

**SANIBEL CITY COUNCIL REGULAR MEETING
JUNE 07 2011**

Mayor Ruane called the meeting to order at 9:15 a.m.

Councilman Harrity gave the Invocation and led the Pledge of Allegiance.

Members present: Mayor Ruane, Vice Mayor Denham, Councilman Congress, Councilman Harrity and Councilman Jennings.

Planning Commission Report

Commissioner Krekel gave the report:

- No Planning Commission meeting
- Permitting Process Sub-committee meeting

Public Comments

Ed Seibert spoke to oil drilling in the gulf.

Council recessed at 9:12 a.m. due to audio problems.

Council reconvened at 09:16 a.m.

Rae Ann Wessell spoke to the following:

- Devastating condition occurring up stream
- 3 major blue-green algae outbreaks
- Located from Labelle to Cape Coral
- Caused by nutrient overload
- Consequence of water flow cut-off to the Caloosahatchee River

Trisha Dorn, LCEC presented the City a \$10,400 rebate check.

Council Comments

Councilman Jennings spoke to this Friday being Cancer Awareness Day. He advised that the Sanibel Recreation Center was up for the best vote in the News Press.

Vice Mayor Denham wished the City Manager a happy birthday. He also spoke to the FCAT results in the Sanibel School. He asked if Council should send a letter of congratulations under the Mayor Ruane's signature? He spoke to his attendance at the SWMD board meeting on Thursday.

Ms. Zimomra answered it was appropriate and staff would draft a letter for the Mayor's signature.

Councilman Harrity spoke to an article in the News Press regarding water problems in the Caloosahatchee. He also spoke to the FCAT scores at the Sanibel School.

First Reading of an ordinance and scheduling of public hearing.

ORDINANCE 11-004 AMENDING CITY OF SANIBEL ORDINANCE 07-011, AS AMENDED, WHICH ESTABLISHED AN UPDATED AND REVISED SCHEDULE OF RECREATION USER FEES FOR CITY OF SANIBEL

RECREATION PROGRAMS; REVISING AND UPDATING THE CURRENT SCHEDULE TO ESTABLISH AN “EARLY BIRD” REGISTRATION FEE SCHEDULE, ADD ADDITIONAL PROGRAMS AND AMEND FEES AS PROVIDED IN THE ATTACHED REVISED SCHEDULE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 11-004.

Council set the second reading and public hearing July 19, 2011 at 09:15 a.m.

ORDINANCE 11-005 AMENDING CITY OF SANIBEL ORDINANCE NO. 07-014, AS AMENDED, WHICH ESTABLISHED MEMBERSHIP FEES FOR THE CITY OF SANIBEL RECREATION CENTER; ESTABLISHING A “MEMBERSHIP UPGRADE” FOR AFTER-SCHOOL PROGRAM PARTICIPANTS; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 11-005.

Council set the second reading and public hearing July 19, 2011 at 09:30 a.m.

Second Reading and Public Hearing

ORDINANCE 11-003 AMENDING THE CODE OF ORDINANCES, SUBPART B LAND DEVELOPMENT CODE, IN CHAPTER 126 ZONING, ADDING, AMENDING AND RENUMBERING SECTIONS IN ARTICLE XII RESORT HOUSING DISTRICT AMENDING SECTION 126-631 RELATED TO UPDATE THE REFERENCE TO THE RESORT HOUSING DISTRICT MAP; AND AMENDING SECTION 126-632 FINDINGS TO ADD FINDINGS RELATED TO THE MAINTENANCE OF THE RESORT HOUSING DISTRICT; AND AMENDING SECTION 126-633 PURPOSES, INTENT AND OBJECTIVES TO UPDATE THE OBJECTIVES FOR THE DISTRICT; AND ADDING A NEW SECTION 126-634 DEFINITIONS TO DEFINE REDEVELOPMENT, RECONSTRUCTION AND REHABILITATION IN THE RESORT HOUSING DISTRICT; AND RENUMBERING SECTION 126-634 PERMITTED USES AS 126-635; AND ADDING A NEW SECTION 126-636 DEVELOPMENT INTENSITY TO ALLOW EXISTING HOTELS, MOTELS OR RESORT CONDOMINIUMS THAT ARE REDEVELOPED IN ACCORDANCE WITH THE *SANIBEL PLAN* AND THE LAND DEVELOPMENT CODE TO MAINTAIN UP TO THEIR EXISTING DENSITY, PROVIDED THAT REDEVELOPED HOTELS, MOTELS OR RESORT CONDOMINIUMS COMPLY WITH SPECIFIC CONDITIONS; AND AMENDING SECTION 126-635 DEVELOPMENT REGULATIONS TO RENUMBER THE SECTION AS 126-637 AND TO CLARIFY STANDARDS FOR RECREATIONAL OPEN SPACE, HEIGHT LIMITS, LIMITS ON COVERAGE WITH IMPERMEABLE SURFACES, DEVELOPED AREA AND VEGETATION REMOVAL AND SETBACKS IN THE RESORT HOUSING DISTRICT AND TO ADD STANDARDS GENERALLY AND FOR MAINTENANCE OF COMMUNITY CHARACTER AND HISTORICALLY SIGNIFICANT STRUCTURES AND TO ADD STANDARDS FOR BEST ECOLOGICAL PRACTICES AND SURFACE WATER MANAGEMENT; AND RENUMBERING SECTION 126-636 RESORT

HOUSING ACCESSORY BEACH EQUIPMENT REQUIREMENTS AS 126-638; AND IN CHAPTER 126 ZONING, ARTICLE XIV SUPPLEMENTAL DISTRICT REGULATIONS, DIVISION 3 BUILDING AND AREA REQUIREMENTS, SUBDIVISION I IN GENERAL AMENDING SECTION 126-939 STANDARD MINIMUM DISTANCE BETWEEN BUILDINGS TO EXEMPT RECONSTRUCTED BUILDINGS IN THE RESORT HOUSING DISTRICT FROM THIS STANDARD; AND IN CHAPTER 86 DEVELOPMENT STANDARDS, ARTICLE III RESIDENTIAL, DIVISION 3 UNIFIED RESIDENTIAL HOUSING, SUBDIVISION III MULTIFAMILY HOUSING AMENDING SECTION 86-163 MAXIMUM NUMBER OF DWELLING UNITS TO REVISE THIS STANDARD FOR RECONSTRUCTED BUILDINGS IN THE RESORT HOUSING DISTRICT; AND IN CHAPTER 126, ZONING, ARTICLE V NONCONFORMANCES, DIVISION 2 USES AMENDING SECTION 126-152 EXCEPTIONS AND PROHIBITIONS TO PROVIDE ADDITIONAL EXCEPTIONS FOR BUILDINGS IN THE RESORT HOUSING DISTRICT; AND IN CHAPTER 126, ZONING, ARTICLE V NONCONFORMANCES, DIVISION 3 STRUCTURES AMENDING SECTION 126-172 IMPROVEMENT, RECONSTRUCTION OR RELOCATION PROHIBITED; EXCEPTIONS TO PROVIDE ADDITIONAL EXCEPTIONS FOR BUILDINGS IN THE RESORT HOUSING DISTRICT; AND IN CHAPTER 82 ADMINISTRATION, ARTICLE IV DEVELOPMENT PERMITS, SUBDIVISION II SHORT-FORM, AMENDING SECTION 82-401 APPLICATIONS TO INCLUDE ADDITIONS TO EXISTING BUILDINGS OR STRUCTURES THAT ARE REQUIRED TO MEET FEDERAL OR STATE REQUIREMENTS FOR THAT USE TO THE LIST OF DEVELOPMENT ACTIVITIES ELIGIBLE FOR SHORT-FORM APPLICATIONS; AND PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE
Ms. Zimomra read the title of Ordinance 11-003.

Director Jim Jordan spoke to the following:

- Incorporate recommended amendments from the May 05, 2011 Council meeting
- Amendments in red
- Page 9 – subparagraph 4 currently reads, “allow developments located within the resort housing district to make improvements to aging buildings and structures;” have now discerned between buildings, principal buildings and accessory structures; added “accessory structures”
- Page 14 – Section 126.636 Development Intensity - emphasis was to clarify when redeveloping as a resort housing use the modifications were made must retain units, use of property and conform with limits established by the intensity maps
- Page 14 – Section 126.636 amended language: “which in almost all cases will result in a reduction from the number of existing units on the site prior to redevelopment”
- Page 15 - Section 126.637 Development Regulations - changing residential units to “principal structures with resort units” reconstruction of existing principal structures using either residential or resort units
- Page 16 - Section 126.637 Development Regulations - regarding the master plan must be developed with both reconstruction or redevelopment activity and adding at the end “beach walkways or access walkways all existing development including accessories structures located in the Gulf Beach zone must be removed from the Gulf Beach zone when a resort redeveloped as residential units or redeveloped it’s principal structures with resort or residential units”

- Page 17 – Section 126.637 Development Regulations – best ecological practices with additional language unless specifically exempt; “however, these areas are included within the calculation of coverage with impermeable surfaces in developed areas unless specifically exempt
- Section 126.637 Coverage, Developed Areas and Vegetation Removal: strike out “the removal of equal amounts of existing impermeable surface and developed area of one square foot to remove the unneeded and unrequired”
- Section 126.637 inserted “residential units” defer to using principal structures with resort or residential units
- Section 126.637 Onsite Surface Water Management – inserted the words “residential units;” deleted “full;” clarity for purposes of mitigating for additional development impact to there was no loss in onsite storm water storage or no decrease in water quality discharge
- Section 86.71 applies to the limit of average occupancy rates for development and redevelopment – proposed language grandfathers the existing average occupancy rate for hotel/motel that retain short-term use
- Retain any proposed language that prohibits reconstruction or rehabilitation from having a deleterious affect on beach carrying capacity for use by wildlife and maintenance of the beach carrying capacity is a policy of the Sanibel Plan
- The term “substantial improvement” of a building requires compliance of the new flood zone and evaluating the location of the lowest floor in relationship to the base flood elevation – currently the lowest floor of all hotels/motels was below the base flood elevation and would require a new foundation, which would qualify as redevelopment
- Section 122.101 includes a redevelopment definition and means the redevelopment of principal structures on a parcel of land that was previously developed with a principal structure
- Section 122.101 retain language for redevelopment crafted for developments that had to remove all exotic vegetation
- The redevelopment of residential buildings in the Gulf Beach zone was not an authorized key ingredients authorized by City Council
- Planning Commission adopted Resolution 11-05 which found the majority of the work done consistent with the Sanibel Plan, but the provision to allow resorts to replace pools in the Gulf Beach zone was found inconsistent if an alternate site could not be found upland of the Gulf Beach zone
- Planning Commission Resolution 11-05 provided language that if Council determines the proposed ordinance was inconsistent with the Sanibel Plan as it pertains to 3.3.1 Coastal Zone Protection and recommends the policy be amended as part of the 2011-12 EAR report be amended; current language was as follows: “the City would continue to prohibit development and redevelopment in the Gulf Beach zone and forward of the 1974 CCCL existing buildings seaward of the 1974 CCCL that are substantial damaged by a natural disaster may be allowed to build back in their pre-disaster location”
- New proposed language as follows: “ Lawful existing accessory swimming pools and other accessory structures locate din the resort housing district may be reconstructed in their existing location seaward of the 1974 CCCL provided there are no feasible locations available elsewhere on-site that are not within the Gulf Beach zone
- Ordinance would take effect immediately after adoption except in Section 126.152 subsection a3 and a4; 126.172 subsection a6 that allows reconstruction of swimming pools and accessory structures in the Gulf Beach zone and the effective date shall be effective upon an amendment of the Sanibel Plan that clarifies that replacement of accessory swimming pools and other structures is permitted in the Gulf Beach zone subject to specific criteria
- Alternate language considered that would change the definition of redevelopment not to include swimming pools and accessory structures
- Revised definition in Chapter 94 of the Land Development Code under Flood requirements – Redevelopment means the discretionary act of reconstruction or the substantial improvement as defined by Chapter 94 of aging buildings or structures for the application of the regulation in this article the replacement of an accessory swimming pool or other accessory structure whether or not

said structure is located in the Gulf Beach zone shall not be considered redevelopment. This alternative would address the compliance with policy 3.1 as a clarification. The redevelopment of buildings for human habitations is prohibited in the Gulf Beach zone. The replacement of accessory swimming pools and other accessory structures would be permitted subject to these conditions

Discussion ensued regarding concern with language added, why accessory on page 9 was needed, page 14 added reduction of number of units should a development no longer desire resort term occupancy, struggling with residential units, residential units imply people live there, page 17 agree with green technology and not allowing for additional coverage, page 20 remove language and retain the language and principles from the Planning Commission and did an excellent job, Council felt uncomfortable, planning commission completed an acceptable document, change any language that changes principles, redevelopment should remain in the document, strike all wording "residential units", comfortable with document presented on May 03, 2011, origin of residential units, Mr. Jordan answered that everyone looked at this ordinance as the last opportunity for comments, all comments made at the first reading were incorporated, residential density a big portion of the resort housing district and tied to the study in an important way to retain the use, Mr. Cuyler stated that looking at page 16 where residential use was found and read "Except for beach dune access ways all existing development including accessory structures located in the Gulf Beach Zone must be removed from the Gulf Beach Zone when a resort redevelops and the added language was "its residential units," very dangerous if language were included when discussions was not heard during a public hearing, more comfortable with a document that had been discussed, page 14 "which in almost all cases will result in a reduction of the number of units on the site to be redeveloped prior to the redevelopment," if all parties were aware of the prior statement, Mr. Jordan answered that this was a comment that came up at the first reading, he emphasize there would be a reduction if the use was not retained, Mr. Cuyler stated that was a clarification, "residential units" would be removed from the proposed ordinance, remove "accessory" from the proposed ordinance on page 9, Mr. Jordan stated that anyone that was interested had the opportunity to participate by attending the Planning Commission meetings and the City Council meetings, clarity on pools, and Mr. Cuyler stated it was good to lay out items.

Public Comment

Paul Reynolds agreed with removing the term "accessory."

Larry Schopp, COTI spoke to minor tweaking needed on page 16, he further spoke against the term "residential units," and the original language should be retained. He also spoke to and allowing pools and other accessory structures in the Gulf Beach zone if there was no other feasible alternate site. He also spoke to nothing in the code to prevent relief for accessory structures in the Gulf Beach zone.

Mr. Cuyler stated the intent was if redevelopment was instituted it applied to the primary redevelopment of principle structures.

Discussion ensued regarding not removing all units, but a unit and Mr. Cuyler stated it was an attempt to distinguish development in places you live in and doing any redevelopment in terms of a replacement of an accessory structure except for beach dune access way, using principal structure rather than residential units.

Jeremy Kain, Chamber agreed with the replacement of residential units to principle structure. He also spoke to new language of best ecological practices of open space and what was the process. Mr. Cuyler stated that there would be a variance or change the code as was done at least one time before for dumpster locations and an elevator.

Discussion ensued regarding language included in green technology and should come to the Planning Commission for a variance, Mr. Cuyler included in open space, and not include all green technology and all exempted from coverage.

Beverly Grady, representing Sundial West, spoke to the following:

- Sundial West would not be able to replace principle structures, but could retain minor structures
- Page 16 replace existing pool and not trigger items for redevelopment and completely redoing the water system and agrees to language
- Confirm the ordinance does not change or further restrict buildings in the Gulf Beach Zone – ordinance for voluntary resort redevelopment
- Important to recognize that the majority of redevelopment was for residential units and the need to retain the resort housing units
- Request keep effective date – ordinance as written consistent with the Sanibel Plan

Karen Storjohann spoke to the following:

- Page 17 green technology and misunderstanding the term might be too broad, whole section needs more amplification
- Page 17 change to this limitation shall be enforced by the City, not may
- Page 17 reference to court order by Sand Point Condos and why only that court order was included and not others – Loggerhead Cay precluded from renting their lock-out units as separate entities and more around the island

Director Jordan answered that sections noted above were already in the code under space requirements and shall as oppose to maybe, maybe was already in the code, open space requirement specifically to SanPoint tied to the settlement was already in the code with the exception of the strap number that changes from time to time.

Sonia Smith, CASI spoke to this ordinance would help encourage resorts to modernize. She supported the language changed for substantial improvement.

Mr. Cuyler explained that the effective date noted in the ordinance is the usual date of becoming effective immediately upon adoption. He further explained that was one provision found inconsistent with the Sanibel Plan, which was redevelopment in the code and recommended that a comprehensive plan amendment be done. His recommendation to Council was to find the majority effective upon adoption, but those items inconsistent with the Sanibel Plan would be held until a plan amendment was made and adopted.

Discussion ensued regarding hip roofs because the majority of roof destruction was from flat roofs during Hurricane Charley.

Mr. Jordan stated that the flat roofs were due to the height requirements and design requirements were not included in the redevelopment discussion.

Vice Mayor Denham moved, seconded by Councilman Congress, to adopt Ordinance 11-003 and amend by replacing the wording “residential units” throughout the document with “principle structure,” remove the word “accessory” on page 16, pool decking not changed, but remove the word “redevelopment,” keep the effective date to be immediate with the exception of language to be considered at the next Plan amendment, which would be a separate effective date.

Karen Storjohann spoke to green technology.

The motion carried.

Council recessed at 10:50 a. m.

Council reconvened at 11:02 a. m.

Mayor Ruane announced that there was a scheduled Executive Session, but at this time would like for Council consider discussing the mangrove issue before going in to Executive Session.

City Council agreed

NEW BUSINESS

Request by the Clam Bayou Neighbors Association (Ralph Clark, designated representative) that the City Council, as property owner, approve the trimming of mangroves, buttonwoods and other vegetation along 1,700 linear feet on City-owned conservation lands that are part of Silver Key (NOTE: This is not a quasi-judicial hearing)

Mr. Cuyler spoke to the following:

- Sept. 29, 2009 permit to trim mangroves
- 9 property owners on Clam Bayou
- Ralph Clark, representative sought to trim mangroves/buttonwoods on 1,700 linear feet across the bayou
- Unusual application and described by Dr. Loflin unprecedented
- Applicant met with staff October 09, 2009
- Discussion of application and requirement of receiving owner permission
- Application insufficient with discussion of ownership
- City of Sanibel own Silver Key and the land accretion also City land
- Email from State of Florida possibly making a claim of acreage
- Applicants advised that if City-owned property City Council would need to consent or state would as owner
- Attorney for applicant positions was land owned by state
- Attorney for applicants asked to talk with State and after a year of intermittent meetings in 2010
- Ultimately state and DEP did not claim upland areas
- Applicant asked that submerged land was state land and DEP disagreed
- City maintained application – due to incompleteness and offered to mail check back
- During 2010 applicant attorney dealt with DEP, City staff did not
- Earlier 2011 contacted by applicant and attorney in 2011 wanted to pursue the application
- Advised staff to take a formal look even though not obliged to process application
- Not approved: 1) never had ownership of property; 2) Dr. Loflin accessed acreage to be conservation land
- Environmental Sensitive Land District in code and recognized by maps
- Discretion of City Council to decide if land was owned by City
- Dr. Loflin memo stated accreted land conservation property
- City Council does not issue mangrove trimming permits
- City Council sitting in the capacity as the land owner
- Application deficient and City Council must provide consent for trimming
- Number of legal issues
- Applicants argue CC administrative procedures act – Mr. Cuyler disagrees
- Under procedure act state agencies must issue and deny application
- Applicants did not submit application in a timely manner – City Attorney opined not applicable
- Determined through state not claiming property and letter dated June 06, 2011 that state not claim any land at mean high water

Discussion ensued regarding receiving a document stating that the land was not state land, as owner of City land City Council act in the capacity as land owner, according the Sanibel Plan mangroves were not trimmed o conservation land, role of Council, Mr. Cuyler stated that if City procedures required Council to approve trimming permits, but when the application was for City property mangrove trimming, Council sits as the land owner to give consent or not, Mr. Cuyler advised applicants that ownership or control had to be

established as part of the application, question to Council as the owner of the land does Council consent to someone coming on to City land to trim the mangroves, application process completed trimming or not, struggle with process to allow as a landowner and Dr. Loflin's opinion was can not cut, therefore there was no option, Mr. Cuyler advised that Council's hands were pretty well tied to not give permission, clearly map in the environmental conservation district, and Mr. Cuyler indicated he would take the decision to City Council before Dr. Loflin submitted his opinion.

Public Comment

Ralph Clark deferred to his attorney Mr. Hernandez spoke to the following:

- Association not asking the City to give consent as property owner
- Maintained throughout process that the City process mangrove trimming permits stands in the place of the state
- Clear the City has to comply with procedural requirements of F.S. 120
- Mr. Cuyler consistent from the beginning
- Letter submitted notes filed with City an application with the failure of F. S. 120
- Fundamentally disagree with the following
 - City staff maintained that City does not own the land in a 2010 from Mr. Cuyler's correspondence
 - Embarked on a quest to receive State approval
 - State noted there was no approval needed
 - Staff changed when State noted applicant did not need approval
 - There was no request for additional information within the first 30 days by F. S.
 - City position that State permission was needed
 - Staff embarked to get the State to deny the ownership
 - Letter from yesterday was not an opinion letter
 - Dilemma raised that Council could give consent, but it was conservation lands
 - Conservation lands are so designated in the Sanibel Plan
 - Sanibel Plan says "ELSL maps of the LDC, but not maps of the Sanibel Plan/Comprehensive Plan
 - Bring to Council the applicability of F. S. 120
 - Asking Council the ministerial act to give the opinion the law says could be given

Mr. Cuyler noted:

- Indicated at the beginning of the process emails spoke to the fact that the land might be state property
- Unclear whose property the land belonged to
- Attempted to get in writing if state owned or not
- Comprehensive Plan has a whole page discussing the ESLD district, designation and not the best interpretation
- Within the first 30 days, assuming subject to administrative law and must be notified; but in a staff meeting was notified application was not insufficient – would not process

Mr. Hernandez noted:

- Not a judicial hearing
- If conceded a timely request of State's approval and received by the City the 90 day clock begins
- Belated claim the City owned the property was made 6 months later
- Asking for ministerial option

Discussion ensued regarding Council could or could not argue a legal argument, position argued before or against environmental issues, would argue that the proposal was not in the best interest of the island, the request was an affront to the Sanibel Plan, Mr. Hernandez appreciates the policies, but represents people who live on Sanibel, policy and position subordinate to the law, laws to protect the majority of the residents of the island, Mr. Hernandez stated the laws and regulations of the island could only operate under state law, 1996 Florida law repealed the City's mangrove laws, question to be resolved some where else, Mr. Cuyler stated it was put on the agenda for Council's to approve and Mr. Hernandez does not wish approval, item on the agenda was a request to trim mangroves was not an appropriate item and an interpretation of F. S. 120, State law spoke to the law and not authority to make a determination, Mr. Hernandez asked the City to complete the ministerial act and would go someplace else, not notified within 30 days, and Mr. Hernandez noted that staff did not advised the applicant of a decision within 30 days.

City Council took no action.

Council recessed at 11:54 a.m. to go into Executive Session.

Mayor announced that Council was convening an **EXECUTIVE SESSION RELATING TO UNION NEGOTIATIONS**

In attendance shall be only the following persons:

Mayor Kevin Ruane

Vice Mayor Mick Denham

Councilman Doug Congress

Councilman Marty Harrity

Councilman Jim Jennings

Sanibel City Manager Judie Zimomra

Sanibel City Attorney Kenneth B. Cuyler

Jim Isom, Director of Administrative Services

Sylvia Edwards, Finance Director

Wayne Helsby, Labor Counsel (Allen, Norton & Blue) (by phone)

Council reconvened at 1:03 p.m.

Request and status of grass roots efforts to raise funds for the Independence Day Fireworks

Ms. Zimomra noted that Sharon Minchie was asking for donations to have a fireworks display. She further stated that staff had received two proposals for an Independence Day fireworks.

Mayor Ruane moved, seconded Vice Mayor Denham, to authorize grass roots effort to raise funds for the Independence Day fireworks display, but all funds must be in the possession before the contract was executed.

Public Comment

Judy Minchie asked if the lowest bidder had to be chosen and Ms. Zimomra answered yes. She also spoke to donations from last year and those being made this year.

The motion carried.

CONSENT AGENDA

- b. RESOLUTION 11-048 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2011-029 AND PROVIDING AN EFFECTIVE DATE (To redistribute the**

funding and manpower authorization between full-time (FT) and part-time (PT) personnel as interim structure due to the departure of the Department director (FT) and the Recreation Program Coordinator (FT); the temporary promotion of the Aquatics Manager (FT) to Acting Department Director and Senior Lifeguard (FT) to Acting Aquatics Manager; the reappointment of 2 Lifeguards (PT) to Senior Lifeguards (PT) and reappointment of an Administrative Receptionist (PT) to temporarily fill on a part-time basis to Recreation Program Coordinator; increase in the hours of duty for 1 Administrative Receptionist (PT); adjustment of the hourly pay rate for Lifeguards to be competitive in the labor market. The funding is redistributed as follows: full-time salary from \$474,140 to \$444,368 and part-time from \$360,517 to \$390,289. The manpower is redistributed as follows: FT = 9.25; PT = 14.81 FTE. This budget amendment does not increase the FY11 budget)

- c. **RESOLUTION 11-049 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2011-026 AND PROVIDING AN EFFECTIVE DATE** (To roll forward \$2,831 Florida Department of Law Enforcement (FDLE) grant for the purchase of a computer. This amendment increases the FY11 budget by \$2,831)
- d. **RESOLUTION 11-053 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2011-027 AND PROVIDING AN EFFECTIVE DATE** To budget and appropriate \$50,000 for the purchase of a crime scene vehicle from forfeiture funds collected previously. This amendment does not increase the FY11 budget)
- e. **RESOLUTION 11-055 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2011-030 AND PROVIDING AN EFFECTIVE DATE** (to reduce the administrative services director position from 1.0 FTE to .75 FTE, budget the salary payout for the full-time position, transfer the budget for this position from the full-time salary line to the part-time salary line. This budget amendment does not increase the FY11 budget)
- f. **RESOLUTION 11-051 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2011-028 AND PROVIDING AN EFFECTIVE DATE** (To reflect the amended funding and manpower authorization required for the Beach Parking Enterprise Fund resulting from the use of part-time, as-needed personnel to monitor the installation of new parking machines capable of accepting credit cards; and reduce the Police Officers charged to the fund from 3 full-time to 2.5 full-time employees. This budget amendment does not increase or decrease the FY11 budget) to redistribute funds and manpower authorization for the Police Department)
- g. **RESOLUTION 11-052 ACCEPTING WASTEWATER COLLECTION AND TRANSMISSION SYSTEM EASEMENTS FROM SANIBEL PROPERTY OWNERS FOR THE SANIBEL SEWER SYSTEM EXPANSION PROJECT, PHASE 4; AUTHORIZING THE CITY MANAGER TO RECORD SAME IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE**
- q. **RESOLUTION 11-054 FIXING THE TIME AND PLACE FOR A PUBLIC HEARING FOR SHELL HARBOR CANAL DREDGING; AND PROVIDING AN EFFECTIVE DATE**
- v. **RESOLUTION 11-047 APPROVING THE CITY OF SANIBEL'S PARTICIPATION IN THE SUNTRUST BANK PURCHASING CARD PROGRAM; AUTHORIZING THE CITY MANAGER TO EXECUTE A VISA COMMERCIAL CARD AGREEMENT FOR CITY GOVERNMENTS; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the titles of Resolutions 11-048, 11-049, 11-053, 11-055, 11-51 and 11-052.

Vice Mayor Denham moved, seconded by Councilman Congress, to adopt Resolutions 11-048, 11-049, 11-053, 11-055, 11-051 and 11-052.

Public Comment

None

The motion carried

- a. Approval of minutes – May 03, 2011 Regular Meeting
- h. Approval of a payment in the amount of \$28,997 to Lee County Cooperative Electric (LCEC) to relocate their facility for the Dunlop Road/Wooster Lane Shared Use Path
- i. Approve the purchase of shell rock material from Florida Dirt Source at a cost of \$11.89 per cubic yard
- j. Approve purchase of sodium hypochlorite from Odyssey Manufacturing Company for the Donax and Wulfert plants for 3 years
- k. Award the Dunlop Road/Wooster Lane shared use path construction contract to C.W. Roberts Contracting, Inc., in the amount of \$178,848 and authorize the City Manager to execute same (this project is in the adopted FY11 budget)
- l. Award 2011 Shared Use Path widening contract to Bonness, Inc., in the amount of \$162,748.76 and authorize the City Manager to execute same (funding for these projects is in the adopted FY11 budget)
- m. Award 2011 Shared Use Path repair contract to Ajax Paving Industries of Florida, LLC in the amount of \$155,952 and authorize the City Manager to execute same (these repairs are included in the adopted FY11 budget)
- n. Approve an agreement for consulting services with Sea Diversified, Inc., to perform the 2011 beach monitoring survey in the amount of \$68,250 and authorize the City Manager to execute same (the Tourist Development Council is funding \$34,250 of the cost while remaining \$34,000 funded through beach parking)
- o. Request from The Horizon Council to participate in the Horizon Foundation at a cost of \$2,500 (Councilman Harrity)
- p. Request from the Island Seniors to waive the Special Event application fee of \$50 for the Treasure and Trash Bazaar November 19, 2011 (this event, usually held with the Fall Harvest Bazaar event which was approved at the March 01, 2011 City Council meeting. Since it is now a separate event, separate approval is required. This is a grandfathered event)
- r. Request from the Friends of Don to co-sponsor the Independence Day parade and waive the Special Events application fee (This is a grandfathered event)

- s. Approval of a Memorandum of Understanding between the Sanibel Police Department, Cape Coral Police Department, Florida Fish and Wildlife Conservation Commission, Fort Myers Police Department. Lee County Board of Commissioners and the Lee County Sheriff's Department to provide enhanced law enforcement services in Lee County that support U.S. Customs and Border Protection that will be funded through a grant from the Florida Division of Emergency Management in the amount of \$90,000 to be managed by the Lee County Sheriff's Department and authorize the City Manager and Police Chief to execute same
- t. Approval of an agreement between the City of Sanibel and Lee County Board of Education for a School Resource Officer in the amount of \$40,000 from August 11, 2011 through August 10, 2012 and authorize the City Manager to execute same
- u. Approval of an Interlocal Agreement for FDLE of Southwest Florida Child Abduction Response Team and authorize the City Manager to execute same

Mayor Ruane moved, seconded by Vice Mayor Denham, to approve the above-mentioned Consent Agenda items.

Public Comment
None

The motion carried.

LEGISLATIVE UPDATE

Letter to Daniel DeLisi, recently appointed South Florida Water Management District Board member from Mayor Ruane date May 19, 2011

Mayor Ruane noted the mailing of the above-mentioned letter.

Summary of Legislation Adopted

Vice Mayor Denham spoke to the following:

- Reduce DCA role and institute a new Department of Economic Opportunity
- Change in the Bert Harris Act
- House Bill 993 and allows individuals to challenge a permit issue would do harm and now a City must prove the environment would not be impacted
- He asked to work with the City Attorney to strengthen the code relative to the above
- Fought any fertilizer amendments, applicator language mostly removed; local communities pre-empted from controlling the sale of fertilizer
- Major issue for Lee County of on-site sewage treatment possibly for next year
- Nutrient criteria never ending debate
- May want to focus next year was storm water discharge

COMMITTEES, BOARDS, COMMISSION

City Council Liaison to Planning Commission

June 14, 2011

June 28, 2011

July 12, 2011

July 26, 2011

August 09, 2011

Mayor Ruane

Vice Mayor Denham

Councilman Harrity

Councilman Jennings

Councilman Congress

Report of 06/07/11 CC Meeting

Report of 07/19/11 CC Meeting

Report of 08/02/11 CC Meeting

August 23, 2011	Mayor Ruane	
September 13, 2011	Councilman Jennings	Report of 09/10/11 CC Meetings
September 27, 2011	Councilman Harrity	Report of 09/20/11 CC Meeting
October 11, 2011	Councilman Jennings	Report of 10/04/11 CC Meeting
October 25, 2011	Councilman Congress	
November 08, 2011	Mayor Ruane	Report 11/01/11 CC Meeting
November 22, 2011	Vice Mayor Denham	
December 13, 2011	Councilman Harrity	Report 12/06/11 CC Meeting
December 27, 2011	Councilman Jennings	

RESOLUTION 11-050 APPOINTING LEANN BEANLAND TO THE VEGETATION COMMITTEE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 11-050

Councilman Congress moved, seconded by Vice Mayor Denham, to adopt Resolution 11-050.

Public Comment
None

The motion carried.

**CITY MANAGER
Informational Items**

Letter dated May 16, 2011 from the National Flood Program (NFIP) regarding the results of the Community Rating System (CRS) verifying the City of Sanibel remains at the current rating of CRS Class 5

Ms. Zimomra noted that Sanibel has again been awarded a CRS Class 5.

Temporary re-organization of the Police Department for hurricane season

Ms. Zimomra called Council’s attention to a re-organization of the Police Department for hurricane season.

Request to extend retail business sidewalk sales through September 1, 2011

Ms. Zimomra noted that this was a request from a business owner, which was granted by Council in the past.

Vice Mayor Denham moved, seconded by Councilman Harrity, to approve sidewalk sales through September 01, 2011

The motion carried

City Council options regarding pre-existing variances for non-code compliance by previous property owners

Ms. Zimomra noted that staff included in the agenda packet a memorandum of alternatives for property owners purchasing property regarding pre-existing condition.

Discussion ensued regarding scheduling for a future meeting, item brought forward by several residents and the applicable permitting fees, grandfathering some properties, due diligence should be done when purchasing property, realtors reviewing properties for non-conforming items, looking for resident relief regarding fees if new owners find non-conforming structures and bring back for future discussion.

Report regarding individual meetings completed with The Sanctuary, Beachview and The Dunes golf course staffs with City staff. Vice Mayor Denham will present a full report at the Tuesday, July 19, 2011 City Council meeting

Ms. Zimomra noted that staff and Vice Mayor Denham met with each golf course and a written report would be brought back at the July 19, 2011 Council meeting.

Causeway count for April, 2011

Building Department Monthly Revenue Report for May, 2011

Building Department Monthly Permit and Inspections for May, 2011

Planning Department Permit Activity Report for May, 2011

Planning Department Code Enforcement Activity Report for May, 2011

Public Works Grease Trap Inspection Report May, 2011

Memorandum regarding the status the City of Sanibel, Lee County and Captiva Erosion Prevention District, (CEPD) Interlocal Agreement

Ms. Zimomra spoke to a memorandum from the Natural Resources Director the current status of agreements with Captiva Erosion Protection District.

Letter of support dated May 23, 2011 for Dr. José Leal, Director of The Bailey-Matthews Shell Museum for a grant submission

Ms. Zimomra advised Council that Mayor Ruane had executed the letter in support of the grant submission.

City of Sanibel Treasury Investment Performance Report for the Period Ending March 31, 2011 prepared by Burgess Chambers & Associates, Inc.

Ms. Edwards stated that page 4 shows incorrect information and once corrected would come back to Council for review.

CITY ATTORNEY'S REPORT

Mr. Cuyler noted the following:

- First paragraph of Mr. Hernandez's letter stated notification was only received on June 03, 2011, but in fact notification was given a month ago regarding the procedures

He also spoke to Mr. Hernandez pursuing a declaratory judgment from DEP and asked them for a declaratory statement and interpret their regulations and declare that local governments under the delegation agreement, which Sanibel has one are subject to the Administrative Procedure Act. He further asked authority to engage Counsel in Tallahassee with clout and environmental expertise.

Discussion ensued regarding if at some point in time would it be necessary to hire outside counsel, need opinion from an outside source, Mr. Cuyler stated he did not take offense to Council wanting to hire outside counsel and prudent to have an outside opinion.

Mayor Ruane moved, seconded by Vice Mayor Denham to engage outside Counsel for the applicability of Chapter 120 to protect the City and work with the City Attorney.

Mr. Cuyler noted his concern that only one side was being heard.

Public Comment
None

The motion carried.

COUNCIL MEMBERS' REPORT

Report of the Friday, May 13th Tourist Development Council meeting (TDC)

Mayor Ruane spoke to all applications requesting funds were heard. He noted that Sanibel has two items; 1) Beach Monitoring, which was approved; and 2) Capital Project, which was denied.

Vice Mayor Denham noted that he normally tries to attend and asked should he be there, and Mayor Ruane answered no.

Report of the May 19 and 20, 2011 Florida Water Law Institute Conference (LOOK AT REPORT)

Vice Mayor Denham spoke to the following:

- Discussion regarding DEP numeric nutrient criteria and was very expensive
- Everglades Restoration Protection – funds being used by the SFWMD
- Melissa Meeker, new director of SFWMD
- Attending the next Board meeting, Thursday, June 09, 2011
- Think Everglades land acquisition was on back burner
- Representative Trudi Williams recognizes Council concerns water quality

Councilman Congress noted that Mayor Ruane attended the last CHR meeting, but met with the new CHR director Nancy Fash-McHenry. He noted that they would meet as frequently as possible

Councilman Jennings spoke to the Independence Day parade.

Mayor Ruane spoke to an analysis from the actuarial regarding the pension funds, utilizing City funds to pay off debt and value adjustments at 1.1 percentages.

Ms. Zimomra spoke to working on the budget for the last two and one-half months and with final numbers be able to finalize numbers.

PUBLIC COMMENT

Karen Storjohann asked for information relative to the amendments to the Burt Harris Act. She also requested that the 73 permits issued by Lee County to see what the outcome was on each.

Mr. Cuyler stated

The meeting was adjourned at 2:00 p.m.

Respectfully submitted by,

PamelaSmith,MMC
Sanibel City Clerk