

**CITY OF ANNA MARIA
CITY COMMISSION
DECEMBER 16, 2004
7:00 P.M.**

CALL TO ORDER (7:02)

PLEDGE TO THE FLAG

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

Also present: Jason Suzor, Waterfront Restaurant; Mayor SueLynn, City Attorney Jim Dye, City Clerk Alice Baird; Minutes Clerk Sylvie Reichmann

Press: Sun, Islander, Herald

CONSENT AGENDA

1. APPROVAL OF MEETING MINUTES: Special City Commission Meeting 11/12/04 - 3:00 p.m.; Special City Commission Meeting 11/12/04 - 4:00 p.m.; Regular Commission Meeting 11/18/04

Commissioner Carol Ann Magill asked for removal of the minutes of the Special Commission Meeting of November 12th, 3:00 p.m. and the minutes of the November 18th Regular Commission Meeting from the consent agenda for discussion.

MOTION: Commission Chair John Quam moved for the removal of the minutes of the Special Commission Meeting of November 12th, 4:00 p.m. and the minutes of the November 18th Regular Commission Meeting from the Consent Agenda for discussion, seconded by Deputy Commission Chair Linda Cramer.

Vote: All Ayes. Motion carried.

Commissioner Magill noted that on Page 2, of the November 12th Special Meeting Minutes (3:00 p.m.), the word 'fee' should be changed to "Resolution".

The Commissioner noted that on Page 5 of the November 18th minutes, Esther Mattick's question in Public Comment referred to a pending lawsuit against the City, not against her personally.

MOTION: Commissioner Carol Ann Magill moved to approve the Consent Agenda, seconded by Deputy Commission Chair Linda Cramer.

Vote: All Ayes. Motion carried.

MOTION: Commissioner Duke Miller moved to approve the Special Commission Meeting minutes of November 12th, 3:00 p.m. and the minutes of the November 18th Regular Commission Meeting, as amended, seconded by Commissioner Carol Ann Magill.

Vote: All Ayes. Motion carried.

2. **REPORTS & UPDATES**

Commission Chair John Quam announced that at the January 27th Regular Meeting, Joe McClash would address the Commission regarding Manatee and becoming a Charter County.

MAYOR'S REPORT

Mayor SueLynn announced that the lawsuit of Guggino vs. The City of Anna Maria would be handled by our City Attorney. She noted that the Florida League of Cities did not assist in the defense of any case not involving a request for monetary relief.

The Mayor displayed the new EEEEC (Environmental Enhancement and Education Committee) brochure now available at City Hall and thanked the members for their generous and valuable efforts in developing and presenting its content. She said it contains much information dealing with commonly asked questions and issues, and also educates both visitors and residents alike. Mayor SueLynn said the brochure would be sent to each home in the city and she congratulated the Committee for producing a much-needed and very useful publication.

5. **STORMWATER UTILITY FEE - Adopt Resolution #596 Stating the City's Intent to Use the Uniform Method for collection of Stormwater Utility Fees**

Deputy Commission Chair Linda Cramer read the Resolution by title. Commission Chair John Quam said that the Resolution was the first requirement in the development of a Stormwater Utility Fee, and that it would need to be adopted by January 2005. He said that the fee would be voted on later next year for institution in October 2005. Commission Chair John Quam said that the City could, subsequent to the adoption of the Resolution, still decide not to move ahead with the fee.

MOTION: Commissioner Duke Miller moved to adopt Resolution #596, seconded by Commissioner Dale Woodland.

Roll Call Vote: All Ayes. Motion carried.

Public Comment

None offered.

Commission Chair John Quam requested the addition of two time sensitive items to this evening's meeting agenda: A - Waterfront Restaurant - 114-134 (I) 2 - request for extension of building time; and B- Emergency Parking Ordinance #04-628.

MOTION: Commissioner Duke Miller moved to add items A - Waterfront Restaurant - 114-134 (I) 2 - request for extension of building time; and B - Emergency Parking Ordinance #04-628 to the agenda, seconded by Deputy Commission Chair Linda Cramer.

Vote: All Ayes. Motion carried.

A. WATERFRONT RESTAURANT - 114-134 (I) 2 - REQUEST FOR EXTENSION OF BUILDING TIME

MOTION: Commissioner Duke Miller moved to approve the extension to the allotted building time for the Waterfront Restaurant as per Ch. 114-134 (I) 2 - as long as work runs concurrent to the building permit and inspections by the Building Official. Motion seconded by Commissioner Dale Woodland. Vote: All Ayes. Motion carried.

Public Comment

None offered.

B. #04-628- PARKING ORDINANCE

Mayor SueLynn said that since the articles appeared in the paper the day before this meeting, there had been concern by Sgt. Kenney, Commission Chair John Quam and herself. She said that the emergency ordinance needed to be put into place immediately, and that this was something that could be done without the same notice requirements for ordinary resolutions. The Mayor said the ordinance could last for 60 days, and would allow the Commission time to complete the traffic ordinance it is currently working on.

City Attorney Jim Dye confirmed that the four new areas with 'no parking' that did not as yet have signs would be covered in this emergency ordinance, but would not necessarily be enforced until the formal traffic ordinance is in place.

Commissioner Carol Ann Magill noted that "southern" side of North Bay Blvd. should read "eastern" side. She suggested that if there is no parking on both sides of North Shore from North Bay to Alamanda, the police should be advised not to ticket until the new ordinance is in place.

Commissioner Dale Woodland said he would favor removing all four of the new items, so that the ordinance would be clearer. He said the lack of signage could be problematic. The Commissioner added that the four new items also did not appear to him to have anything to do with the purpose of the emergency ordinance

MOTION: Commissioner Duke Miller moved to remove "Crescent Dr. to Hibiscus Rd. on the west side" and also to remove the four new (marked) items. Motion seconded by Commissioner Dale Woodland. Vote: All Ayes. Motion carried.

Deputy Commission Chair Linda Cramer reiterated her request to correct the safety issues caused by a lack of a turnaround at the end of South Bay Blvd. Commissioner Duke Miller agreed.

Commission Chair John Quam indicated that the first reading of the ordinance

would take place on January 8th, with the second reading to follow at the January 27th regular Commission meeting.

MOTION: Deputy Commission Chair Linda Cramer moved to adopt Emergency Traffic Ordinance 04-628 as amended, seconded by Commissioner Dale Woodland.

Roll Call Vote: All Ayes. Motion carried.

Public Comment

None offered.

6. CONTINUED PUBLIC HEARING ON ORDINANCE #04-625 - Providing for Restrictions on the Placement and number of stories of Habitable Floors on Structures within the R-2, C-1, ROR, and PSP Zoning Districts

Deputy Commission Chair Linda Cramer read the ordinance by title.

Commissioner Carol Ann Magill noted that in reviewing the Comprehensive Plan, she had noted the rationale embodied in the ordinance was constant throughout it. She recommended adding language to the ordinance so that it would be in keeping with the Comprehensive Plan.

Commissioner Dale Woodland said he thought the rationale was to remove any ambiguities in the City's current ordinance.

Commissioner Duke Miller quoted from City Attorney Jim Dye's letter relative to the interior of structures and health, welfare, or safety issues. He said that he felt that residential property owners could have living space on one floor, and a home business office on the floor above it, and added that he felt that controlling activity inside a structure in ROR was somehow not appropriate.

Commission Chair John Quam said he felt that the City should wait for the Comp Plan revision to be complete, and then make the ordinance agree with the final outcome. Both Commission Chair John Quam and Commissioner Duke Miller recommended not moving forward with this ordinance at this time.

Commissioner Dale Woodland said it was a matter of urgency that ambiguities in the Code be cleared up.

City Attorney Jim Dye said that there was a lot of interest in the community regarding this ordinance. He noted that this ordinance went further than the Comprehensive Plan, in that floors are only mentioned relative to ROR in the Plan.

Deputy Commission Chair Linda Cramer said she also had questioned the inclusion of the R-2 and Commercial districts. She said that she felt the issue had been the number of retail or rental units in the building. Deputy Commission

Chair Linda Cramer said the problem in her eyes was that there was a multiple use proposed in one site plan application. She said that she hoped that the 37 ft. height restriction would remain in place, and that the Commission would simply legislate one permitted commercial use associated with a residential use.

Commissioner Carol Ann Magill recalled that the Commission was attempting to make an LDR agree with language in the Comp Plan. She noted that the Comp Plan had not actually used the word "above". She recommended removing all districts except ROR from the ordinance language. Commissioner Dale Woodland agreed.

**MOTION: Commissioner Duke Miller moved to table Ordinance #04-625, seconded by Commissioner Dale Woodland.
Roll Call Vote: All Ayes.**

City Attorney Jim Dye confirmed that the ordinance could be brought back for Commission approval at any future time.

Public Comment

Margaret Jenkins of Chilson Avenue said she did not see a need for the ordinance as long as the height restriction of 37 ft. from the crown of the road remained in force throughout the city.

Lawrence Adams, 210 Pine Ave. agreed that the Commission had a responsibility to protect property values. He said that he did not agree with legislating the use of the interior of a building, and could not approve of an ordinance that would prohibit future development of his property, which he clearly saw as a taking on the part of the government.

Resident Diane Canniff raised a point of order relative to tabling an item. She said that a motion to table was according to Robert's Rules a motion without debate. City Attorney Jim Dye confirmed this.

**MOTION: Commissioner Dale Woodland moved to suspend Robert's Rules for the sake of public comment, seconded by Commissioner Duke Miller
Vote: All Ayes. Motion carried.**

A resident who identified himself as a former fire fighter, asked the Commissioners to make believe they owned two properties on Pine Avenue, and imagine that through this legislation, they could lose \$200,000 in potential property value.

Another resident came forward to point out that compliance with FEMA prohibited habitable use on the ground floor. She said that the intent of having retail on the ground floor was to make it pedestrian friendly, so that customers would not be forced to climb stairs to do business.

Doug Copeland of 708 North Bay Blvd. said that the Ad Hoc Committee estimated that the new Comp Plan would not be in place until 2006, and urged the Commission to move forward. He said that not passing the legislation would allow a three-story ROR building, which was unprecedented.

Robin Wall, of 112 Palmetto Avenue said that she had attended numerous Ad Hoc Committee meetings, and said she believed the majority of the city's residents wished to preserve the city's current appearance. She recognized commercial pressure, but urged the Commission to limit commercial or residential use of structures to two floors. Ms. Wall said that the issue was compatibility, and preservation of the current atmosphere. She said that a policy allowing three floors of use was an important issue.

Georgia Van Cleave of Magnolia Avenue said that somewhere there would soon be a clash between parking availability and allowed commercial use.

MOTION: Commissioner Dale Woodland resume Roberts Rules, seconded by Commissioner Duke Miller

Vote: All Ayes. Motion carried.

7. CONTRACT: REPAIR AND REHABILITATION OF BRIDGES #135000 AND 135001, BID #04-01 / CHANGE ORDER NO. 1, CONTRACT TIME ADJUSTMENT

Mayor SueLynn confirmed that the change needed was from 160 to 190 days.

MOTION: Commissioner Duke Miller moved to accept the change order #1 from CEM Enterprises Inc. dated November 24th, seconded by Commission Chair John Quam.

Vote: All Ayes. Motion carried.

Public Comment

None offered.

8. AMEND / CHANGE HISTORICAL SOCIETY LEASE TO INCLUDE SOCIETY TO ALSO BE RESPONSIBLE FOR 'EXTERIOR' OF BELLE HAVEN BUILDING.

Commission Chair John Quam announced first reading of #05-629 at this evening's meeting. Deputy Commission Chair Linda Cramer read the ordinance by title.

Mayor SueLynn explained that the CRS (Community Rating System) required that City-owned property be insured, and reiterated that Belle Haven had been

deemed uninsurable, since the replacement cost would be more than its actual worth. She said the solution was now to give Belle Haven to the Historical Society.

Commissioner Carol Ann Magill asked if the City Pier would not affect the City's CRS rating. Mayor SueLynn said that she would need to check into this, as well as the ice house.

Deputy Commission Chair Linda Cramer said that Georgia Van Cleave had informed her that Belle Haven was on the State's master file, and said that therefore she did not believe that this would have an affect on the city's CRS rating. Mayor SueLynn said that this would require further research that she would do with the Building Official

Commission Chair John Quam announced that the second reading would be scheduled for January 27th, 2005.

Mayor SueLynn confirmed that she distributed copies of the lease agreement to the Commissioners, as well as #02-597 and Resolution #580 at this evening's meeting, and said that these documents would be useful in considering change of ownership of Belle Haven to the Historical Society. She said that she reviewed #02-597 and Resolution #580 passed by the City and found that neither designated the cottage as a historic building. She said that Georgia Van Cleave had submitted a document from the State that designated the structure as historic.

Ms. Van Cleave noted that according to the lease, the Ice House, the Jail House, and Belle Haven were all to be insured at the expense of the Lessee for \$500,000. She said it may be wise to speak with Manatee County to determine whether or not their historical properties were exempt from the CRS. Ms. Van Cleave asked how the Historical Society could get insurance if the City's own agency would not insure Belle Haven.

Commission Chair John Quam asked Mayor SueLynn to investigate before the second reading on January 27th.

Diane Canniff noted that everything relative to Belle Haven had been rushed through due to last minute developments. She said she felt that this issue was again being rushed.

9. ADOPT RESOLUTION #597 DESIGNATING BELLE HAVEN COTTAGE AS A HISTORIC BUILDING

Mayor SueLynn noted that the Resolution was also related to the CRS rating. Commission Chair John Quam confirmed that this would have a second reading on January 27th, and the Mayor said that she would do the research outlined in Agenda Item #8.

Deputy Commission Chair Linda Cramer recommended adopting the Resolution, as it could not hurt, but it could help Belle Haven move forward with regard to repairs.

MOTION: Deputy Commission Chair Linda Cramer moved to adopt Resolution 597 designating Belle Haven as a historic structure, seconded by Commissioner Dale Woodland.

Roll Call Vote: All Ayes. Motion carried.

Public Comment

Deputy Commission Chair Linda Cramer clarified for Diane Canniff that the Resolution recognized the State designation. Commissioner Carol Ann Magill explained that Building Official Kevin Donohue was requiring the Resolution so that he could allow the Historical Society to move forward with repairs.

Georgia Van Cleave of 515 Magnolia said that she thought the lease to the Historical Society covered all the buildings on the property. She said that she believed the Resolution was redundant.

PUBLIC COMMENT

Diane Canniff questioned the wording 'exterior' on Agenda Item #8. City Attorney Jim Dye explained that the original lease had leased the interior of the building to the Historical Society. He said the lease needed to be amended to lease the ground underneath the building to the Historical Society.

Georgia Van Cleave asked if the lease the City had with the historical Society also included the Ice House and the Jail. She asked if these two other buildings were covered by \$500K insurance, and if so by whom. Ms. Van Cleave asked if historical structures were exempt not only from CRS, but from insurance requirements. Commission Chair John Quam said the Mayor would investigate this prior to January 27th.

PRESS COMMENT

A reporter for The Sun asked City Attorney Jim Dye if the tabled ordinance would need to be advertised when brought back. The City Attorney said that a vote to un-table would first need to take place, and then public notice would be given as usual. City Attorney Jim Dye confirmed for the reporter that applications now in appeal and future applications would

A reported from The Islander noted that on December 9th Commissioner Duke Miller had asked City Attorney Jim Dye to look into how the Burt-Harris property rights act of 1995 would affect Ordinance #04-625. City Attorney Jim Dye said that the outcome of a legal dispute would be unpredictable. He noted that reducing heights from fifteen to five floors had been seen as a taking, however he expressed doubt that losing one floor of three would be seen the same way.

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 9:06 p.m.

Respectfully submitted,

Alice Baird
City Clerk

January 28, 2005
Date