

**CITY OF ANNA MARIA  
CITY COMMISSION  
JUNE 24, 2004  
7:00 P.M.**

**CALL TO ORDER**

**PLEDGE TO THE FLAG**

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

**Also present:** Pat McGarrity, Manatee County League of Voters; Emily Ann Smith, O'Brien & Smith; Lynn Townsend, P.E., Lynn Townsend & Associates; Mayor SueLynn, City Attorney Jim Dye, Building Official Kevin Donohue, P&Z Board Chair Bob Barlow, Deputy City Clerk Diane Percycoe, Minutes Clerk Sylvie Reichmann

**Press:** Sun, Islander, Bradenton Herald

**CONSENT AGENDA**

1. **APPROVAL OF MEETING MINUTES: City Commission Meeting (Amended) 3/25/04 - 7:00 p.m.; City Commission Meeting 5/27/04 – 7:00 p.m.**
2. **APPOINTMENT OF CHRISTOPHER COLLINS TO THE PLANNING & ZONING BOARD**
3. **PROCLAMATION: “Women’s Equity Day 2004”, Pat McGarrity accepting.** The Mayor introduced Pat McGarrity of the Manatee League of Voters, and presented her proclamation of August 14<sup>th</sup>, 2004 as Women’s Equity Day in the City of Anna Maria.
4. **AWARD PRESENTATION: Deputy City Clerk Diane Percycoe Attainment of City Clerk Status.** The Mayor formally acknowledged, on behalf of the City and the Commission, Deputy City Clerk Percycoe’s hard work and attainment of the designation of Certified Municipal Clerk, and personally presented her with the wall mountable plaque and certificate issued by the International Institute of Municipal Clerks.

Chair Quam asked that the Minutes of 3/25 be removed, as they had already been approved at the last meeting.

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

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

(continued)

## **REPORTS & UPDATES**

Commissioner Carol Ann Magill reported that at one of the EEEEC meetings, members had asked about fines for repeat offenders of the trash ordinance, and she had recommended both to the Mayor and to the Code Enforcement Officer that the Code be revisited from the point of view of enforcement.

## **MAYOR'S REPORT**

Mayor SueLynn said that she attended the Major Rick Ely meeting at the elementary school on the Island and had been deeply affected. She said that attendance at any Island function like this was highly recommended to Anna Marians.

The Mayor reported that City Hall staff had successfully moved to the temporary location at the Island Baptist Church, although the phones were yet to be completely functional. She thanked the staff for making the move swift and smooth and for maintaining City functions. She noted there was a pre-bid conference the day of this meeting relative to work on the two bridges.

The Mayor reminded citizens not to put trash out on Sundays, since it would sit there until Thursday.

## **111 SOUTH BAY BLVD. – Preliminary Site Plan Approval P&Z Board Recommendation**

Commission Chair John Quam said the public hearing would not be heard this evening, but rather at the Commission voting meeting after the P&Z Board meeting to take place on July 7<sup>th</sup>, 2004.

## **303 PINE AVENUE – Preliminary Site Plan Approval P&Z Board Recommendation**

Commission Chair John Quam referred to the May 24<sup>th</sup>, 2004 recommendation from the P&Z Board to approve the preliminary site plan, with conditions. He declared the public hearing open. Planning & Zoning Board Chair Bob Barlow reported the proceedings of the May 24<sup>th</sup> P&Z Meeting, which resulted in a unanimous vote to recommend that the Commission approve the preliminary site plan for 303 Pine Avenue, with some minor conditions.

Chair Quam invited Emily Ann Smith of O'Brien & Smith Architects, the agent for Bob and Vicky Hunt, to introduce herself. She said that she would also be calling on Lynn Townsend, P.E. to speak to any engineering questions the Commission might have. She presented proof of proper notice of the public hearing to the Minutes Clerk.

Ms. Smith noted that the building moratorium which ended in April had been entirely unanticipated by the applicants, who had emigrated from England and completed the design for their project in January of this year. She noted that the preliminary phases of the project had now consumed 168 days, and that this in itself had been a hardship for the Hunts.

Ms. Smith said that her firm disagreed with the traffic assessment offered by BDI and Joel Freedman relative to parking and presented the Commission with pictures of examples of accepted traffic engineering practices in Anna Maria. She said however that hidden gutters had been removed from the plan, and that the radius of the parking turn-in would be reduced from 10 ft. to 7 ft. She said also that the City sidewalk outside the property would be surveyed and brought into ADA compliance.

Ms Smith said that in designing the project, she had paid careful attention to the City's Visioning Statement relative to community character guidelines. She responded to a recent letter to the editor of a local paper warning against a proliferation of tall structures on Pine, and explained that the height restriction would always remain at 37' above the crown of the road. The architect also noted that the new building would be set back further from the road. She said her company believed the building would be an asset to the community and respectfully asked the Commissioner for a vote of approval.

She asked engineer Townsend to speak to the issues and requested a two-minute rebuttal after Public Comment. Ms. Townsend said that the applicants had met or exceeded all regulations by jurisdictional agencies.

Commission Chair John Quam confirmed with P&Z Board Chair Bob Barlow that the in formulating their Resolution, the P&Z Board members had reviewed the City codes and the Comp Plan. **Commissioner Carol Ann Magill** asked if the policy and the Ordinance relative to the number of stories allowed in the location had been examined by the P&Z Board. P&Z Chair Barlow said that the P&Z Board had not publicly and specifically discussed the 'number of stories' issue, relative to the Comp Plan.

Commissioner Duke Miller referred to a memo from Charles Canniff saying that the ordinances were the basis by which the P&Z made its deliberations. However, Commissioner Duke Miller noted the Comp Plan turns happens to be the overriding authority above ordinances and received confirmation of this from the City Attorney, who said that Statute says that you cannot have a Development Order that is in conflict with the Comprehensive Plan. The City Attorney noted that the Comp Plan gives direction to the drafters of ordinances, and that the ROR ordinance was dated after the Comp Plan's adoption.

Commissioner Duke Miller confirmed that 50% of the use of the proposed structure needed to be residential. Emily Ann Smith said that there was at least 50% residential use of the volume and square footage of the proposed building.

Commission Chair John Quam said the Comp Plan referred to 'ground floor' commercial and that this would limit the building to two stories. City Attorney Jim Dye said that the Comp Plan language restricted the language in the Code, and that the determination needed to be made as to whether the language in the Code was consistent with the Plan. He noted that the Comp Plan said ROR needed to have second floor residential, while the ordinance said that the ground floor needed to have commercial or office uses. City Attorney Dye noted that the problem in interpretation was that the Code did not

specifically say the residential use had to be on the second floor, only that it had to be above the ground floor. He noted that some people were interpreting the Comprehensive Plan language to indicate a second floor only.

Commissioner Dale Woodland said that as liaison with the Comp Plan Ad Hoc Committee, he had heard from facilitator Tony Arrant that there appeared to be some 'wobble room' both in the Comp Plan and in the ordinances. Tony Arrant said that it would be the responsibility of the Commission to interpret these, and in doing so, it would set precedent.

Deputy Commission Chair Linda Cramer agreed with Policy 1.3.5, and with Commissioner Dale Woodland's interpretation that the Comprehensive Plan referred to a two-story building, allowing for a low density use district on Pine Avenue. She expressed concern with the traffic effects from delivery trucks servicing the proposed building.

Building Official Kevin Donohue quoted Ch. 114-281 relative to uses. He asked the Commission if a three-story commercial building, or a three-story residence would be permitted. He asked further, if a four-story building conforming to the height restriction of 37' above the crown of the road would be permissible. Mr. Donohue noted that the mixed usage was intended to soften the boundaries between the residential and commercial districts. The Building Official said that he had found no language in the Code or the Comp Plan relative to stories, as the language dealt with 'floors'.

Commissioner Carol Ann Magill said she was primarily concerned with use relative to floors. She recalled the original purpose of the building moratorium and noted that the work that had been intended to be accomplished in the interim was incomplete, however, it seemed to her that the intent of the Comp Plan had thus far been carried out in the City.

### **Public Comment**

A resident confirmed with City Attorney Dye that the Comp Plan was a higher authority than the ordinance.

Doug Copeland noted that FEMA regulations preceded the Comp Plan. He recommended only allowing two levels of occupancy in any zone in the City.

A resident asked the Commission to uphold the intent of the Comp Plan of the City of Anna Maria to maintain the quality of life in the City. She noted that the citizens of Anna Maria are suffering from the tax burden from the spiraling value of development within the City.

Nicky Hunt, one of the applicants noted that three stories concerned the Commissioners and clarified that the structure itself was smaller than the allowable area for a residence. She said with the cost of the land, it was not viable to have two stories. She said that three story homes could at this point be built all along Pine Avenue.

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Emily Ann Smith noted that there had been four outside consultant reviews of the Hunts' application, in addition to the P&Z Board hearing. She asked the Building Official if was acceptable to have a ground floor parking area, with a second floor commercial and a third floor residence. Building Official Kevin Donohue said that although he had not had the opportunity to completely review the question, it appeared that this would be appropriate, given the definition that a parking level cannot be considered a 'floor'.

Emily Ann Smith asked the City Attorney if there existed any procedure for saving time for the Hunts, given that they had already spent over six months on the project. City Attorney Dye said that if the site plan would be significantly different than the one originally submitted, it would possibly need to be reviewed again as from the beginning, and that this also would be at the determination of the Commission. Ms. Smith confirmed with City Attorney Dye that she could withdraw the application prior to the vote of the Commission, and also had the alternative of asking the Commission for more time before it took its vote, reiterating the unique nature of this case.

Commission Chair John Quam called a recess of 10 minutes.

The meeting resumed at 8:41 p.m.

Commission Chair John Quam asked City Attorney Dye if the City Code permitted the applicants to build more than one story of commercial, with a third level entirely occupied by the owner's residence. He noted the owner's office, comprising one half of the second level, would not be rented out to a tenant in the future. The City Attorney said that the Commission needed to take the position that the previous Commission's adopted ROR regulations were consistent with the current Comprehensive Plan, since the Ordinance superceded it. The City Attorney and Commissioner Cramer noted that the usage and occupation was a concern in the Comp Plan policy, with no one use to exceed 50%. The City Attorney noted that the Comp Plan seemed to allow for more than one residential unit in an ROR building. He said that the issue was whether the rules restricted the residence to the second floor. City Attorney Dye said that nowhere had he found language addressing this. He noted that relative to a three-level building, there was also no language addressing possible commercial use on the third floor. The City Attorney reminded those present that the ROR zoning ordinance was written after the Comprehensive Plan was approved by the previous Commission, and therefore the position had to be taken that the ordinance was consistent with the Comprehensive Plan. He noted that the Comprehensive Plan language allowed for more than one residential unit above the ground floor. The City Attorney described the ordinance language as a natural tapering down policy remaining consistent with the Comprehensive Plan. He said that as the rules permitted residential use of the second floor, the Building Official interpreted them as allowing residential use of a third floor. The City Attorney said that he had found no language in the Code restricting use of the third floor of a structure for residential use. He said the Commission would need to determine a rational policy behind its interpretation of the rule. The City Attorney noted that a two-story residence above ground level parking would be allowable at the same location.

Commissioner Dale Woodland asked City Attorney Dye about his comment that three levels would be allowable within 37 ft. above the crown of the road. Commissioner Dale Woodland said that he did not feel that the building height restriction would need to be reduced in order to restrict levels of occupancy. He said that he interpreted the Comprehensive Plan Policy 1.3.5 and Ch. 114-281 (3) relative to permitted uses to refer to two levels of occupancy.

City Attorney Jim Dye disagreed, indicating that nothing is said anywhere in the language that pertained to a third level of occupancy. He said he agreed with Building Official Donohue that two residential units would also be allowable. He said that ultimately, the levels of occupancy would be a policy decision by the Commission.

Commission Chair John Quam noted that it was unclear as to whether a third floor of occupancy is prohibited by the Code.

**MOTION: Commissioner Duke Miller moved to continue the meeting past 9:00 p.m., seconded by Deputy Commission Chair Linda Cramer.**

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

Building Official Kevin Donohue confirmed to Commission Chair John Quam that he had found the proposed site plan to be in conformance, not having found any prohibitive language in either the Comp Plan or the ordinance. He noted that there were a number of questions had been raised, however, and that these would be policy decisions for the Commission to make.

City Attorney Dye said that there needed to be a provision upon acceptance that the applicant would need to put a covenant on the ownership documents so that the commercial owner residence provision would be enforced. The Building Official added that the space would be subject to fire inspections.

Commissioner Dale Woodland said he had not heard one resident who was for three levels of occupancy, and therefore he would vote against approval of the site plan.

#### **Public Comment**

A resident asked for and received clarification of the intended use of the proposed building.

Another resident noted it was the Commission's responsibility to interpret ordinances and set policy for the benefit of the citizens of the City. He said if the Commission denied this application it would be prohibiting nothing that is allowed under the code.

Emily Ann Smith asked the Commission if she could withdraw the application prior to the Commission vote, and asked for continuance until July 22<sup>nd</sup>. She confirmed to Commissioner Linda Cramer that Pine Ave. is a commercial thoroughfare, and ROR was intended to soften the boundary between commercial and residential use. She noted that the residence over commercial concept was thousands of years old and helped to create a

village atmosphere in the community.

Engineer Lynn Townsend asked for legal documentation of the interpretation issue prior to the applicant returning before the Commission.

Commission Chair John Quam declared that the public hearing was still open.

**MOTION: Commissioner Duke Miller moved to continue consideration of the site plan application for 303 Pine Avenue until the next Commission meeting on July 22<sup>nd</sup>, 2004 at 7:00 pm., seconded by Deputy Commission Chair Linda Cramer. Vote: All Ayes. Motion carried.**

#### **LAKE LAVISTA DREDGING CONTRACT APPROVAL**

Commission Chair John Quam noted that the Public Works Department had chosen a firm to do the dredging. Commissioner Duke Miller asked Mayor SueLynn who would supervise the contractor, and she said she would investigate and bring this information back to the Commission if it desired.

Deputy Commission Chair Linda Cramer asked for the issue to be deferred to the next Work Session.

Mayor SueLynn noted there had been a line item in the budget since last year for this project. She said that the contractor was currently in the area doing Holmes Beach, and that the current time frame for the Anna Maria project was within the next six weeks. She said that if the City did not approve the contract in a timely fashion, the project would most likely need to be rescheduled at a higher cost for a time that would not be in the near future. She said that dredging was already behind schedule, as it should be an annual activity, and that the City had already received complaints by boaters who were impeded by the material needing to be dredged.

Commissioner Dale Woodland said he had a list of questions:

- Page 1 – Why is old dredging company no longer doing it?
- He noted that the contract price was approximately three times higher than the one previously paid for.
- Why isn't the City doing the fillet removal on the north side of the jetty.
- He also asked for clarification of the language referring to Energy Resources Inc. doing the dredging for each 18-month period until the end of the permit.
- He questioned the post-dredge survey on Page 2 relative to the profile and the pricing.

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Commission Chair John Quam asked the Mayor to check if there is a time limit on the grant. He also questioned whether summer was a good time to dredge, since it was typically the season for storms.

Commissioner Duke Miller confirmed with Commissioner Dale Woodland that the City would not need supervision if a post dredge survey was being done.

**MOTION: Commissioner Duke Miller moved to approve the Mayor to negotiate with contractor Energy Resources, Inc. in order for them to produce a contract for consideration. Deputy Commission Chair Linda Cramer made the second.**

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

### **PUBLIC COMMENT**

Chris Collins said he would like the Commission to consider restricting buildings in the city to two levels of occupancy. He also advised the City to check into the background of Energy Resources, Inc.

A resident asked that agenda changes and meeting cancellations be posted at the Post Office, as well as all hearing notices, whether required or not. She said she was surprised that there was a hearing tonight relative to 303 Pine Avenue.

A resident commented relative to the Anna Maria City Hall roof, and recommended that it be removed and repaired.

Jim Conoly asked if there was a master infrastructure and public works plan. Mayor SueLynn responded that the CAIC had a list of projects, prioritized for the next five years. He had comments relative to expenditures by the Public Works Department for outsourcing mowing and renting equipment that is not being used. He also recommended fixing the roof of City Hall before changing the inside of the building. He asked who was in charge of looking out for the City's interests in the remodelling of City Hall. Mayor SueLynn said it would be the architect's responsibility to ensure that the contractor, Southern Cross is demolishing and building according to the blueprints that have been accepted. She said they would provide daily on-site supervision, as would Southern Cross. She said that Building Official Kevin Donohue, Public Works Director George McKay, and Chuck White would all be checking on a regular basis that all the above entities are doing what they said they were going to do.

Commissioner Duke Miller asked for status on the roof. Mayor SueLynn said she had spoke, with the contractor, Southern Cross, this week and that they would be using a different contractor than Bringman Roofing, since that company did not deal with the covering that would be used on the roof to provide a membrane. She said she would have information relative to cost and other options before the Commission Work Session on July 8<sup>th</sup>.

City Attorney Dye replied to Commissioner Carol Ann Magill relative to the 303 Pine Avenue site plan applicants' engineer's request for legal documentation of the

Commission's policy decision prior to returning with the application. The Mayor confirmed with City Attorney Dye that legal guidance and interpretation of the Code by City staff to the applicant was not the responsibility of the City. Commissioner Duke Miller said that he noted that the applicants had said they would like to bring their legal counsel to the next meeting. City Attorney Dye noted that the process was dynamic and that policy was being set by the Commission.

Deputy Commission Chair Linda Cramer said she would like to Work Shop suggested interference with Administration 3.6 relative to the roof. Commission Chair John Quam asked Deputy Commission Chair Linda Cramer to leave him a note in his mailbox.

**PRESS COMMENT**

None offered.

**ADJOURNMENT**

**MOTION: Commissioner Dale Woodland moved to adjourn the meeting, seconded by Commissioner Carol Ann Magill.**

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

The meeting adjourned at 10:15 p.m.

Respectfully submitted,

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City Clerk

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Date