

**CITY OF ANNA MARIA
CITY COMMISSION
FEBRUARY 24, 2005
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, Commissioner Duke Miller, Commissioner Dale Woodland

Also present: Mayor SueLynn, City Attorney Jim Dye, Minutes Clerk Sylvie Reichmann
Press: Sun, Islander, Herald

MOTION: Commission Chair John Quam moved to remove the Commission meeting minutes of January 7th and 27th, as well as Item #2 from the Consent Agenda, seconded by Deputy Commission Chair Linda Cramer.

Vote: All Ayes. Motion carried.

CONSENT AGENDA

1. **Approval of minutes: Special City Commission Meeting of 1/7/05; Regular City Commission Meeting of 1/27/05 and Special City Commission Meeting of 2/10/05.**

Commissioner Dale Woodland noted that in the Special Meeting Minutes of January 7th, 2005, on the second page, first paragraph, there had been an omission, and requested the Minutes Clerk to amend the minutes to include the information that John Adams had stated that a portion in the difference in the price FEMA had estimated was refundable to the City, and that Mr. Adams had said FEMA estimated \$25 per cubic yard and the City would be able to purchase it for \$20.

Relative to the minutes of January 27th, 2005, Commissioner Carol Ann Magill said that the meeting adjourned at 9:23, not 10:23. She said that she had moved to remove Item #4 from the Consent Agenda, not Commissioner Cramer. Commissioner Magill said that language on Page Two, Item #4 should be clarified to indicate that the Deputy City Clerk had requested the detailed information from the contractor, due to Commissioner Magill's inquiry and discussion with her.

MOTION: Commissioner Dale Woodland moved to approve the minutes of January 7th and 27th, 2005, as amended, as well as the minutes of January 10th, 2005, seconded by Deputy Commission Chair Linda Cramer.

Vote: All Ayes. Motion carried.

2. **Approval of Special Event Permit for the Anna Maria Island Historical Society "Anna Maria Island Heritage Day" to be held on March 5th, 2005.**

Commissioner Carol Ann Magill asked how the barricades would be installed and who would be doing it. She also asked if any arrangements for the trolley had

been made for the affected section of Pine Avenue during the event. Mayor SueLynn indicated that the Commissioner could obtain this information from Public Works Director George McKay. Deputy Commission Chair Linda Cramer said the Mr. McKay had installed the barricades the previous year and that since there had been issues, she would follow up again this year. Commissioner Cramer said that the trolley would be redirected down Magnolia Avenue. Mayor SueLynn indicated that this year, temporary “No Parking” signs would be placed on one side of Magnolia Avenue, and possibly also on Spring Avenue.

MOTION: Deputy Chair Linda Cramer moved to approve the Anna Maria Island Heritage Day special event, to be held on March 5, 2005, seconded by Commissioner Carol Ann Magill.

Vote: All Ayes. Motion carried.

3. Appointment of Randall Stover to the Planning & Zoning Board (Term to expire July 2006)

Commission Chair John Quam and Mayor SueLynn congratulated Mr. Stover on his appointment to the P&Z Board.

4. REPORTS & UPDATES

Commissioner Carol Ann Magill indicated that she had attended the Board meeting at the Community Center where they had discussed inviting members of the Commission for a tour of the proposed facility. City Attorney Jim Dye confirmed to the Commissioner that contact could not be made with the Applicants until the site plan goes through the hearing process, and advised the Commissioners to wait before they accept the invitation for a tour.

Commissioner Duke Miller reported that the Capital Improvements Advisory Committee Meeting held the day before this evening’s meeting had featured a presentation by Christopher Collins relative to the Stormwater Utility Fee. He said that Mr. Collins will have prepared new spreadsheets for the March 3rd meeting.

Deputy Commission Chair Linda Cramer urged the Mayor, Commissioners, and all present to support and attend the Historical Society’s Anna Maria Island Heritage Day festivities on March 5th, 2005.

Mayor SueLynn noted that there would be no Financial Report included in the regular Commission meeting packets tonight, and in the future, and indicated that she would be issuing a memo to this effect, stating that the report would be published monthly on a date to be determined by the Deputy City Clerk and herself.

5. SECOND READING AND PUBLIC HEARING: Ordinance #05-632 – Providing for Permitting of Vibratory Driven Piles.

Commissioner Dale Woodland read the ordinance by title, and noted that there

was a typographical error and that the word “providing” should be substituted for the word “proving”.

Chair John Quam declared the public hearing open. He noted that the Ordinance had been revised per the consensus at the February 10th, 2005 Work Session and that the packet had also included a memo to the Commissioners from City Attorney Dye relative to the changes that had been made. City Attorney Dye clarified at this evening’s meeting that he had removed the word “vibratory” from the term “pile driving” and had expanded the definition. He said that his only concern at this time was that the City had received no input from local contractors, adding, however, that such input would not affect how the Ordinance is now set up.

Chair Quam noted that on Page 6 “300 ft.” was to be stated and that the Commissioners had agreed that this should also be the case on Page 7. The City Attorney agreed to revise the language on Page 7 accordingly.

Commissioner Duke Miller requested to withdraw his motion. Chair Quam and Commissioner Woodland accepted, and there was consensus to withdraw the motion.

AMENDED MOTION: Commissioner Duke Miller moved to adopt Ordinance #05-632, as amended, seconded by Commissioner Dale Woodland. Roll Call Vote: All Ayes. Motion carried unanimously.

Public Comment

Chuck White of Magnolia Avenue noted relative to Page 3, Section 4. B., that it would be difficult to determine depth. He suggested that the City Engineer review the sentence. City Attorney Dye said that if the depth of the hole is not actually required to be stated, the language could be stricken altogether.

Deputy Commission Chair Linda Cramer asked if Building Official Kevin Donohue and City Engineer Tom Wilcox had reviewed the Ordinance, and Mayor SueLynn responded that it had been reviewed by the Building Official. **There was consensus to strike the words “depth of the piling hole”.**

Randall Stover of 815 North Shore said, relative to Section 4, paragraph A, that general liability insurance was stated as up to \$1 million per occurrence, and asked who would pay the difference if the damage exceeded one million dollars. Chair Quam said that he thought \$1 million would be sufficient, since only the slab and block wall were likely to be affected. Commissioner Magill agreed.

Deputy Chair Linda Cramer asked City Attorney Dye his opinion relative to Mr. Stover’s question. The City Attorney noted that the difference between the cost of \$1 million and \$2 million worth of insurance was not great. He said however, that the type of damage experienced by residents so far did not appear to

have been so severe as to warrant \$2 million. Mayor SueLynn said that structural problems can necessitate a great deal of expense, and Commissioner Cramer said that she would like to see the insurance amount increased. **There was consensus to increase the required insurance coverage to \$1.5 million.**

City Attorney Dye clarified that pile driving could not be done until an inspection was completed.

Mayor SueLynn said that fourteen days for hand-delivered notice is too short a time, and that she also had a problem with hand-delivery itself, since many people were not at home. **Commissioner Magill confirmed that she would also like to see 30 days allowed for notice. There was consensus to make this change, and the City Attorney said there was no problem with including it.**

Commission Chair John Quam closed the public hearing. Mayor SueLynn announced that the Ordinance would be effective immediately, as of this date.

6. SECOND READING AND PUBLIC HEARING, ORDINANCE #05-633 – Establishes Policies and Procedures for Paying Compensation During the Terms of Elected Officials

Commissioner Duke Miller read the Ordinance by title. Commission Chair John Quam declared the public hearing open. Chair Quam noted that only one change had been made, and that the Commissioners had been provided with the final draft. There was no comment from the Commission or the public. Chair Quam declared the public hearing closed.

**MOTION: Commissioner Dale Woodland moved to adopt Ordinance #05-633, seconded by Commissioner Carol Ann Magill.
Roll Call Vote: All Ayes. Motion carried unanimously.**

7. FIRST READING OF ORDINANCE #05-634 – Out-Door Dining Regulations within the City and Includes the Revised Definition of “Restaurant”.

Commissioner Linda Cramer read the Ordinance by title. Chair Quam confirmed that all of the Commissioners had received their revised copies of the Ordinance.

Relative to Page 3, Commissioner Duke Miller asked if the Commissioners had received his memo. He said that questioned paragraph “f.” relating to out-door entertainment, because it appeared to override the Noise Ordinance already in place in the city. Commissioner Miller noted that almost every business in the city is located adjacent to some residences, and said that to allow amplified music and announcements would violate the Noise Ordinance. He recommended adopting language from the Holmes Beach ordinance, prohibiting loudspeakers and amplified sound systems.

Deputy Commission Chair Linda Cramer said that she had met with Building

Official Kevin Donohue and discussed this Ordinance. The Commissioner said that the Building Official's feeling was that the Ordinance should be sent to the City Planner for review, to more thoroughly assess it relative to the Comprehensive Plan and the Land Use Regulations.

Relative to the definition of "restaurant", Commissioner Cramer said that she also had a problem with removing the 51% food service requirement. She indicated that she felt the definition of "tavern" was now more clear than the definition of "restaurant".

Commissioner Carol Ann Magill referred to Page 3, paragraph "e.", relative to physical barriers, and asked if this encompassed the Holmes Beach ordinance language relative to adjacent sidewalks. City Attorney Jim Dye confirmed that the language in the proposed ordinance related to sidewalks. The Commissioner asked the City Attorney to elaborate on a conversation she had with him relative to the Holmes Beach language being covered in other sections of the Anna Maria Code of Ordinances. City Attorney Dye said that any of Holmes Beach's language that was not covered elsewhere in Anna Maria's Code had been included in the Ordinance before the Commission. Relative to the Noise Ordinance, the City Attorney said that since this was already covered separately in Anna Maria's Code, it had not been included here.

Commissioner Duke Miller said that language relative to out-door dining was not appropriate since it would make new people apply for a special permit, while those who had been operating already could carry on as usual. Commissioner Miller clarified that he was not in favor of prohibiting out-door entertainment as long as it was acoustic and not amplified.

Commissioner Dale Woodland said that part of the character of the city includes music, and that while he was not in favor of loud entertainment, he would be reluctant to pass an ordinance prohibiting something that had been ongoing for some time, and to which many people in the city had no objection. He said that he felt the Ordinance was too restrictive.

City Attorney Dye said that the intent of this Ordinance was not to override the Noise Ordinance. He noted that the Special Use Permit in the Noise Ordinance is limited to a certain number of days.

Commission Chair John Quam agreed with the definition of "restaurant". He noted that at the Work Session of January 2004, the Noise Ordinance had been amended to control out-door entertainment. The Commission Chair said that therefore he felt that Anna Maria residents were adequately protected. During discussion with Commissioner Miller, Chair Quam said that he did not agree with "grandfathering". Commissioner Miller asked, therefore, if the Chair felt that paragraph "f." should be removed. Chair Quam asked how Noise Ordinance #04-616 could be upheld. He recommended referencing Ordinance #04-616 in

this Ordinance, and the City Attorney confirmed that this could be done. Commissioner Miller agreed, as long as the Noise Ordinance is enforced. Mayor SueLynn explained that Ordinance #04-616 and other ordinances are reactive rather than proactive, meaning that a complaint must be received by the City in order for enforcement to be initiated.

City Attorney Dye suggested leaving the language in paragraph “f.” as it stood and adding the following language as a final phrase: “shall be entitled to continue to use such facilities as non-conforming uses in accordance with the Noise Ordinance #04-616, and there was consensus to do this.

Chair Quam said, relative to paragraph “d.”, that bringing in all the tables and chairs could pose a problem for some businesses. Mayor SueLynn said that she thought it was unreasonable to ask establishments to bring in these items on a daily basis. **There was consensus to strike paragraph “d.”** Chair Quam confirmed that at the March Work Session the Commission would be discussing the issue of bringing items in before a hurricane.

Commissioner Woodland said he wondered if, since the Noise Ordinance was valid, why any out-door entertainment needed to be restricted. Commissioner Miller said he thought this was a good point.

Commission Chair Quam asked if the Commissioners wanted paragraph “f.” to remain.

Public Comment

Mike Eiffert said he represented the Galati’s on South Bay Blvd. Relative to paragraph “h.” he requested grandfathering the property next to Rotten Ralph’s.

Randall Stover suggested adding language to paragraph “f.” to read “and those existing must continue to meet Ordinance #04-616.

Ed Chiles of 113 Tern and owner of the Sandbar Restaurant thanked the Commission for recognizing the onerous nature of paragraph “d.” and striking it.

Sandy Oldham of Pine Avenue noted that the picnic table outside her store remains and asked if this ordinance affected her site. Relative to the discussion about the reactive nature of the Code, she noted that anonymous complaints are often used against businesses as a form of harassment.

Robin Wall of 112 Palmetto said that she thought paragraph “f.” should remain. She noted that sound is a hot issue in the city, and that it seemed difficult for residents to use the Noise Ordinance, and she felt it did not feel residents were protected very well. She noted that Naples had an ordinance that provided for a one-year permit for out-door entertainment, and if no instances of complaint are received, then the permit is made permanent at the end of that one-year period.

John Mattick of Gulf Drive asked that paragraph “f.” be stricken and thanked the Commission for striking paragraph “d.”

Judy Adams of 102 Magnolia said that she would like to see the Noise Ordinance strengthened. She said she thought residents need to go through too much trouble to have the ordinance enforced. Ms. Adams indicated that she thought paragraph “f.” should remain.

Commissioner Miller said that he thought “out-door entertainment” should be stricken from paragraph “f.”

Commission Chair John Quam noted that the second reading of the Ordinance would be held at the Regular Commission Meeting on March 24, 2005. **He received consensus to put this topic on the next Work Session Agenda.** At Mayor SueLynn’s request, City Attorney Dye agreed to offer options for paragraph “f.”

8. FIRST READING OF ORDINANCE #05-635 – Opting Out of Providing for Early Voting for the Local November Election.

Commissioner Dale Woodland read the Ordinance by title.

Commissioner Carol Ann Magill said that she had reviewed the February 8th memo to the Commissioners and noted that no meetings could have been held at City Hall during early voting. Relative to Section 2.b., the Commissioner asked if presidential elections would require early voting. City Attorney Dye responded that early voting for general or presidential elections would continue to be covered by the Supervisor of Elections facilities.

Public Comment

Randall Stover asked if this ordinance only pertained to the November 2005 election. Discussion followed in which it was clarified to the Commissioners that this Ordinance opted out of early voting for all years. Randall Stover confirmed with the Commission that the City was opting out because no elections were held at other times of the year.

Chair Quam announced that the second reading of the Ordinance would be held at the next Regular Commission Meeting on March 24th, 2005.

9. CONTRACT FOR CITY PLANNER

Mayor SueLynn clarified that this item was relative to two site plan review applications. She said that the new planner would bill the City and the City would then be reimbursed by the applicants. The Mayor asked for permission to sign the two contracts, noting that Mr. Garrett had already begun work.

Commissioner Magill confirmed that costs for reports and attendance at meetings

would be specified in detail and that they would be covered.

MOTION: Deputy Commission Chair Linda Cramer moved to approve the planners agreements regarding the Sandbar Restaurant and the Anna Maria Island Community Center site plan review, and to authorize the Mayor to sign the contracts. Commissioner Dale Woodland made the second.

Vote: All Ayes. Motion carried unanimously.

Commissioner Woodland confirmed with the Mayor that it would be likely that the City would retain a planner for other specific site plan reviews. The Mayor indicated that she would be approaching the Commission during upcoming budget sessions to retain a planner in a similar way as the City Attorney and the City Engineer.

Public Comment

In response to a question from Randall Stover, the Mayor briefly explained the site plan review process.

PUBLIC COMMENT

Heard throughout the meeting.

PRESS COMMENT

None offered.

ADJOURNMENT

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

Vote: All Ayes. Motion carried.

The meeting adjourned at 8:50 p.m.

Respectfully submitted,

Alice Baird
City Clerk

March 24, 2005
Date