoning Board's recommendation to grant the Garcias a variance with the stipulation that flood insurance rates would not be increased in the City as a result. The motion was seconded by Commissioner Dale Woodland.**

**Deputy Commission Chair Linda Cramer withdrew her motion.**

City Attorney Hall advised that could not give the owner a stipulation which was controlled by FEMA, and suggested rather that the City word it as a requirement that the owner pay the difference in any insurance rate increase the whole City may incur as a result of granting the Garcia variance.

The contractor's representative said that the insurer would be inspecting the building. Mayor SueLynn said that if rates rise, it would not be a result of the effects of one home. Building Official Kevin Donohue noted that this community had chosen to be more restrictive, and that in exchange for this, the City residents received a discount in their insurance premiums.

The Building Official said that if the ordinance stayed on the books, it needed to be enforced. He said that if, over the years, variances continued to be granted in the V-Zone, the insurer could re-evaluate the area and charge back premiums to City homeowners. Mr. Donohue indicated that he had been advised that as long as enforcement without variance is done from this day forward, it would not affect premiums. He also noted that certain rules are buried in various sections of the City's Code, and that he had recommended to the Mayor that they all be consolidated. He added that he did not expect variance requests in the V-Zone.

Commission Chair Quam said that he did not see any unique hardship. He added, relative to the letter included from the former Building Official serving prior to Mr. Donohue, that he did not feel the request for the variance met all the criteria necessary to grant it.

Commissioner Woodland said that he considered there was a hardship because money had been spent before anyone could be aware of the rule change.

Commissioner Magill noted that Charles Canniff had indicated that if there was a problem with security, a fence could be installed.

The City Attorney noted that the three criteria for granting variance requests in the flood section of the Code applied exclusively, according to the Building Official. City Attorney Michelle Hall said that she could not give an opinion as to whether or not the General Criteria applied.

Deputy Commission Chair maintained that along with the P&Z's recommendation, she also felt that there was unique hardship. The Commissioner said that she was confident that the Building Official would from now on enforce all the Codes with no variances

**MOTION: Deputy Commission Chair moved to approve the variance request, seconded by Commissioner Dale Woodland.**

**Roll Call Vote: Three Ayes. Two Nays. Motion carried.**

**OAK / TARPON REPAIR / REPAVING PROJECT – Kurt Jensen (BDI)**

City Engineer Tom Wilcox said that he had hoped there was to be good news relative to resolving the problems with the contractor, however, that at this time there was no proposed resolution to present to the Commission. Said as of 4:00 P.M. the day of this evening's meeting, APAC was unwilling to give the City a one-year warranty, which is where talks most recently broke down.

Mr. Wilcox said that the Capital Improvements Advisory Committee (CIAC) and BDI had hoped these first two streets would have served as models for the resurfacing process in future road improvements planned for the City. He noted that BDI's, the City's, and the homeowners had well founded grievances.

The City Engineer explained that no tack or prime coat had been put on the road before the asphalt was laid on top of it. Mr. Wilcox noted that the contractor had not yet been paid. He said that there had been three courses of remedial action with minimal cost to the City. One had been to take out the bad spots, patch, and resurface them, which was the minimum level at which BDI would consider recommending that APAC be paid. He said the second course of action was to patch, resurface and then resurface the entire road with 1" of asphalt. The third remedial action would be to build up everything that is on top of the 1" base, clean it and repack it, and then lay a new 1.5" surface on top of that.

Mr. Wilcox said that whatever BDI concluded with the contractor, the broken spots on these streets would need to be covered before the rainy season. Mr. Wilcox noted again that nothing had been paid to the contractor pending settlement of this dispute. He said that he expected to pay APAC something to do the patch and repair, and their estimate for this was approximately \$10K. Mr. Wilcox suggested that the City could reduce the amount of the approximately \$30K invoice from APAC by that amount.

Commissioner Duke Miller said he would not support paying the contractor anything for rectifying their breach of contract, in which the tack coat was stipulated.

Commissioner Dale Woodland confirmed that the asphalt recycling company had been paid in full for their work in the first phase of the project. He said that he agreed with

Commissioner Duke Miller. He asked Mr. Wilcox how to avoid future problems. Mr. Wilcox said that the City needed to be very clear relative to the bonding surface on roadwork.

Commissioner Duke Miller recommended City staff supervision. Commissioner Dale Woodland asked if more involvement was necessary on the part of BDI and City staff. Mr. Wilcox said his company had offered full-time service inspection to the City, but the City had not purchased it. He noted the CIAC would like to see full-time supervision services purchased with all future BDI project contracts. Mr. Wilcox confirmed to Chair Quam that he would be returning to the Commission with updates on negotiations with the contractor.

**CONTRACT FOR REMODELING CITY HALL – Southern Cross Contracting, Inc.**

Commissioner Dale Woodland asked City Architect O'Brien why there was no prior awareness that an asbestos inspection was required. Mr. O'Brien responded that in the contract, it said that the City was responsible to provide an asbestos report. Commissioner Woodland asked why Mr. O'Brien did not alert the City that there was a problem earlier. Mr. O'Brien said that since no report had been received, his company had assumed there was no mold problem.

Deputy Commission Chair Linda Cramer asked if the City was aware of any other formal inspections that should be done, e.g. roof, adequate ventilation. She said that she felt that the project would not be complete unless the roof and exterior are included. The Commissioner said that she would like to have an inspection of the roof, and examine the cost of replacing windows. She said the money for the entire project, as she described from the budget, was not sufficient, and that she had hoped that as much information as possible would come before the Commission for consideration prior to entering into the project.

Deputy Commission Chair Cramer asked if the scope of work were changed, if the City would need to put the project up for bid again. Tom O'Brien responded affirmatively. The City Architect said that he thought a second phase to the project, dealing with the exterior and the roof, added to the budget, could be a very good idea.

Commissioner Carol Ann Magill noted relative to the mold survey, that there had been questions from the public and herself, as to why the roof had not yet been examined to determine if it would protect the large investment in remodeling the interior. Mr. O'Brien said that his company had looked at the roof. Commissioner Magill objected to the budget having grown approximately \$30,000 with no work having physically been evidenced.

Commissioner Linda Cramer said she had spoken with the Public Works Director as to last time roof had been inspected. Mr. George McKay said that the roof had been repaired six to seven years prior due to flooding, and that in his opinion, the roof would soon need to be replaced.

Commissioner Duke Miller noted the over \$30,000 increase in price did not include temporary housing for City staff, or the architect's fees. He asked the Mayor for a list of related expenses. The Mayor said she would bring this to the Commission's next work session.

### **Public Comment**

A resident asked what the change in the windows was about, and Mr. O'Brien responded that the windows needed to be hurricane rated, and said if the remaining (old) windows were to be replaced, this would require a new estimate, and the Commission's appropriating the funds for the increase in the scope of work.

A resident confirmed with Mayor SueLynn the reasons for the need for remodeling, and the Mayor responded with the reasons previously submitted to the Commission. The resident suggested that the police be housed in a separate facility constructed to the rear of the building. She said the Commission's priority should be to protect staff and residents from asbestos and mold hazards. She cautioned the administration to keep spending down.

Mayor SueLynn asked for clear direction from the Commission relative to the roof inspection, since this would cost the City more money.

Commission Chair Quam said he thought that the current scope and the \$180,000 set aside should be sufficient.

Commissioner Magill said the costs would continue to rise higher than \$180,000, and she would rather see the project limited to making sure City Hall's staff is protected from mold and asbestos.

Another resident cautioned against increased spending, and that soon it could cost more to remodel than to construct a new building.

The Mayor confirmed that she would try and obtain a roof inspection, at Commissioner Cramer's recommendation, free of charge.

The Mayor confirmed to Commissioner Miller that the mold report would come back to the City within a couple of weeks. She said that she had been advised that it was likely any mold problem could be resolved within the current scope of the renovation.

### **PARTIAL BUILDING MORATORIUM EXTENSION ORDINANCE #04-618, 2<sup>ND</sup> READING AND PUBLIC HEARING**

Commissioner Duke Miller read the ordinance by title. Commission John Quam declared

the Public Hearing open.

**MOTION: Commissioner Duke Miller moved to extend the meeting to 9:30 p.m., seconded by Deputy Commission Chair Cramer.**

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

Mayor SueLynn noted that since the moratorium was imposed relative to the City's need for the development of a site plan review ordinance procedure, and since the site plan review process had now been adopted, she recommended an ending date of April 1<sup>st</sup>, 2004 for the moratorium. The P&Z Board members present at this evening's meeting said that there was little likelihood that their work would be finished before the summer. Planning & Zoning Board Vice-Chair Bob Barlow noted that this is an ongoing process and again recommended a joint meeting with the Commission. He said he was not opposed to ending the moratorium.

Commission Chair Quam declared the Public Hearing closed.

**MOTION: Commissioner Duke Miller moved that the Commission decline to adopt ordinance 04-618, seconded by Deputy Commission Chair Linda Cramer.**

**Roll call vote: All Ayes. Motion carried.**

## **SITE PLAN PROCEDURE ORDINANCE #04-619, 2<sup>ND</sup> READING AND PUBLIC HEARING**

Commissioner Duke Miller read the Ordinance by title.

Commission Chair John Quam declared the Public Hearing open.

Mayor SueLynn noted that the site plan procedure had been worked on extensively by the P&Z Board for several months. She said that she hoped that if the Commission could pass this site plan procedure this evening, that the April 1<sup>st</sup> moratorium end date could be preserved.

City Attorney Hall said that she had been present at the P&Z Regular Meeting earlier this week. The City Attorney said that she had reviewed the Code, and there was no provision requiring a P&Z recommendation before passing an ordinance. City Attorney Hall said the general ordinance had been drafted by City Attorney Dye. She said that the procedures were included with the ordinance as an attachment, and noted that this would allow them to be changed by resolution, instead of being required to go through the public hearing process.

Building Official Kevin Donohue said that fees had been added to Page 7 of 8 so that the ordinance could be implemented on April 1<sup>st</sup>. He said that an application for site development review would need to be developed prior to that date, and read aloud a proposed schedule of fees. He noted there was a change to be made to Page 3 of 8, Section IV, Paragraph C. 2., relative to the neighborhood workshop. He recommended as an alternative a modification to read "all applicants proposing a subdivision ...."

**MOTION: Commissioner Duke Miller moved to extend the meeting to 9:20 p.m. seconded by Deputy Commission Chair Linda Cramer.**

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

Building Official Kevin Donohue directed the Commission to three instances where “subdivision” should be used instead of ‘major development’.

Deputy Commission Chair Linda Cramer and Building Official Kevin Donohue discussed the need for a neighborhood workshop and the time frame required. The Commissioner asked if the Commission could continue discussion of this topic with the help of the P&Z Board. She objected to squeezing this item into the small amount of time remaining in this evening’s meeting.

Commissioner Woodland said that he was comfortable with the ordinance and confident in the P&Z’s extensive work in drafting it.

Planning & Zoning Vice-Chair Bob Barlow noted the key word would be “with changes”, and said that once the work was complete, it could be important for the Board to meet with the Commission, to clarify the intent of the ordinance and any questions the Commission might have.

Commission Chair John Quam confirmed that the Commission could approve the ordinance this evening, and if there are any changes on the procedures, they could be done by resolution.

**MOTION: Commissioner Duke Miller moved that the Commission adopt ordinance #04-619 with modifications, as discussed, in Exhibit A, seconded by Commissioner Dale Woodland.**

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

**RESOLUTION #590, SUPPORTING AMENDMENT OF DRAWBRIDGE OPENINGS TO ISLAND**

**MOTION: Commissioner Carol Ann Magill moved to approve Resolution 590, seconded by Deputy Commission Chair Linda Cramer.**

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

**CHANGE IN PUBLIC WORKS JOB DESCRIPTION – MAINTENANCE MECHANIC**

Mayor SueLynn presented the proposed document, indicating that it was a more detailed description. She said that the City was hoping to attract a new employee with more experience than was currently present with the in Public Works staff. The Mayor noted that the salary was different from the currently budgeted, since the work week was now 40 hrs.

**MOTION: Commissioner Duke Miller moved to accept job description 04-2004, as submitted March 25, 2004, seconded by Commissioner Carol Ann Magill.**

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

**PUBLIC COMMENT**

Public comment was heard throughout the meeting.

**PRESS COMMENT**

None offered.

**ADJOURNMENT**

**MOTION: Commissioner Duke Miller moved to adjourn the meeting, seconded by Commissioner Dale Woodland.**

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

The meeting adjourned at 9:30 p.m.

Respectfully submitted,

Alice Baird  
City Clerk

4/22/04  
Date