

10. **CONSENT AGENDA**

- k. **RESOLUTION 11-026 APPROVING AN AGREEMENT AMONG PROPERTY OWNERS TO CLARIFY AND CURE A TITLE DEFECT AND OWNERSHIP ISSUES RELATED TO DIFFERENT LOT NUMBERING BASED ON CONFLICTING PLATS FOR THE SANIBEL HIGHLANDS SUBDIVISION; AND PROVIDING AN EFFECTIVE DATE**

CITY OF SANIBEL

RESOLUTION 11-026

A RESOLUTION APPROVING AN AGREEMENT AMONG PROPERTY OWNERS TO CLARIFY AND CURE A TITLE DEFECT AND OWNERSHIP ISSUES RELATED TO DIFFERENT LOT NUMBERING BASED ON CONFLICTING PLATS FOR THE SANIBEL HIGHLANDS SUBDIVISION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, two (2) separate Plats of Sanibel Highlands have both been recorded in Plat Book 7, Page 74 of the Public Records of Lee County, Florida (“Plats”); and

WHEREAS, the Lots in the western half of Block 12 of the Plat of Sanibel Highlands as recorded in Plat Book 7, Page 74 of the Public Records of Lee County, Florida are numbered differently in each Plat, and in one of the Plats the Lot numbering for the western half of Block 12 is in ascending order (see portion thereof attached hereto as Exhibit “A” and hereinafter referred to as the “Ascending Order Plat”) and in the other Plat the Lot numbering for the western half of Block 12 is in descending order (see portion thereof attached hereto as Exhibit “B” and hereinafter referred to as the “Descending Order Plat”), which creates a defect in the title to the lots within said western half of Block 12 as depicted on the Plats due to the conflict in the numbering between the Ascending Order Plat and the Descending Order Plat (“Title Defect”); and

WHEREAS, the City of Sanibel in Resolution No. 78-22 dated May 16, 1978 and recorded June 1, 1978 in Official Records Book 1277 at Pages 123 and 124, of the Public Records of Lee County, Florida (“Resolution No. 78-22”) attempted to vacate and annul one of these conflicting Plats but did not sufficiently identify which of the two Plats were being vacated such that the Title Defect has not been resolved of record; and

WHEREAS, to the best knowledge of the parties, the City of Sanibel owns fee title to Lots 13, 14, 15 and 16, Block 12, of the Ascending Order Plat, labeled as the Plat of Sanibel Highlands as recorded in Plat Book 7, Page 74 of the Public Records of Lee County, Florida (collectively the “City Lots”); and

WHEREAS, to the best knowledge of the parties, Caspar is the owner of Lots 3, 4, 5, 6, 7, 8, 17 and 18, Block 12, of the Ascending Order Plat, labeled as the SANIBEL HIGHLANDS SUBDIVISION, according to the plat thereof, as recorded in Plat Book 7, Page 74, of the Public Records of Lee County, Florida (collectively the “Caspar Lots”); and

WHEREAS, to the best knowledge of the parties, the Ashtons are the owners of Lots 19, 20, 21 and 22, Block 12, of the Ascending Order Plat, labeled as the SANIBEL HIGHLANDS SUBDIVISION, according to the plat thereof, as recorded in Plat Book 7, Page 74, of the Public Records of Lee County, Florida (collectively the “Ashton Lots”); and

WHEREAS, to the best knowledge of the parties, the Dolds are the owners of Lots 23 and 24, Block 12, of the Ascending Order Plat, labeled as the SANIBEL HIGHLANDS SUBDIVISION, according to the plat thereof, as recorded in Plat Book 7, Page 74, of the Public Records of Lee County, Florida (collectively the “Dold Lots”); and

WHEREAS, the Title Defect has created a cloud on the City’s ownership of the City Lots, on Caspar’s ownership of the Caspar Lots, on the Ashtons’ ownership of Ashton Lots, and on the Dolds’ ownership of Dold Lots; and

WHEREAS, to provide title insurance, in connection with the sale of ownership units as part of the City’s Below Market Rate Housing Program, for this Title Defect, the title insurance company is requiring that the City enter into an agreement with Caspar, the Ashtons, and the Dolds, as respectively the fee title owners of the Caspar Lots, Ashton Lots, and Dold Lots, confirming the City’s ownership of the City Lots and the other owners’ respective ownership of their respective lots, and each of the parties disclaiming any ownership interest in and to the lots of the other owners; and

WHEREAS, the City of Sanibel adopted Resolution No. 10-063 which sought to clarify the Title Defect with regard to a portion of the lots described above, but which the City now finds necessary to expand to a clarification of all of the lots described above;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sanibel, Florida, that:

SECTION 1. The above recitals are incorporated herein and the City Council hereby approves the execution of an Agreement Among Property Owners, approved as to form by the City Attorney, by which:

1. The City, the Ashtons, and the Dolds hereby waive, relinquish, discharge, quit-claim, release and remise to Caspar, any and all right, title, and interest in and to the Caspar Lots, being Lots 3, 4, 5, 6, 7, 8, 17 and 18, of Block 12 of the Ascending Order Plat.

2. The City, Caspar and the Dolds hereby waive, relinquish, discharge, quit-claim, release and remise to the Ashtons any and all right, title, and interest in and to the Ashton Lots, being Lots 19, 20, 21 and 22 of Block 12 of the Ascending Order Plat.

3. The City, Caspar and the Ashtons hereby waive, relinquish, discharge, quit-claim, release and remise to the Dolds any and all right, title, and interest in and to the Dolt Lots, being Lots 23 and 24 of Block 12 of the Ascending Order Plat.

4. Caspar, the Ashtons and the Dolds hereby waive, relinquish, discharge, quit-claim, release and remise to the City any and all right, title, and interest into the City Lots, being Lots 13, 14, 15 and 16 of Block 12 of the Ascending Order Plat.

SECTION 2. The execution of an Agreement Among Property Owners by the Mayor is hereby authorized and approved and the Mayor is further authorized to execute any ancillary documents necessary to effectuate the intent and approval of City Council as described in this Resolution.

SECTION 3. Effective date.

This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this 1st day of March, 2011.

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM:

Kenneth B. Cuyler
Kenneth B. Cuyler, City Attorney

2/17/11
Date

Vote of Council members:

Ruane _____
Denham _____
Harrity _____
Jennings _____
Pappas _____

Date filed with City Clerk: _____

DESCENDING ORDER PLAT

13	12	11	14	13	12	11	14	13	11	2	1	2	3	4	1	2
5	10		15	10	9		15	3	9		24	5	5		24	5
6	8		16	9			16	4			23	6			23	
7	8		17	8			17	5			22	7			22	
16	7		18	7			18	6			21	8			21	
6	6		19	6			19	7			20	9			20	
5	5		20	5			20	8			19	10			19	
4	4		21	4			21	9			18	11			18	
3	3		22	3			22	10			17	12			17	
2	2		23	2			23	11			16	13			16	
1	1		24	1			24	12			15	14			15	

POWELL LEON

PEACH TREE

WHITEHALL

EAST BAY



1200
N/A
PALM
1500
100
90° 15'

↑ DIFF. LOT #1'S
SEE NEXT SHEET

N/D - BLOCK 13.71

FILED IN THE OFFICE OF THE
Clerk of the Circuit Court,
DUKE COUNTY, FLA.

This plat accepted
Commissioners.
This is 27

J. J. [Signature]
26

Descending Order Plat
Caption "B"