

**CITY OF ANNA MARIA  
CITY COMMISSION  
SEPTEMBER 23, 2004  
7:00 P.M.**

**CALL TO ORDER**

**PLEDGE TO THE FLAG**

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

Absent with excuse: Commissioner Duke Miller

**Also present:** Bill Galvano, Florida House of Representatives; Jason Suzor, Waterfront Restaurant; Public Works Director George McKay, Sgt. John Kenney, Sheriff's Department Supervisor; Mayor SueLynn, City Attorney Jim Dye, City Clerk Alice Baird; Deputy City Clerk Diane Percycoe; Minutes Clerk Sylvie Reichmann

**Press:** Sun, Islander, Herald

**CONSENT AGENDA**

1. **APPROVAL OF MEETING MINUTES: City Commission Meeting 8/26/04; Special City Commission Meeting 9/9/04; Budget Hearing 9/13/04.**

**Commissioner Carol Ann Magill requested that the minutes of August 26<sup>th</sup> and September 13<sup>th</sup> be withdrawn from the Consent Agenda for discussion and there was consensus to do so.**

**MOTION: Commissioner Dale Woodland moved to approve the Consent Agenda, with the exception of the minutes of August 26<sup>th</sup> and September 13<sup>th</sup>, seconded by Deputy Commission Chair Linda Cramer.**

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

Commissioner Carol Ann Magill clarified relative to Page 2, third paragraph in the minutes of August 26<sup>th</sup>, that the memo was from Tropical Eats & Treats, dated May 24<sup>th</sup>, and that her concern was not with regard to décor or price of orders on the menu, but with regard to full course meals. On Page 5, third paragraph, she requested that the word "remote" be replaced by "another" **and received consensus for this.** ; On Page 7, in the third sentence of #9, Commissioner Magill pointed out that City Attorney Dye had made the statement about verbatim language, not Commission Chair Quam.

Deputy Commission Chair Linda Cramer noted that on August 26<sup>th</sup> she had been 'absent with excuse'.

Relative to the minutes of September 13<sup>th</sup>, 2<sup>nd</sup> page, #3, sixth paragraph, second sentence, Commissioner Carol Ann Magill said there had been discussion relative to health insurance for commissioners, and recalled that the cost would have exceeded their yearly salaries, and the Commission subsequently decided not to opt for health insurance. She said that later during discussion the Commissioners

were informed that 30 hours work per week was required.

## **2. APPROVAL OF PUBLIC WORKS UNIFORM CONTRACT**

**MOTION:** Deputy Commission Chair Linda Cramer moved to accept the minutes of August 26<sup>th</sup>, 2004 as amended, as well as the minutes of September 13<sup>th</sup>, 2004 and Commissioner Dale Woodland seconded the motion.

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

## **3. REPORTS & UPDATES**

Commissioner Carol Ann Magill recalled previous discussion regarding a trolley stop for the Mosses, and said she had spoken with Mark Betti, and he had said that the only way the trolley could stop is at a permanent sign. He said the County had no problem with having the trolley stop for the Mosses, if it received a letter from City approving the stop. The Commissioner said that she was informed by Earl Nellius of MCAT that there would be no charge for the bench, and the County would provide the necessary signage. She noted there was a six-block distance between the Oak and Magnolia stops. Commission Chair John Quam said that he would put it on the next work session agenda.

Deputy Commission Chair Linda Cramer reported that she went to assist in Wauchula after the hurricane, unloading pallets and donations. She noted many volunteers were needed, and the work was tiring. The Commissioner said she assisted in cooking earlier in the week and said it was gratifying to give some of the victims a hot meal and other vital assistance. She commended the local church and community efforts to help Floridan and Haitian victims.

### **MAYOR'S REPORT**

Mayor SueLynn said that the Tuesday morning remodeling meetings had gone well. She said that she attended numerous EOC meetings throughout Charley, Frances and Ivan. The Mayor encouraged any of the Commissioners to attend an EOC meeting to see what was involved in protecting the city's citizens.

Mayor SueLynn said that she had attended the ITPO meeting on September 2<sup>nd</sup>, where there had been discussion regarding resurfacing Gulf Drive in Bradenton Beach and Holmes Beach. She said that Mayor Whitmore would be asking for an extension of the project up to Anna Maria city limits. Mayor SueLynn said she had asked if the contractors would consider doing Gulf and Pine for the City and said she would report back to the Commission if there is any interest, if the contractors name a price.

The Mayor said that at the Island Elected Officials meeting it was mentioned that because of the huge geographic area affected by the storms, Grubbs had been unable to provide the level of service needed. She said she found that the other

cities had similar experiences with Grubbs. Mayor SueLynn said she was most grateful to Waste Management for coming forward to remove the debris as quickly as possible.

Mayor SueLynn displayed an award received by the Public Works Department from Keep Manatee Beautiful.

Mayor SueLynn announced that she had received word that the Gladiolus North Shore Basin Drainage Improvement Project, one of several SWFWMD grant applications, had been approved earlier the day of this evening's meeting. She said that it would be a matching grant for \$275,000, half of which the City must pay. The Mayor said she was hoping that in-kind contributions would be allowable and that BDI and the City would be looking at the real estate value of the land involved. Mayor SueLynn noted the monies would needed to be added to the budget for this project, and that there would be a Budget Hearing on the Monday after this current meeting. She said City Engineer Tom Wilcox had said he would do his best to provide the in-kind contribution information by that time. Commission Chair John Quam confirmed that this topic would be discussed at the Budget Hearing. Commissioner Carol Ann Magill requested that a time frame for acceptance by the City also be provided.

**4. REPRESENTATIVE BILL GALVANO - Florida House of Representatives: 2004 Legislative**

Commission Chair John Quam introduced Bill Galvano to update legislative sessions. Representative Galvano said it was important to maintain the level of communication with the citizens of the area. He told the Commissioners that he was always at their disposal for any questions they might have. Representative Galvano thanked the Mayor and said that she worked hard in Tallahassee and did a great job. He noted that the largest allocations in the State government, Health care and human services, followed by education and transportation. In Manatee, the Representative noted that the county received an additional \$100 million, much of which went to improving MCC and USF. He said he hoped more affordable health care would be achieved, and noted that transportation funding still was a struggle in this particular area.

Representative Galvano said that the legislature had addressed the \$200 fee for enforcement of Code, and now the cost would be \$40 to the non-prevailing party, with the only fee required from the City being \$10.

With three hurricanes, Representative Bill Galvano said that insured damage in Florida is approaching \$20 billion. He said there would be a special session most likely in early December to analyze the problem and how to deal with it. He urged those present to contact his office over the coming weeks to share ideas on how to make things work better.

Mayor SueLynn praised Representative Galvano's work and urged him to keep fighting the unfunded mandates. Commission Chair John Quam thanked him for coming.

**5. DISCUSSION: 303 PINE AVENUE - Special Master Hearing**

Commission Chair John Quam asked City Attorney Jim Dye for an update. City Attorney Dye said the item originally scheduled for business had been for the special master, but since then the Hunts had withdrawn their request for this. They filed a motion with the court to revive the appellate review of the Commission's decision. City Attorney Jim Dye said the next step is that the City would receive an Order to Show Cause from the Court and the City would be given twenty days to respond. He said this is not an evidentiary proceeding, and there would be no witnesses and testimony, with the proceeding expected to take place within approximately two months.

Deputy Commission Chair Linda Cramer confirmed that the Florida League of Cities would be able to pay 75% of the City's attorney's fees, up to \$25,000.

Commissioner Dale Woodland again asked about using another legal representative for the City. Commission Chair John Quam asked the City Attorney if time was allowed for this to be on the next regular meeting's agenda. City Attorney Jim Dye responded that he thought there would be enough time, and if there was not, the court would work with the City. **Commission Chair John Quam received consensus to put this on the next work session agenda on 10/14/04.** Commissioner Dale Woodland agreed to put his research and comments in writing for the Commissioners to discuss at the Work Session. Commissioner Dale Woodland asked if City Attorney Jim Dye could bring a time frame with itemized steps to explain the process to the Commission, and he agreed to do so.

Commissioner Carol Ann Magill said that she felt there was information missing from the motion, and asked when the City would be allowed to present the information behind its reason for its decision. City Attorney Jim Dye said that first the Hunts would be allowed to present their side of the story, and then the City would be able to present its justification for its decision.

**6. SECOND READING AND PUBLIC HEARING - ORDINANCE 04-623 AMENDMENTS TO CODE ENFORCEMENT PROCEDURES**

Commissioner Dale Woodland read the Ordinance by title. Commission Chair John Quam declared the Public Hearing open and asked for comments from the Commissioners.

**MOTION: Deputy Commission Chair Linda Cramer moved that the City of Anna Maria adopt Ordinance 04-623, seconded by Commissioner Carol Ann Magill.**

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

**Public Comment**

No public comment offered.

Commission Chair John Quam closed the Public Hearing

**7. SECOND READING AND PUBLIC HEARING - ORDINANCE 04-622  
LEASE WITH WATERFRONT RESTAURANT FOR PARKING**

Deputy Commission Chair Linda Cramer read the Ordinance by title. Commission Chair John Quam declared the public hearing open and asked for comments from the Commissioners.

Commissioner Carol Ann Magill said she had received a question from a resident as to why an ordinance was needed for this. City Attorney Jim Dye responded that it was required by the Charter.

Deputy Commission Chair Linda Cramer noted that some questions had been raised relative to setting a precedent. She said that since the area proposed was zoned for public recreation, she did not think this ordinance would be in the City's best interests. The Commissioner advocated for using other methods for dealing with this particular parking problem. She urged the Commission not to go forward with leasing public recreation land for any purpose, noting that the Pier lease generates \$66,000. The Commissioner said that others would come forward to lease land if this ordinance is passed.

Commission Chair John Quam said he had supported the ordinance since the first hearing and noted it was written so that the Waterfront could satisfy the Code requirement.

Commissioner Dale Woodland said he did not like the ordinance approach from the beginning, but would support it in view of previous discussions and the circumstances involved.

Commissioner Carol Ann Magill said she had thought that one of the controls the City had was the number of seats relative to the number of parking spaces. She asked why the number of parking spaces to be leased was now larger than the number originally deemed missing from their plan, and said that she hoped that additional tables could not be added. The Commissioner said that she had received numerous calls from citizens concerned about the City leasing space for \$1 per year.

City Attorney Jim Dye said the number of spaces was supposed to be based on current Code-required needs. He said that the estimate had been made by Jason Suzor and the Building Official.

Jason Suzor of South Bay Blvd said that before the restaurant burned down, it had 72 seats. He said the proposed leased spaces were based on the allowable number in the Code. He said that at 10 ft. per parking space, there would be twelve spaces leased from the City. He said that there was no designation of the size of the spaces, and that there would be no signage involved. Mr. Suzor noted that he had been waiting almost eight months to begin rebuilding, and noted that 80% of his business' profit was derived during season, and expressed the feeling that hope was beginning to fade for obtaining a building permit by the Friday following this evening's meeting.

Commissioner Carol Ann Magill said that she would like the number of necessary spaces to be designated as "eight spaces" instead of just setting aside 120 ft. City Attorney Jim Dye said that using the land for eight spaces could be stipulated in the ordinance, even though these spaces could not be physically marked.

Deputy Commission Chair Linda Cramer said she thought it was unfortunate that the Waterfront's owners were being held up for eight spaces. She said she felt a special exception was more in order than an ordinance for leasing City land.

Commission Chair John Quam quoted the minutes of previous discussion on this topic. He asked City Attorney Jim Dye if he still had the same opinion. City Attorney Jim Dye said that he did maintain this opinion, however, he felt the Commission's question was now whether the Code needed to be reviewed and revised.

Commissioner Carol Ann Magill noted that the ordinance relative to parking would be discussed at a future Work Session. She said that she would support the ordinance since this was the sticking point for the Waterfront Restaurant's rebuilding. She asked for a pledge from Mr. Suzor that the seating would not be increased as a result of increased parking obtained through the lease, and Mr. Suzor agreed.

Deputy Commission Chair Linda Cramer asked for assurance from City Attorney Jim Dye that approval of this ordinance would not establish a precedent. City Attorney Jim Dye responded that this would only establish a precedent for persuasion, not a legal precedent. Deputy Commission Chair Linda Cramer asked if every establishment in the City found not to have the correct amount of parking per seating would now be charged with Code violations. City Attorney Jim Dye said that if information with regard to a specific establishment is given to the Code Enforcement Officer, it could result in the establishment being notified that they are in violation of a City ordinance.

Commission Chair John Quam noted that the seating / parking ratio would be on a future Commission Work Session agenda. Mr. Suzor, the Commission Chair, and the Mayor noted that the lease is year-to-year, and that the Code could be

amended before the lease came up for renewal.

**Public Comment**

Georgia Van Cleave of Magnolia Avenue said she was happy the lease was only for one year. She said she believed the lease was setting a bad precedent, and regretted the urgency for approving it.

Diane Canniff of Oak Avenue said that the ordinance had cost the City considerable time and expense, that would not be covered by the \$1 per year. Diane Canniff suggested that Mr. Toumy across the street could be asked to lease some space instead.

Commissioner Carol Ann Magill said the reason for the ordinance was because that at the time the site plan was approved, this was the requirement as part of the approval. She confirmed to Ms. Canniff that it would be difficult to change the site plan at this point without a great deal of delay.

City Attorney Jim Dye noted that the site plan process did not allow the parking spaces to be reduced without reducing the business. He said he would be unable to answer whether or not Mr. Toumy could be asked to provide the lease instead. City Attorney Jim Dye said if this ordinance would not be approved, Mr. Suzor would then need to find another way to find spaces. City Attorney Jim Dye said that without knowing the time it would take, he believed that this approach would be complex, and would re-involve the site planning process. He said that matters of public notice would need to be addressed.

Deputy Commission Chair Linda Cramer asked if Mr. Suzor could purchase two bike racks to be placed in the parking area proposed and thus satisfy the requirement.

Margaret Jenkins of Chilson Avenue urged the Commission not to create precedent by leasing the spaces, noting that beach access residents could start asking for the same thing. She recommended using a special exception, adding that other establishments use residential parking across the street.

City Clerk Alice Baird noted that on Page Four, the City's post office number should be revised to read '779'.

Commissioner Carol Ann Magill asked if the Commission did not approve the Ordinance this evening, if the Suzor site plan would be jeopardized and incur further delay. City Attorney Jim Dye responded that to begin with, he did not feel the City was legally obligated to pass the Ordinance, however, that there may be ramifications and consequences to the property owner. He recalled that approval of the site plan had been made contingent upon the ordinance being drawn up for the City to lease the Waterfront Restaurant the land. The City Attorney confirmed that failure to adopt the Ordinance this evening would cause delays to the

property owner.

Deputy Commission Chair Linda Cramer asked City Attorney Jim Dye how the lease is needed, when the City acknowledges that there are eight public parking spaces available across the street. City Attorney Jim Dye responded that the code would not allow this, as it is currently written, and stipulates that the owner must provide this parking.

Commission Chair John Quam asked if the Commission could instead request that an exception be made, and City Attorney Jim Dye said that this would not be legal.

Deputy Commission Chair Linda Cramer asked the Commission to act on a special exception this evening, noting that there are eight public parking spaces located across the street. City Attorney Jim Dye repeated that this would not currently be allowed by the Code.

Commissioner Dale Woodland said it seemed apparent that when the conditions were put upon the Commission's approval of the site plan, the Commission should have simply stated that the Waterfront Restaurant would need to satisfy the requirements, leaving the owner free to pursue different options. He noted however that in this case the solution had been built into the approval language.

Dianne Canniff confirmed that site plan approval had been at a public hearing and that failure to adopt this Ordinance could trigger further hearings.

**MOTION: Commissioner Dale Woodland moved to adopt Ordinance 04-622, seconded by Commission Chair John Quam.**

**Roll Call Vote: Commissioner Magill: Aye; Commissioner Woodland: Aye; Commission Chair John Quam: Aye; Deputy Commission Chair Linda Cramer: Nay. Motion carried, three to one.**

**8. FIRST READING - ORDINANCE 04-625 / AMEND CHAPTER 114  
NON-RESIDENTIAL HEIGHT RESTRICTION**

Commissioner Dale Woodland read the ordinance by title.

Commission Chair John Quam noted that the Ordinance dealt with ROR, C-1 and PSA zones, and noted that in the R-1 section, there was language not included in the R-2 section and asked City Attorney Jim Dye if this could be added. City Attorney Jim Dye responded that this Ordinance focused on commercial districts where flood proofing could be used on the ground floor, which is why residential areas had not been addressed. He confirmed that the language in the R-2 section could be changed as Commission Chair John Quam had suggested.

Commissioner Dale Woodland questioned why the R-1 and R-2 districts would not be included in this ordinance, and recommended cross-referencing of

language. City Attorney Jim Dye responded that this was a matter of style and preference, and noted that other Code sections could be amended to show reference to this language. Commissioner Dale Woodland noted that the reason this ordinance was being written was that language in the code and the comprehensive plan was unclear, and recommended that every effort be made to make the language clearly apply.

**City Attorney Jim Dye recommended a work session to discuss the topic and there was consensus for this.**

Commission Chair John Quam confirmed with the City Attorney that the Ordinance would need to be rewritten if it were to pertain to R-1 and R-2.

**MOTION: Commissioner Dale Woodland moved to continue the meeting until completion of this meeting's agenda, seconded by Commission Chair John Quam.**

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

City Attorney Jim Dye confirmed to Commissioner Dale Woodland that limiting the number of floors would not limit the actual bulk of the structure. Commissioner Dale Woodland said since he would not be able to attend, he would provide his comments, especially related to density and levels of occupancy, to the Commission prior to the October 14<sup>th</sup> work session, at which this topic is scheduled to be discussed.

City Attorney Jim Dye noted that it would be helpful to him, as the writer of the Ordinance, for the Commission to properly identify the problem before the solution is addressed.

Commissioner Carol Ann Magill said that she felt the matter was that three levels of occupancy were not desirable.

Commissioner Dale Woodland asked if the word "new" was intended, relative to commercial buildings, to grandfather in existing buildings? City Attorney Jim Dye responded that he was trying to draw a line so that if something that somehow exceeded the Ordinance's limit could be an existing non-conformity, but one that would prevent the owner of an existing two-story building from applying for a third floor permit on a 'grandfathered' basis.

City Attorney Jim Dye said he thought the 50% rule was in Comprehensive Plan and not in the Code and said that he would like to add this language to the code.

9. **FIRST READING - ORDINANCE 04-626 / AMEND SECTION 74-333, AMENDING THE ADDRESS NUMBERING REQUIREMENTS.**

Commissioner Carol Ann Magill read the Ordinance by title. Chair John Quam announced that the Second Reading would take place on Oct. 28<sup>th</sup>, 2004.

10. **FIRST READING ORDINANCE 04-627 - LAKE LAVISTA RESERVED PARCEL**

Deputy Commission Chair Linda Cramer read the Ordinance by title. Chair John Quam announced that the Second Reading would take place at the Commission Meeting on October 28<sup>th</sup>, 2004.

11. **DISCUSSION: REZONING THE GULF-FRONT PUBLIC PARK FROM PRA TO E-1**

Commission Chair John Quam noted that City Attorney Jim Dye had some issues to present. City Attorney Jim Dye asked the Commission what the purpose had been for the Commission to ask him to draft an ordinance. City Attorney Jim Dye said that if the purpose was to protect the land, it would require a third party. A more restrictive way to protect the land would be to put something in the Charter so that it would need to go to referendum to be changed. A title search would be needed in any event, and the Commission authorized the City Attorney to do this.

Commissioner Dale Woodland noted the Comprehensive Plan would need to be amended and said he agreed that an amendment to the Charter could be the best way to protect the land.

**Public Comment**

Georgia Van Cleave of Magnolia confirmed that the title belonged to the City. Commission Chair John Quam confirmed with City Clerk Alice Baird that she would check the City files for the legal description and title. City Attorney Jim Dye confirmed with Deputy Commission Chair Linda Cramer that it would be prudent to do the legal title search. **There was consensus to have the City Attorney do the title search and to schedule the topic for the next Commission Work Session.**

12. **ORDINANCE SIGNATURE PAGE FORMAT CHANGE**

City Clerk Alice Baird explained to the Commission that in order to expedite the processing of ordinances after their adoption, she proposed a new signature page, as attached to the evening's meeting packet. She noted that with the page that is in use now, she often had to wait weeks to gather all Commissioners' signatures.

Deputy Commission Chair Linda Cramer suggested including the names, although not the signatures of the seated Commissioners, for future reference and assistance in research. City Attorney Jim Dye confirmed that the names of the Commissioners and how they voted could also be included.

City Clerk Alice Baird confirmed that another page would be drafted and submitted to the Commission. Commission Chair John Quam confirmed that this topic would be on the October 14<sup>th</sup> Work Session agenda.

**13. CITY HALL REMODELING - CHANGE ORDER #2**

Mayor SueLynn said that she had not received the required documentation for the change order, and requested that a date and time be set to discuss the change order, since she believed that this needed to be done by the end of the fiscal year.

**There was consensus to put this topic on the Special Meeting agenda, scheduled to convene after the Final Budget Hearing.**

Deputy Commission Chair Linda Cramer recommended that the new grant matching funds be discussed prior to the approval of next year's budget. Mayor SueLynn confirmed that the scope of the subject first needed to be addressed. **Commission Chair John Quam suggested a Special Meeting at 5:00 p.m. on Monday prior to the Budget Meeting to discuss this topic and there was consensus for this.**

**PUBLIC COMMENT**

Diane Canniff of Oak Avenue noted that the oak trees were being cut at the Community Center, and expressed concern. Deputy Commission Chair Linda Cramer said that she called the Center and was informed that specific trees had extensive termite damage, and that they would not be completely removed if it is possible to save some. Ms. Canniff commended everyone who worked on the hurricane clean-up.

Georgia Van Cleave of Magnolia also commended the Mayor, the Commission and the EEEC for the recognition they had received for beautification of the City. She voiced concern about the appearance of the Pine Avenue side of the City Historical Park, and the fence and bins to be put up for the use of the Public Works Department. She asked the Commission to reconsider the location of these items.

**PRESS COMMENT**

A member of the press asked if engineering fees could be used as part of in-kind funds could be used for matching funds. Mayor SueLynn said she would find out.

**ADJOURNMENT**

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

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

The meeting adjourned at 9:52 p.m.

Respectfully submitted,

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City Clerk

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Date