



City of Sanibel
Planning Department

MEMORANDUM

DATE: February 1, 2012

TO: Judie Zimomra, City Manager

FROM: James C. Jordan, Planning Director

SUBJECT: **SUMMARY OF CHANGES IN STATE STATUTES, PURSUANT TO "THE 2011 COMMUNITY PLANNING ACT" AND ITS IMPACT ON THE 2012 EVALUATION AND APPRAISAL OF THE SANIBEL PLAN AND THE PREPARATION OF THE EVALUATION AND APPRAISAL-BASED PLAN AMENDMENT**

MATERIALS

The Planning Department has prepared materials to aide the City Council in providing direction to the Planning Commission and staff on the Evaluation and Appraisal of the *Sanibel Plan* and the Evaluation and Appraisal-Based Plan Amendment process. The following materials are provided with this memorandum.

1. A **Table** (Matrix) that presents a The table is arranged by the Elements of the *Sanibel Plan*. Changes in State Statutes that may affect the *Sanibel Plan* are identified. Planning Department recommendations are also included.
2. A **proposed Schedule** for the City's Evaluation and Appraisal of the *Sanibel Plan* and the preparation of the Evaluation and Appraisal-Based Plan Amendment.
3. A Report that presents the **Status of the Major Issues** addressed in the 2004/2005 Evaluation and Appraisal of the *Sanibel Plan*.

RECOMMENDATION

The following two pages of this memorandum presents a recommendation to improve the process by combining the Evaluation and Appraisal of the *Sanibel Plan* and the preparation of the Evaluation and Appraisal-Based Plan Amendment.

Summary of Current (Amended) Statutory Requirements

"The Community Planning Act" included major changes for preparing and Evaluation and Appraisal of a comprehensive plan. **Florida Statutes, Section 163.3191, requires each local government to adopt an Evaluation and Appraisal Report (EAR) once every seven years in order to assess the progress in implementing the comprehensive plan.** The local government is required to submit its report to DCA, who conducts a sufficiency review to ensure the report fulfills the requirements of *Section 163.3191, F.S.* **The local government is also required to adopt amendments to its plan based on the recommendations in the report, within 18 months after DCA determines the report to be sufficient.** The Administration Commission is authorized to impose sanctions if the local government fails to adopt and submit its report or fails to implement its report through timely amendments to its comprehensive plan.

The City's Current Status

Amended State Statutes removed, from the Florida Administrative Code, the May 1, 2012 deadline for the City to submit an adopted EAR to the State. The deadline is now the general statement "every seven years".

The City adopted its 2004/2005 Evaluation and Appraisal Report (Ordinance no. 05-003) on April 19, 2005. On June 27, 2005, the Florida Department of Community Affairs informed the City that its EAR was found to be sufficient. **On September 18, 2007 the Evaluation and Appraisal Report-Based Amendment to the Sanibel Plan was adopted by City Council.**

The Affect of Amended State Statutes

Amended State Statutes continue to direct the local governments to evaluate its comprehensive plan once every seven years to determine if plan amendments are needed to reflect changes in state requirements; however **amended Statutes remove the specific requirements regarding the preparation, adoption, submittal, and review of the evaluation and appraisal report.** If changes are necessary to comply with new State requirements, a local government must amend the plan and transmit the amendments updating the plan to the reviewing agencies. Local governments are encouraged to update their plans more comprehensively to reflect changes in local conditions. If the local government fails to submit a letter to the State Land Planning Agency regarding its need to amend its plan or update the plan as needed, no amendments are permitted until such time as the local government adopts the necessary amendments to update its plan.

As part of a pending ordinance to amend the Sanibel Plan (transmitted for review on January 13, 2012), the City of Sanibel has already submitted such a letter to the State Land Planning Agency. That letter states that the City has undertaken

an administrative review of current Florida Statutes in relation to the *Sanibel Plan* and concludes that the current *Sanibel Plan* reflects changes in State requirements since the 2007 EAR-based Plan Amendment was adopted.

Implications for the City of Sanibel

With these changes in State Statutes, the City can combine its Evaluation and Appraisal of the *Sanibel Plan* with the Evaluation and Appraisal-Based Amendment to the *Sanibel Plan*.

The 2004/5 EAR was adopted on April 19, 2005 and the effective date for the EAR-based Plan Amendment is December 4, 2007. It took more than 30 months from the time the City identified and addressed major issues and the time the *Sanibel Plan* was updated to incorporate policy changes identified in the last EAR. Only two members of Council and just one member of the Planning Commission were in office for the adoption of both the 2004/5 EAR and the 2007 EAR-based Plan Amendment.

Recommendation

Since the evaluation and appraisal process no longer has specific State requirements for the preparation, adoption, submittal and review of the EAR, **the Planning Department recommends an evaluation and appraisal process that includes the preparation of the Evaluation and Appraisal-Based Plan Amendment.**

The public hearing for the adoption of the Evaluation and Appraisal-based Plan Amendment would occur simultaneously with, or more likely immediately following, the conclusion of the evaluation and appraisal process.

ATTACHMENTS

1. A summary of changes in State Statutes, pursuant to "The (2011) Community Planning Act" relevant to the *Sanibel Plan*
2. A proposed Schedule for the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*
3. A report on the Status of the Major Issues identified in the 2004/5 Evaluation and Appraisal Report

**SUMMARY OF CHANGES TO STATE STATUTES PURSUANT TO
“THE COMMUNITY PLANNING ACT”
RELEVANT TO THE SANIBEL PLAN**

Prepared by the Planning Department
January 2012
(Underlined text from 2-27-12 Revision)

“The Community Planning Act” substantially amends *Part II of Section 163, Florida Statutes*, in order to modernize Florida’s Growth Management Laws.

The Act preserves *Part II of Section 163* as the minimum standards for Florida’s comprehensive growth management system.

A major change is the re-direction of the State’s role in the growth management process to one of protecting important State resources and facilities.

This summary is based on the Planning Department’s review of “The Community Planning Act”, adopted last year by the State Legislature. This summary is focused on changes to State Statutes that are directly relevant to the City, the City Charter and the *Sanibel Plan*.

The following **Table** (Matrix) identifies the Elements of the *Sanibel Plan*, changes in State Statutory Requirements, Local Concerns and Planning Department Comments and Recommendations.

Following the **Table** are notes and comments related to State Statutory requirements pertaining to the following topics:

Concurrency State Review	Minimum Review Criteria Evaluation and Appraisal	Public Participation Scope of the Act
-----------------------------	---	--

**TABLE SHOWING THE CHANGES TO STATE STATUTES
PURSUANT TO "THE COMMUNITY PLANNING ACT"
RELEVANT TO THE SANIBEL PLAN**

Plan Element	Change in Statutory Requirement	Comments & Recommendations
Coastal Zone Protection	Reduced Review Criteria and removed specific requirements for Objectives and Policies.	<ul style="list-style-type: none"> • Policy revision addressing redevelopment of accessory pools & structures located in Gulf Beach Zone of Resort Housing District is being addressed in pending Plan Amendment. • Address Beach Carrying Capacity (Sec. 3.2.2; Policy 2.1). • Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Conservation	Reduced Review Criteria and removed specific requirements for Objectives and Policies.	<ul style="list-style-type: none"> • Update the 27 year-old Plan for Interior Wetlands Conservation District (as part of Departmental Work Program). • Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Aquifer Recharge	Reduced Review Criteria and removed specific requirements for Objectives and Policies.	<ul style="list-style-type: none"> • Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Scenic Preservation	<u>No change.</u>	<p><u>Optional Element.</u></p> <ul style="list-style-type: none"> • Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.

Plan Element	Change in Statutory Requirement	Comments & Recommendations
Historic Preservation	Reduced Review Criteria and removed specific requirements for Objectives and Policies.	<ul style="list-style-type: none"> Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Safety	Reduced Minimum Review Criteria and less specific requirements for objectives and policies.	<ul style="list-style-type: none"> Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Water Supply	The Act maintained the State mandated concurrency requirement for potable water.	<p>The City and the Island Water Association have attained and maintain the Level of Service Standard (LOS) for potable water facilities since 1989.</p> <ul style="list-style-type: none"> Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Transportation	The Act removed the state mandated requirement for transportation concurrency, but allows local governments the option of continuing to apply transportation concurrency locally without having to take further action.	<p>The <i>Sanibel Plan</i> currently sets the LOS standard for arterial and collector roads at "F". This level of service standard is required for consistency with the <i>Sanibel Plan</i> policies for no new roads and no additional travel lanes.</p> <ul style="list-style-type: none"> Remove concurrency requirements for transportation facilities, here and in Capital Improvements Element. Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Water Reclamation	The Act maintains the State mandated concurrency requirement for sanitary sewer.	<p>The City has attained and maintains the LOS standard for wastewater treatment facilities.</p> <ul style="list-style-type: none"> Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.

Plan Element	Change in Statutory Requirement	Comments & Recommendations
Storm Drainage	The Act maintains the State mandated concurrency requirement for drainage.	<p>The City has attained and maintains the LOS standard for drainage facilities.</p> <ul style="list-style-type: none"> • Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Solid Waste & Recycling	The Act maintains the State mandated concurrency requirement for solid waste.	<p>Solid waste disposal facilities are located off-island.</p> <ul style="list-style-type: none"> • Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Recreation & Open Space	The Act removed the state mandated requirement for parks and recreation concurrency, but allows local governments the option of continuing to apply parks and recreation concurrency locally without having to take further action.	<p>The <i>Sanibel Plan</i> has determined that the level of service standards for recreation facilities have been met currently and through build-out.</p> <ul style="list-style-type: none"> • Remove concurrency requirements for recreation facilities, here and in Capital Improvements Element. • Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Public Schools	The Act no longer mandates a Public School Facilities Element (PSFE). Provisions relating to public schools are only required if a local government chooses to maintain school concurrency. Inter-local agreements between a county, the municipalities within, and a school board are maintained in the Act; however, the Act removes State oversight and review of the inter-local agreements while maintaining certain minimum issues that the inter-local agreement must address.	<p>The City adopted a then state-mandated interlocal agreement with the Lee County School District that contains many provisions that are in the Public Schools Facilities Element. Any amendment to the PSFE needs to reflect requirements in the interlocal agreement. A review of the City's interlocal agreement with the LCSD must accompany any amendments to this Plan Element.</p> <ul style="list-style-type: none"> • Maintain the Public School Facilities Element and concurrency requirements for public school facilities, here and in Capital Improvements Element, until the current interlocal agreement expires. • Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.

Plan Element	Change in Statutory Requirement	Comments & Recommendations
Other Human Support Systems	No change.	Optional Element. <ul style="list-style-type: none"> Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Housing	Reduced Review Criteria and removed specific requirements for Objectives and Policies. The State (DCA) will no longer conduct affordable housing needs assessments for use by local governments in the Evaluation and Appraisal of comp plans.	<p>The <i>Sanibel Plan</i> (Policy 3.1) states "Provide for Sanibel-determined affordable housing needs through continuation of the City's on-island BMRH Program." The position of local determination of need is strengthened by the State's discontinuation of its affordable housing needs assessment.</p> <ul style="list-style-type: none"> Review affordable housing Goals, Objectives and Policies. Address the target number of units for the BMRH Program established at 3% of resident households (estimated to be 104 units). Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.
Future Land Use	The Act addressed population projections, the issue of identified need for future development and highlighted the need to address outdated land uses. Section 163.3177(6)(a)4 "The Element shall accommodate at least the minimum amount of land required to accommodate the median projections of the University of Florida's Bureau of Economic and Business Research (BEBR) for at least the 10-year planning period ..."	<p>The University of Florida's Bureau of Economic and Business Research (BEBR) estimates the population of the City of Sanibel, but does not project population changes; however, the City would have major concerns if an outside entity would determine the City's future land use needs.</p> <ul style="list-style-type: none"> Update population estimates and projections. Update Land Use estimates and projections. Address local concerns, such as the Town Center/Square and Redevelopment in Commercial Districts, Residential Districts and for Nonconforming Resort Housing uses, identified in the ongoing Work Program Update Background Discussion and conduct local review of the adequacy and effectiveness of Objectives and Policies.

Plan Element	Change in Statutory Requirement	Comments & Recommendations
Capital Improvements	<p>The Act requires the capital improvements element to be reviewed by the local government on an annual basis. Modifications may be accomplished by ordinance and are not deemed to be amendments to the local comprehensive plan.</p> <p>The Act removes the requirement that the capital improvements element be financially feasible.</p>	<p>The City is revising the Policy requiring an annual amendment to the Capital Improvements Element in the pending Plan Amendment.</p> <p>The Capital Improvements Element of the <i>Sanibel Plan</i> is financially feasible.</p> <ul style="list-style-type: none"> • Remove concurrency requirements for transportation facilities • Remove concurrency requirements for recreation facilities • Remove concurrency requirements for public school facilities
Intergovernmental Coordination		<p>Intergovernmental Coordination is a carry-forward from the 2004/5 EAR and is expected to remain an issue to be continually addressed.</p> <ul style="list-style-type: none"> • Address local concerns related to the Transit in Parks Program project.
Official Maps	No change.	<p>Convert to an updated computer-drawn version of the</p> <ul style="list-style-type: none"> o Development Intensity Map o Ecological Zones Map <p>of Future Land Use Map series.</p>
Administrative Regulations	<p>The Act streamlined the review of Plan Amendments.</p> <p>The Act focuses State agency comments on important State resources and facilities within their jurisdiction.</p>	<p>There is no conflict with the City's public participation requirements.</p>

Notes

Concurrency

- The Act maintains the State mandated concurrency requirements for sanitary sewer, solid waste, drainage, and potable water.

Comment: The level of service standards for these human support systems (public facilities) has been attained and maintained. No deficiency in the level of service standards for these facilities is projected in the *Sanibel Plan*.

- **The Act removes the State mandated concurrency requirements for parks and recreation, schools, and transportation facilities.**

Minimum Review Criteria

- The Act repeals *Chapter (Rule) 9J-5, Florida Administrative Code*, and incorporates into the law important and relevant definitions and provisions of the rule relating to the contents of and requirements for elements within a comprehensive plan.

Comment: Gone are the very specific requirements to have an objective that address a specific subject and policies that address specific subjects. Some policies of the *Sanibel Plan* were added solely to meet these requirements that are no longer required.

Public Participation

- The Act preserves the opportunities in current law for public participation in the local planning process and maintains the broad standing for affected persons to challenge the local government's adoption of Plans and Plan Amendments.

Comment: There is no conflict with the City's public participation requirements.

State Review

- The Act limits DCA's objections, recommendations, and comments (ORC) report to the state coordinated review process for certain Amendments that require a more comprehensive review.

- Removes the twice a year limit for the adoption of any Plan Amendments.

Comment: This change reduces, to a large extent, the State's involvement in local issues.

- The Act streamlined the review of Plan Amendments into one of three processes.
 - The expedited state review process (designed for most Plan Amendments).
 - The state coordinated review process (designed for Plan Amendments that require a more comprehensive review). This process is identical to the expedited state review process, except that the state land planning agency performs a more comprehensive review and is subject to different challenge requirements.
 - The small-scale Amendment review process.
- The Act focuses state agency comments on important state resources and facilities within their jurisdiction that will be adversely impacted by the proposed Plan Amendment.

Evaluation and Appraisal

- The Act continues to require local governments to evaluate their comprehensive plan once every seven years and adopt updated amendments, as necessary, but no longer requires an Evaluation and Appraisal Report.

Comment: Changes to the Evaluation and Appraisal process present the City with the option of combining its Evaluation and Appraisal of the *Sanibel Plan* with the Evaluation and Appraisal-based Amendment to the *Sanibel Plan*.

Scope of the Act

- Section 163.3167(8) "*An initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment is prohibited.*"

Comment: This prohibition on using a referendum process had previously applied to Plan Amendments or Map Amendments that affect five or fewer parcels of land. This outright prohibition may be in conflict with City Charter Section 3.10.2. Ordinance increasing residential development intensity.

**PROPOSED SCHEDULE FOR
THE CITY'S 2012 EVALUATION AND APPRAISAL OF THE SANIBEL PLAN
and
EVALUATION AND APPRAISAL-BASED PLAN AMENDMENT**

Meeting Date or Public Hearing	Topic
<p>February 2012 City Council Meeting</p>	<ul style="list-style-type: none"> • Review Planning Department's recommendation for the Evaluation and Appraisal Process, WorkProgram and Schedule for updating and reviewing the <i>Sanibel Plan</i>. • Review implications of "The (2011) Community Planning Act". • Review status of Major Issues identified in 2004/2005 Evaluation and Appraisal Report.
<p>March 2012 City Council Meeting</p>	<p>Follow-up discussion and directions for priorities by City Council.</p>
<p>March 13, 2012 Planning Commission Meeting</p>	<p>Public Hearing to update Background Discussion and conduct preliminary policy review for Plan Amendments:</p> <ul style="list-style-type: none"> ▪ required to reflect changes in State Law, if any ▪ required to address local concerns <ul style="list-style-type: none"> ○ Natural Resources <ul style="list-style-type: none"> - Coastal Zone Protection - Conservation - Groundwater Aquifer - Scenic Preservation

Meeting Date or Public Hearing	Topic
March 27, 2012 Planning Commission Meeting	<p>Public Hearing to update Background Discussion and conduct preliminary policy review for Plan Amendments:</p> <ul style="list-style-type: none"> ▪ required to reflect changes in State Law, if any ▪ required to address local concerns <ul style="list-style-type: none"> ○ Safety ○ Natural Resources <ul style="list-style-type: none"> - Historic Preservation ○ Human Support Systems <ul style="list-style-type: none"> - Water Supply - Water Reclamation (Wastewater Treatment)
April 10, 2012 Planning Commission Meeting	<p>Public Hearing to update Background Discussion and conduct preliminary policy review for Plan Amendments:</p> <ul style="list-style-type: none"> ▪ required to reflect changes in State Law, if any ▪ required to address local concerns <ul style="list-style-type: none"> ○ Human Support Systems <ul style="list-style-type: none"> - Transportation - Storm Drainage - Solid Waste and Recycling - Recreation and Open Space - Public School Facilities - Other Human Support Systems
April 24, 2012 Planning Commission Meeting	<p>Public Hearing to update Background Discussion and conduct preliminary policy review for Plan Amendments:</p> <ul style="list-style-type: none"> ▪ required to reflect changes in State Law, if any ▪ required to address local concerns <ul style="list-style-type: none"> - Housing - Future Land Use - Official Maps

Meeting Date or Public Hearing	Topic
May 8, 2012 Planning Commission Meeting	<p>Public Hearing to update Background Discussion and conduct preliminary policy review for Plan Amendments:</p> <ul style="list-style-type: none"> ▪ required to reflect changes in State Law, if any ▪ required to address local concerns <ul style="list-style-type: none"> - Capital Improvements - Intergovernmental Coordination
May 20, 2012 Planning Commission Meeting	<p>Public Hearing to Conduct final policy review of all Elements of the Plan for Plan Amendments</p> <ul style="list-style-type: none"> ▪ required to reflect changes in State Law, if any ▪ required to address local concerns Complete preparation of the 2012 Evaluation and Appraisal of the Sanibel Plan.
June 12, 2012 Planning Commission Meeting	Available to discuss follow-up topics and address any unresolved issues.
July 2012 City Council Meeting	<ul style="list-style-type: none"> • Review Planning Commission's draft of the 2012 Evaluation and Appraisal of the Sanibel Plan. • Direct preparation of Evaluation and Appraisal-based Plan Amendment. •
August 14, 2012 Planning Commission Meeting	Conduct Public Hearing on Evaluation and Appraisal-based Plan Amendment.

Meeting Date or Public Hearing	Topic
<p>September 2012 City Council Meeting</p>	<ul style="list-style-type: none"> • Adopt report on the City's Evaluation and Appraisal of the Sanibel Plan. • Conduct Transmittal (Public) Hearing on EAR-based Plan Amendment to the Dept. of Community Affairs.
<p>November 2012-January 2013 City Council Meeting</p>	<ul style="list-style-type: none"> • Conduct Adoption (Public) Hearing on EAR-based Plan Amendment, following State's Review of both the City's Evaluation and Appraisal of the Sanibel Plan and the Evaluation and Appraisal-based Amendment to the Sanibel Plan.

* City Council Meetings

The proposed preliminary schedule the City Council public hearings shows the minimum number of hearings required. These public hearings can be continued if City Council determines more time is needed to consider the transmittal or the adoption of the Evaluation and Appraisal-Based Plan Amendment.

THE STATUS OF THE MAJOR ISSUES IN THE 2004/2005 EVALUATION AND APPRAISAL REPORT OF THE SANIBEL PLAN

**Prepared by the Planning Department
December 2011**

The following is the listing of the Major Issues and Special Topics identified in the 2004/2005 Evaluation and Appraisal Report for the *Sanibel Plan*. The Comments from the Florida Department of Community Affairs (DCA) are also identified. A discussion of how these Issues, Topics and Comments have been addressed is provided in this report.

The Planning Department's recommendations are provided throughout the report and a brief summary is provided at the end.

Major Issues in the 2004/5 Evaluation and Appraisal Report

Major Issue: Ensuring that Evacuation and Recovery Capabilities are adequate and available for response to threat from hurricanes and other disasters.

The City of Sanibel (and Captiva Island) successfully evacuated in preparation for Hurricane Charley in 2004, during the drafting of the 2004/5 EAR. In 2005, following DCA's finding that the City's 2004/5 EAR was sufficient, the City again successfully evacuated in preparation for Hurricane Wilma. The City has learned from the evacuation and recovery efforts for these two major storms and has incorporated these lessons into its Hurricane Plan.

The replacement of the bridges of the Sanibel Causeway (under construction in 2004/5) is expected to maintain or reduce hurricane evacuation times.

Ensuring that evacuation and recovery capabilities are adequate and available for response to threat from hurricanes and other disasters remains a critical concern for the City of Sanibel. However, the Planning Department finds that this item has been adequately addressed in the *Sanibel Plan* and in the City's Hurricane Plan. Although the Background Discussion in the Hurricane Safety Element and Coastal Zone Protection Element of the *Sanibel Plan* should be updated in the City's next EAR-based Plan Amendment, the Planning Department **recommends that this item not be identified as a Major Issue in the 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Major Issue: Addressing peak season, peak hours, outbound Traffic Congestion at the intersection of Periwinkle Way and Causeway and Lindgren Boulevards.

The intersection of Periwinkle Way, Causeway Boulevard and Lindgren Boulevard is the confluence of vehicular traffic both entering and exiting the City. A major reconstruction of the Periwinkle Way, Bailey Road, Causeway Boulevard and Lindgren Boulevard intersection has been the subject of community concern and discussion for over 30 years. That reconstruction requires special aesthetic, environmental and engineering study.

The replacement of the bridges of the Sanibel Causeway has appeared to offer some relief to the congestion at the intersection.

The analysis of the benefit derived from improvements to that intersection needs to include the cost of the improvements. A method of payment will have to be identified before it can be determined if the improvement is warranted. It is important to restore toll revenues and to replace revenues from the weigh station, as a funding mechanism for this improvement. Retaining the existing intersection, as currently constructed, is a viable option. Improvements to this intersection are not required to attain the adopted level of service standard for the intersecting roads of this intersection. Furthermore, Transportation Concurrency is no longer a State requirement.

The Planning Department finds that the *Sanibel Plan* adequately addresses this issue and **recommends that this item not be identified as a Major Issue in the 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Major Issue: Maintaining the Character of the Community, focusing on redevelopment in stable neighborhoods and in the resort housing and commercial sectors.

The City conducted an extensive study of the TownCenter Commercial Districts and prepared an "Architectural Design Guide" for redevelopment in these commercial areas. The continuing Work Program for Redevelopment includes the review of Commercial District regulations.

There is renewed interest in the Town Center / Square.

The City conducted a study of redevelopment in established neighborhoods and an extensive analysis of land use regulations for the appearance, size and mass of structures. The continuing Work Program for Redevelopment includes a review of Residential District regulations.

The City recently conducted a study of redevelopment in the Resort Housing District and adopted land use regulations. The continuing Work Program for

Redevelopment includes a review of land use regulations for nonconforming Resort Housing uses.

Maintaining the character of the community remains important to the City. This issue has been partially addressed in the *Sanibel Plan* and the Land Development Code. The Planning Department **recommends that continuation of the Work Program for Redevelopment be identified as part of the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Major Issue: Implementing the Master Parks and Recreation Plan, focusing on levels of service and capital improvements.

The City has successfully implemented the major components of its Master Parks and Recreation Plan.

The schedule to replace and upgrade recreational facilities in accordance with the *Master Parks and Recreation Plan* will depend on the City's ability to fund these improvements. Funded components of the Master Plan will be included in the City's Five-year Capital Improvements Plan, but these recreational facilities will not be included in the Adopted Five-year Schedule of Capital Improvements. Furthermore, parks and recreation concurrency is no longer a State requirement.

The Planning Department **recommends that this item not be identified as a Major Issue in the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Major Issue: Evaluating the *Sanibel Plan's* effectiveness in Directing Population Concentrations Away from the Coastal High-hazard Areas.

All of the City of Sanibel is located in the Coastal High-Hazard Area.

There have been no amendments to the Development Intensity Map of the *Sanibel Plan* for the past 20 years.

The City is at 95% of build-out for both its residential and commercial sectors.

The City (and Captiva Island) were successfully evacuated in 2004 and 2005 in preparation for the arrival of Hurricanes Charley and Wilma.

The Planning Department finds that the *Sanibel Plan* has been effective in directing population concentrations away from the coastal high-hazard area. The Planning Department **recommends that this item not be identified as a Major Issue in the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Major Issue: Reassessing “Build-back”, focusing on strategies that address Nonconforming Densities.

The City successfully addressed this issue in the City's “Build-back” regulations, adopted on January 3, 2006 (Ordinance no. 05-017). Furthermore, the City addressed this issue in its study of redevelopment in the Resort Housing District and amendment to the Land Development Code on June 7, 2011 (Ordinance no. 11-003).

The *Sanibel Plan* and Land Development Code provide the City's strategies that address nonconforming densities. The *Sanibel Plan* estimates that there are about 50 single family dwelling units located on “un-buildable” lots. This issue will be addressed as part of the continuing Work Program for Redevelopment in established neighborhoods.

The Planning Department **recommends that this item not be identified as a Major Issue in the City’s 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Major Issue: Improving and developing programs that ensure Environmental Health and Sustainability is maintained or enhanced.

Principle tenets of the *Sanibel Plan* have always been to ensure that development:

Does not exceed the carrying capacity of the land

Does not exceed the level of service established for public facilities.

These tenets are also the foundation of sustainability.

The *Sanibel Plan* identifies areas where improved efficiency in the maintenance of natural and human-made resources is being pursued. Environmental Health and Sustainability should remain an important component of the *Sanibel Plan*.

Unless a specific issue related to Environmental Health and Sustainability is identified in the planning process for the 2012 Evaluation and Appraisal of the *Sanibel Plan*, the Planning Department **recommends that this item not be identified as a Major Issue in that Evaluation and Appraisal of the *Sanibel Plan*.**

Major Issue: Addressing Stresses on the Carrying Capacity of Natural Systems, focusing on natural systems contribution to making Sanibel a pleasant place to live and to supporting the local economy.

About one third (1/3) of the linear mileage of beaches in Lee County, accessible by car, is in the City of Sanibel. The maintenance of a natural beach as a vital natural resource is important to the community's quality of life and the economy of the City. The *Sanibel Plan* states that there is a need to determine acceptable limits of change, if any, to the Gulf Beach Zone.

In the City's adopted "Build-back" regulations and "Redevelopment" regulations for the Resort Housing District, the City requires that those activities do not diminish the carrying capacity of the beach for use by wildlife.

The *Sanibel Plan* further states that there remains a need to develop a scientific methodology to establish baseline conditions; to monitor the change of conditions over time; and to assess the extent to which these changes can be attributed to human activities. Although this study would be beneficial to the City (and other coastal communities throughout the State and Country), at this time, such a study may be beyond the financial priorities of the City. Furthermore, with the City approaching build-out, this issue becomes more of an intergovernmental concern. The growing demand for Sanibel beaches is mostly an external influence. **This issue remains a concern for the City.**

Whether or not this item remains a Major Issue for the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*, the Planning Department **recommends that the following policy** in the Coastal Zone Protection Element (Section 3.2.1) **be reconsidered in the City's next Evaluation and Appraisal-based Plan Amendment.**

Policy 2.1. The City shall determine measures and methods to sustain and manage the Island's carrying capacity. During 2007 and 2008, the City shall conduct research regarding existing and emerging best practices and establish current base line and future performance metrics or measures necessary to ensure the Island's sustainability during the *Sanibel Plan's* initial (10 years) and long range (20 years) planning periods. While the primary focus on this effort will be the City of Sanibel, Regional conditions, trends and projections will also be considered.

The carrying capacity research and resulting management strategies will essentially be an important component of the ongoing implementation and performance evaluation of the *Sanibel Plan's* goals, objectives and policies. This effort will consider the Island's sustainability in a holistic manner to ensure that the primary interrelationships between the following Plan elements or systems are defined and addressed: resident, seasonal and visitor populations; wildlife habitat and natural resource

conservation and management; water quality, use and reuse; stormwater management; beach and bay front utilization; historic, landscape and cultural resource preservation; land use; housing diversity and affordability transportation; construction and building technologies; energy consumption and conservation; solid waste; public facilities; community character and design; economic performance and public safety and health.

Major Issue: Improving Coordination and Collaboration with other Governmental Units, focusing on

- 1) implementing the *Sanibel Plan*,**
- 2) addressing impacts of near-island development activities and**
- 3) ensuring equity in services and responsibilities among participants.**

Day-to-day cooperation remains a challenge requiring continued effort. Although it is important to recognize successes in intergovernmental coordination, there are challenges remaining. The challenges discussed in this section of the report are identified in the *Sanibel Plan* or have recently emerged as a community concern.

Quality of Surface and Ground Waters

Pollutants have had a dramatic and unacceptable impact on the quality of surface waters surrounding the City. Sanibel is susceptible to over-nutrication through runoff from development. The City has put a significant effort and investment into wastewater treatment facilities, including a collection system for virtually all land uses within the City. Unfortunately, efforts and investments to improve water quality have not been as extensive in other areas within the watershed of the Caloosahatchee River. Continued surface water runoff within the watershed of the Caloosahatchee River containing non-point source pollution contributes to the further degradation of the quality of the waters surrounding the City. As the City eliminates non-point sources of pollution, it is also regulating the use of pesticides and fertilizers to address other non-point sources of pollution. This degradation of waters surrounding the City is exacerbated by the water releases from Lake Okeechobee exceeding Total Maximum Daily Loads for pollutants.

There is a critical need to improve policies controlling water releases from Lake Okeechobee in order to maintain the water quality of coastal waters and the

estuaries of Southwest Florida. It is vitally important that the United States Environmental Protection Agency and the State of Florida implement the Total Maximum Daily Loads for pollutants (TMDLs) provision of the Federal Clean Water Act. Cooperation from the United States Army Corps of Engineers, the Florida Department of Environmental Protection, and the South Florida Water Management District is essential to adequately address this greatest of regional challenges for intergovernmental coordination.

Land Conservation: Natural Resources

The maintenance of a natural beach as a vital natural resource is important to the community's quality of life and the economy of the City. For a variety of environmental, social and economic reasons, it is important that the carrying capacity of the beach for wildlife is not diminished. The preservation of Sanibel's natural beaches, wetlands and other environmentally-sensitive lands, makes it important for the City to take a proactive role in informing not only Sanibel residents, but Lee County, State and Federal decision-makers, regarding the value of the City of Sanibel's natural resources to the economy and culture of the Region.

The preservation of Sanibel's natural beaches is threatened by the degradation of the quality of the waters surrounding Sanibel. Since October 27, 2005, nutrient-rich water have resulted in creation of toxic blue-green algae blooms and red drift algae outbreaks, a rise in fish kills, a reduction in salt water fish, clamming and crabbing, destruction of sea grass beds, mangroves and breeding grounds for many fish species, and a negative effect on recreational and commercial fishing that may well have contributed to a long-term trend of more frequent, more severe and longer duration destructive red tide events, as well as severe impacts to the J. N. "Ding" Darling National Wildlife Refuge and aquatic preserves. The preservation of Sanibel's natural beaches provides another important reason to improve policies controlling water releases from Lake Okeechobee and pollution runoff from within the Caloosahatchee River Basin.

Intergovernmental Revenues

In 2006, the City received \$1,639,000 in revenue from the Local Option Gas Tax. It is vitally important to the City of Sanibel that the City's share of the Local Option Gas Tax be preserved. It is also important to restore Causeway toll proceeds revenues and to replace revenues from the weigh station, as a funding source for road improvements. The City has foregone approximately \$850,000 annually in revenue from Sanibel Causeway surplus toll revenues, since February 2005. These intergovernmental revenues have been an important source of funding available for road maintenance and improvements.

Roads and Transit

A major challenge has arisen in implementing the provision (no. 3 in the Plan for Intergovernmental Coordination) to "cooperate with appropriate authorities,

through appropriate means, to secure needed improvements to the bridge and causeway facility between the mainland and Sanibel, now owned and operated by Lee County". The Interlocal Agreement with Lee County addressing the Sanibel Causeway has been ruled invalid, in part, by the Circuit Court. This action is a potential threat to one of the more effective means available for intergovernmental coordination, including conflict resolutions, between municipal and county governments. The City continues to look for options and alternative approaches to improve future coordination with Lee County on issues related to the Sanibel Causeway. In this effort, the City entered into a stipulated settlement agreement with Lee County regarding the lawsuit filed against Lee County over the interlocal agreement pertaining to the Sanibel Causeway.

This intergovernmental coordination challenge also jeopardizes revenues used to implement the *Sanibel Plan*. The *Sanibel Plan* includes a policy (no. 4.3 in the Capital Improvements Element) to "maintain the Interlocal Agreement with Lee County for the disbursement of Causeway Surplus Revenue".

In improving the City's working relationship with Lee County on our shared interest in the Sanibel Causeway, the City will attempt to foster better communication and better define the rights and obligations of both parties.

The Paul S. Sarbanes Transit in Parks (formerly Alternative Transportation in Parks and Public Lands) program project for the federal wildlife refuge, involving federal and regional agencies has become a major concern for the City.

Parks and Recreation

There remains a need to coordinate with Lee County on the use of a near-island regional recreation site identified in the *Sanibel Plan*. A policy of the *Sanibel Plan* (Section 3.4.1 Intergovernmental Coordination, Policy 1.6) calls for development of "an agreement with Lee County to ensure that use of the Sanibel Causeway and causeway islands is compatible with the community character of the City of Sanibel".

The Planning Department **recommends that Improving Coordination and Collaboration with other Governmental Units be further addressed in the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*. The Transit in Parks Program project should be addressed in the further evaluation of this Major Issue.**

The Special Topics of the 2004/2005 Evaluation and Appraisal Report

The following is the listing of the Special Topics in the 2004/2005 Evaluation and Appraisal Report for the *Sanibel Plan* and a discussion of how the Special Topic has been addressed.

Special Topic: Schools

Permanent classrooms for the middle school, a new media center, library and cafeteria at The Sanibel School were completed during the preparation of the 2004/5 EAR.

A Public School Facilities Element was added to the *Sanibel Plan* on May 5, 2009 (Ordinance no. 09-01). Public school concurrency is no longer a State requirement.

The Planning Department **recommends that the background discussion and policies of the Public Schools Facilities Element be re-evaluated in the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Special Topic: Water Supply

The City's EAR-based Plan Amendment incorporated a Ten-Year Water Facilities Plan into the Water Supply Element of the *Sanibel Plan*.

The Planning Department **recommends that this item not be identified as a Special Topic in the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Special Topic: Sanibel Causeway

The replacement of the bridges of the Sanibel Causeway has been completed. The restoration of toll revenues to the City remains a primary concern. The development and operation of the causeway islands is also a concern identified in the *Sanibel Plan*.

The Planning Department **recommends that these remaining issues be incorporated with "Improving, Coordination and Collaboration with Other Government Units", as part of the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Special Topic: Official Maps

The 2007 EAR-based Plan Amendment included computer-drawn components of the Future Land Use Map series of the *Sanibel Plan*. These computer-drawn maps are the Commercial Districts Map, the Resort Housing District Map and the Wetlands Conservation Lands Map. The Planning Department is nearing completion of computer-drawn Ecological Zones Map and Development Intensity Map. The computer-drawn editions of these two components of the Future Land Use Map series are expected to be ready for inclusion in the City's next Evaluation and Appraisal-based Plan Amendment or before.

The Planning Department **recommends that this item not be identified as a Special Topic in the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Special Topic: Lessons learned from the recovery efforts following the destruction caused by Hurricane Charley

In 2005, Hurricane Wilma gave the City the unwelcomed opportunity to employ the lessons learned from the recovery efforts following the destruction caused by Hurricane Charley.

The City remains intent on ensuring that evacuation and recovery capabilities are adequate and available for response to threat from hurricanes and other disasters (a major Issue in the 2004/5 EAR).

Lessons learned from past storm events have been and will be incorporated into the *Sanibel Plan* and the City's Hurricane Plan.

The Planning Department **recommends that this item not be identified as a Special Topic in the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

Comments from the Department of Community Affairs (DCA) on the 2004/2005 Evaluation and Appraisal Report

DCA Comment: Identify the City's Plan for Wetlands Protection

In the Plan for Wetlands Protection in the *Sanibel Plan*, the 2007 EAR-based Plan Amendment clarified the following policy.

Wetlands provide natural cleansing of stormwater runoff and prevent nutrients and contaminants from getting into the Gulf of Mexico. Retaining natural wetlands significantly contributes to the attainment of good water quality. All options to avoid damage to wetlands shall be considered: options such as, the reduction in the intensity and mass of the proposed development; the reconfiguration of the proposed development, and the relocation of the proposed structures. When public or private projects produce unavoidable damage to wetland areas, restoration or mitigation programs shall be implemented. Mitigation activities for the impacts from the unavoidable losses of wetlands due to development, require habitat preservation, restoration or creation. Mitigation shall be on-site. However, when damage to wetlands is necessitated by health and safety factors and if the habitat preservation, restoration or creation cannot be done on-site, it shall be done on the Island and should be as near to the lost habitat as practical.

For any acre of unavoidable wetlands losses, there shall be:

- 3 acres of wetlands created and preserved, or
- 10 acres of wetlands restored and preserved, or
- a proportionate combination of created wetlands and restored wetlands.

The Planning Department finds that the *Sanibel Plan* has addressed the protection of Wetlands and **recommends that this item not be identified as a Major Issue in the City's 2012 Evaluation and Appraisal of the *Sanibel Plan*.**

SUMMARY

The **Planning Department** recommends that

- ✓ Improving Coordination and Collaboration with other Governmental Units
- ✓ Reconsideration of Policy 2.1 in the Coastal Zone Protection Element (Section 3.2.1) concerning measures and methods to determine and sustain the carrying capacity of the beach for use by wildlife
- ✓ Continuation of the Work Program for Redevelopment addressing land use regulations for Commercial Districts, Residential Districts and Nonconforming Resort Housing uses
- ✓ Re-assessment of the policies in the Public Schools Facilities Element
- ✓ Local concerns, such as the Town Center / Square, identified in the on-going planning process

be part to the 2012 Evaluation and Appraisal of the *Sanibel Plan*.