

**SANIBEL CITY COUNCIL REGULAR MEETING  
AUGUST 21, 2007**

Mayor Denham called the meeting to order at 9:00 a. m.

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

**Request from Councilmember Pappas to be excused due to being out of state**  
Council did not excuse Councilman Pappas from the meeting.

Members present: Mayor Denham, Vice Mayor Johnston, Councilman Jennings and  
Councilman Ruane. Councilman Pappas was not excused.

**PRESENTATION(S)**

**Recognition of Sharon Gibson for 25 years of service (August 16, 1982 to August 16, 2007) to the citizens of Sanibel**

Councilman Ruane presented a frame proclamation and check to Ms. Gibson.

**Recognition of Employee of the Quarter for the 3<sup>rd</sup> Quarter, Fiscal Year 2006-2007**

Councilman Ruane recognized Susan Beck, Planning Department as the Employee of the 3<sup>rd</sup> Quarter.

**Proclamation recognizing Industry Appreciation Week as September 17, 2007 through September 21, 2007**

Councilman Jennings read and presented the proclamation to Robbie Roestopff as the Horizon Council representative.

**Proclamation recognizing Water Reuse Week September 9<sup>th</sup> through September 15, 2007**

Vice Mayor Johnston read and presented the proclamation to the Public Works Department and recognized Matt Fannon for his work on the reuse program.

**Legislative Update from Van Poole, Dutko McKinley Poole the City's Governmental Affairs consultant**

Van Poole gave the following presentation:

- Continued discussions of tax reform and insurance
- Sanibel lead the way out the fertilizer issue
- More focus on water quality in part to Sanibel Council

**Public Comments:**

Karen Storijohann asked that item (b) and item (o) and item (q).

Ms. Zimomra asked the item (n) be pulled from the Consent agenda until later in the day.

Claudia Burns spoke to Snowy Plover nesting season was over and was successful. She further stated that 8 birds fledged plus 2 chicks raised by CROW. She reported that there were 2007 166 nest compared to 137 in 2006 and so far 67 nests have hatched.

**Council Comments**

Councilman Jennings spoke to school starting, Sanibel School being an A+ school and putting a plaque at the new bridge to that affect. He further spoke to a workshop with Fort Myers Beach Commission.

Ms. Zimomra stated she had spoken to the Fort Myers City Manager and it was decided to have a meeting after September and after legislative discussions with legislators.

Vice Mayor spoke to working as MPO Chair and working toward correcting the \$10 million mistake to Coconut Road rather than improvements to I-75.

### **Planning Commission Report**

Dr. Phillip Marks gave the following report of the August 14, 2007 Planning Commission meeting:

- Request extension for Sanibel Bayous Corporation due to waiting for final approval from SFWMD
- Investigation of a mapping error of the French corner (property beside the post office) 5,000 square foot parcel and approved to finally include within the zoning map
- Approval an application for CROW to construct 2 buildings; 1) hospital and 2) an educational building – Fire Department evaluating the driveway for emergency vehicles – site would be maxed out for further construction
- Approval of temporary permit to construct a temporary module for primary and urgent care and approval for 1 year and possibly for a second year
- Planning Commission would met with Periwinkle Way West consultants in September

Discussion ensued regarding cleaning the property of the French Quarter, have the signage taken down, new medical center would need to have a clear and easy entrance for emergency vehicles.

#### Public Comment

Claudia Burns spoke to the water storage challenge during the hurricanes was helped by using 3 large saltwater tanks emptied to store fresh water.

First Reading of an ordinance and scheduling of public hearing.

**ORDINANCE 07-011 REPEALING CITY OF SANIBEL ORDINANCE NO. 03-008 WHICH ESTABLISHED AN UPDATED AND REVISED SCHEDULE OF RECREATION USER FEES FOR CITY OF SANIBEL RECREATION PROGRAMS; PROVIDING FOR THE ESTABLISHMENT OF RECREATION PROGRAMS FOR FISCAL YEAR 2007-08; AUTHORIZING THE CITY MANAGER TO APPROVE NEW ADDITIONAL RECREATION PROGRAMS DURING FISCAL YEAR 2007-08 AND ESTABLISH FEES FOR SUCH PROGRAMS, PROVIDED THE FEES ESTABLISHED DO NOT EXCEED THE COST OF OPERATION OF THE PROGRAM; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance. Council set the second reading and public hearing for Tuesday, September 18, 2007 at 10:00 a. m

**ORDINANCE 07-012 AMENDING ORDINANCE 07-003 REGULATING THE USE OF FERTLIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN THE CITY OF SANIBEL; AMENDING SECTIONS 5(B)(2) AND 9(A) TO CHANGE THE REQUIRED PERCENTAGE OF MINIMUM SLOW RELEASE NITROGEN FROM 70% TO 50%; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 07-012. Council set the second reading a public hearing for Tuesday, September 18, 2007 at 10:15 a. m.

Second Reading and Public Hearing

**ORDINANCE 07-008 OF THE CITY OF SANIBEL, FLORIDA AMENDING THE PROVISIONS OF THE CITY OF SANIBEL GENERAL EMPLOYEES' RETIREMENT PLAN BY AMENDING SECTION 50- 101 OF THE SANIBEL CITY CODE, DEFINITIONS, CREDITED SERVICE; AMENDING ORDINANCE 05-001; PROVIDING FOR CODIFICATION, CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 07-008.

Vice Mayor Johnston made a motion, seconded by Councilman Ruane, to adopt Ordinance 07-008.

The motion carried. Councilman Pappas was not excused.

Due to the scheduled of the next public hearing at 10:15 a. m. Council discussed the Consent Agenda.

Mr. Cuyler requested that item (r) be removed for discussion.

Public Comment

Karen Storijohann spoke to item (q) and asked if a more aggressive plan could be taken.

- q. Approval of Nile Monitor Lizard and Iguana Management Program
  - i. Plan approval
  - ii. **RESOLUTION 07-111 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-087 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$30,000 for instituting a lizard/iguana control/eradication program funded by a \$5,000 grant from the US Fish & Wildlife Service and a \$25,000 transfer from the General Fund Reserve for Contingencies. This amendment authorizes the City Manager to execute the grant agreement. This amendment reduces the General Fund contingency reserve from \$139,501 to \$114,501)

Ms. Zimomra spoke to an alternate management plan was baiting, which would kill other animals and shooting the lizards, but the potential for harming human life was possible.

Ms. Zimomra read the title of Resolution 07-111.

Councilman Jennings made a motion, seconded by Councilman Ruane, to adopt Resolution 07-111.

The motion carried. Councilman Pappas was unexcused.

- o. **RESOLUTION 07-109 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-086 AND PROVIDING AN EFFECTIVE DATE** (to carry forward \$5,833 of beginning fund balance from FY06 to cover under-budgeted FY07 operating supply expenses. His amendment increases the budget by \$5,833)

Ms. Storijohann spoke to not understanding where this money would be coming from.

Ms. Zimomra read the title of Resolution 07-109

Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Resolution 07-109

The motion carried. Councilman Pappas was unexcused

- b. **RESOLUTION 07-078 AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH A MEDIA AND PUBLIC RELATIONS**

**CONSULTANT TO CONDUCT A COMMUNICATIONS PROGRAM WITH NATIONAL AND LOCAL MEDIA OUTLETS, PROVIDE PUBLIC EDUCATION AND INSTRUCTIONAL MATERIAL AND COORDINATE MEDIA COVERAGE THAT PROVIDES THE PUBLIC RELEVANT INFORMATION CONCERNING PRE-STORM AND POST-STORM ACTIVITIES ON AN AS-NEEDED BASIS DURING DECLARED STATE OF EMERGENCY SEVERE WEATHER SITUATIONS; AND PROVIDING AN EFFECTIVE DATE** (This agreement will be implemented only when an evacuation from Sanibel is required due to a severe weather emergency or when disaster preparedness communications with residents and the publication of educational material is necessary to protect public safety)

Ms. Zimomra read the title of Resolution 07-078.

Ms. Stori johann stated she understood the reason for the resolution.

Mayor Denham made a motion, seconded by Councilman Ruane, to adopt Resolution 07-078.

The motion carried. Councilman Pappas was unexcused.

- a. Approval of minutes, June 19, 2007 Regular Meeting, and July 17, 2007 Regular Meeting
- s. Authorization allowing the City Manager to enter into a contract to provide GIS needs assessment and develop long-term implementation plan not to exceed \$25,000; no new funds for this project are needed, fund available in existing budget
- t. Approval to grant an easement for Lee County Electric Co-op, (as well as Comcast and any other necessary utilities) to cross the Community Park property, 2173 Periwinkle Way and is for the placement of an underground transmission to replace the existing over head lines which restricts the use of the property (approved in substantially form attached with authorization for staff to modify as necessary)
- u. Approval of an agreement between the City of Sanibel and the Community Housing Resources (CHR) and authorize the City Manager to execute the agreement
- v. Request from Sanibel Community Association (SCA) 2173 Periwinkle Way, for an additional 29 Special Events Permits for FY 2008
- x. Approval for the City Manager to accept the amended Aetna renewal rate for fiscal year 2007-2008 that retains the current health benefits plan structure for City employees and those retirees who participate in the plan
- y. Approval of the Request for Proposals to secure professional engineering, environmental and planning services necessary to undertake the Alternative Transportation Planning Study as funded through the federal Alternative Transportation in Parks and Public Lands grant program and pursuant to an Interlocal Agreement between Lee County, City of Sanibel and J. N. "Ding" Darling Wildlife Refuge

- z. Approval of an amendment to the City of Sanibel Personnel Rules and Regulations Manual, Drug-Free Workplace Policy
- aa. Request from the Horizon Council for funding in the amount of \$2,500 for the Industry Appreciation Lunch to be held Friday, September 21, 2007
- bb. Approval of City Manager to serve on the School Advisory Council for 2007-2008 school year

Councilman Jennings made a motion, seconded by Vice Mayor Johnston, to approve the above-mentioned.

The motion carried. Councilman Pappas was unexcused.

Mr. Cuyler explained that there was a replacement of Resolution 07-097 on the dais for Council's consideration and Resolution 07-094 was not pulled.

- c. **RESOLUTION 07-087 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-077 AND PROVIDING AN EFFECTIVE DATE** (to appropriate the South Florida Water Management District (SFWMD) Caloosahatchee Watershed Initiative grants in the total amount of \$695,000 and authorize the City Manager to execute the grant agreements. The grants are as follows: \$35,000 for Bayous (Phase 5) collection system evaluation; \$120,000 for Phase 4 expansion design; \$40,000 for inflow and infiltration improvements; \$500,000 for Phase 3B centralized sewer expansion)
- d. **RESOLUTION 07-094 ADOPTING AND ESTABLISHING A REVISED SCHEDULE OF RATES, FEES AND CHARGES FOR THE SANIBEL SEWER SYSTEM PROVIDING FOR AN INCREASE IN RESIDENTIAL AND COMMERCIAL RATES; AND PROVIDING AN EFFECTIVE DATE**
- e. **RESOLUTION 07-095 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-079 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$15,000 for police staff time during special events and to recognize the revenue billed to clients for providing this service. This amendment increases both revenue and expense by \$15,000)
- f. **RESOLUTION 07-096 ACCEPTING A BILL OF SALE AND AFFIDAVIT OF NO LIEN FOR WASTEWATER FACILITIES, FROM WHISPERWOOD COVE HOMEOWNERS ASSOCIATION, INC., AUTHORIZING THE CITY MANAGER TO RECORD SAME IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE** (to approve City ownership and maintenance of the Whisperwood Cove sewer system)
- g. **RESOLUTION 07-097 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE** (Police Department boat motor and van, and Toshiba and Xerox copiers)
- h. **RESOLUTION 07-098 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-082 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$43,500 from the General Fund Reserve for Contingencies for the acquisition of three (3) photocopy machines to replace the obsolete machines in the Administration, Legislative and Legal Departments. This budget amendment reduces the General Fund Contingency Reserve to \$96,001)

- i. **RESOLUTION 07-099 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-081 AND PROVIDING AN EFFECTIVE DATE** (to reinstate the Harriot Spoth Funds in the amount of \$116,342 and to appropriate the payment of \$17,953.05 representing the balance of proceeds from the “Raise the Roof Fundraiser” (held in FY 2006) to the newly created Historical Museum and Village, Inc. See attaches memorandums containing more detailed description of these transactions)
  - i. Reinstatement of the Harriet Spoth Fund in the amount of \$116,342. (The money is to remain in the City budget for Council approved projects)
  - ii. Balance of the “Raise the Roof Fundraiser” in the amount of \$17,953.05 to be transferred to the Historical Museum and Village, Inc. (501 c (3)) Board for use at the Museum and Village
  
- j. **RESOLUTION 07-100 PERTAINING TO CHAPTER 14 OF THE SANIBEL CODE ENTITLED “BUILDING AND BUILDING REGULATIONS”; AMENDING ARTICLE IV, PERMITS, SECTION 14.191, FEE SCHEDULE, ADOPTED PURSUANT TO THE AUTHORITY OF CITY OF SANIBEL ORDINANCE NO. 03-011; AMENDING THE BUILDING PERMIT AND BUILDING REGULATION RELATED FEES SET FORTH THEREIN; INCREASING THE FEES BY 2.9%; AND PROVIDING AN EFFECTIVE DATE**
  
- k. **RESOLUTION 07-106 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE** (other miscellaneous items)
  
- l. **RESOLUTION 07-105 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-083 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$45,534 from the General Fund reserve for environmental initiatives to pay for Farnham and Associates work on water quality issues. This amendment reduces the reserve for environmental initiatives by \$43,534 to \$375,886)
  
- m. **RESOLUTION 07-107 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-084 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$257,013 from the Recreation Center Fund reserve for contingencies for two change orders to the Peter Brown contract and to increase the contract with Woodroffe Corporation Architects. The change orders were previously approved by City Council on April 17, 2007 and July 17, 2007 and the Woodroffe increase was approved at the July 17, 2007 meeting. There is no change to the budget by this budget amendment)
  
- p. **RESOLUTION 07-110 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-088 AND PROVIDING AN EFFECTIVE DATE** (to roll forward FY06 TDC grant #402064 of \$40,000 for Turner Beach restroom improvements and to correct the \$9,200 roll forward of funds for the Chamber of Commerce restrooms. This amendment also reallocates funds in the Beach Parking Fund to provide for indirect cost charges and increases the associated revenue in the General Fund . This amendment reduces the budget by \$7,727)

Ms. Zimomra read the titles of Resolutions 07-087, 07-094, 07-095, -07-096, 07-098, 07-098, 07-099, 07-100, 07-105, 07-106, 07-107, 07-108 and 07-110.

Mr. Cuyler, City Attorney explained that Resolution 07-097 on the dais replaces the resolution in the agenda packet. He also stated that Resolution 07-094 was not pulled for public comment and the public had not requested to speak on said resolution.

Mayor Denham made a motion, seconded by Councilman Ruane, to adopt Resolutions as mentioned above.

The motion carried. Councilman Pappas was unexcused.

**ORDINANCE 07-009 REPEALING PRIOR ADOPTED ORDINANCE NO. 03-008 WHICH ESTABLISHED AN UPDATED AND REVISED SCHEDULE OF RECREATION USER FEES FOR CITY OF SANIBEL RECREATION PROGRAMS; PROVIDING FOR THE ESTABLISHMENT OF RECREATION USER FEES FOR CITY OF SANIBEL RECREATION PROGRAMS FOR FISCAL YEAR 2007-08; AUTHORIZING CITY MANAGER TO APPROVE NEW RECREATION PROGRAMS DURING THE FISCAL YEAR 2007-08 AND ESTABLISH FEES FOR SUCH PROGRAMS, PROVIDED THE FEES ESTABLISHED DO NOT EXCEED THE COST OF OPERATION OF THE PROGRAM; PROVIDING FOR FUTURE CHANGES TO SUCH SCHEDULE OF RECREATION USER FEES BY CITY COUNCIL RESOLUTION; PROVIDING FOR AN AUTOMATIC ANNUAL INCREASE IN THE RECREATION USER FEES; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 07-009. She explained the following:

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- r. Reconfigured Sextant Drive Access
  - i. Acceptance of a temporary construction easement from Mariner Pointe Condominium Association, Yacht Haven Condominium Association, and Tennis Place Condominium Association for the reconfiguration of Sextant Drive ingress/egress to Sanibel boat ramp property ingress/egress; and
  - ii. Grant to same condominium associations a permanent non-exclusive easement over boat ramp property to provide replacement ingress/egress

Mr. Cuyler explained that this item was the Sextant Drive access and the reconfiguration with regard to the new Causeway construction. He further explained that there were two documents in the agenda packet; 1) a temporary construction easement that allows work to be done on Sextant Drive, which was private property; and 2) a perpetual non-exclusive access easement that would allow those normally exiting Sextant Drive connect to the boat ramp property and go out through the boat ramp. He stated that there were two issues.

Council decided to wait for discussion until later in the meeting.

**OLD BUSINESS**

**Water Quality Issues**

**Reports from City Council members**

**Report on the Army Corps of Engineers public hearing of August 08, 2007**  
**Report on meetings with Lee County Commissioners regarding water quality**

Vice Mayor Johnston called Council's attention to the report in the agenda packet of the public hearing. She highlighted the following:

- Encourage part-time residents to write to President Bush to not short-change the Everglades Project
- Tax reform legislation also affected SFWMD and the C-43 project delayed
- C-43 water treatment acquisition and the need to urge SFWMD to purchase land for water storage
- County and local governments would also be affected with funding
- ACOE beginning to work responsibly
- Adopt a resolution
- Request other municipalities and counties adopt a resolution

Council directed staff to create a resolution for Council's consideration at the September 18, 2007 meeting.

Vice Mayor Johnston continued:

- Next regulation schedule for Lake Okeechobee
- Washington law firm involved and setting the stage if legal action was necessary
- Human, health and safety at the top of the ACOE mandate and discussion at the public hearing regarding algae deposits
- No safety data from the algae and all information needed to be made available to the ACOE
- Include update in the next H2O Matters newsletter
- SFWMD most reluctant partner and Governor Crist good decision appointing new members of the SFWMD governing board
- Need to stay in contact with the SFWMD governing board members
- Beveridge and Diamond more involved with ACOE issues
- Should request Carol Wehele, SFWMD Director for a presentation of land storage acquisition progress
- Spoke to Governmental Affairs consultants the need for tax credits to encourage water farming (provide incentives for owners of agricultural land that can not farm)

Discussion ensued regarding water credit for land use work to be economically viable, DEP very active in helping with local issues, needs assistance with red algae removal, may not have enough funds to remove everything, asked the Chamber for assistance, issue to reduce the quality standard of waterways and informed by legal experts more difficult if there were plans in place to care for water quality.

Council recessed at 10:23 a. m.

Council reconvened at 10:32 a. m.

**ORDINANCE 07-010 AMENDING SECTION 70-148, RATES, OF THE SANIBEL CODE PERTAINING TO THE SANIBEL SEWER SYSTEM; PROVIDING AN UPDATED RATE OF \$1.99 PER THOUSAND GALLONS FOR GENERAL RECLAIMED WATER CUSTOMERS; PROVIDING FOR A MINIMUM AUTOMATIC ANNUAL INCREASE IN RATES FOR GENERAL RECLAIMED WATER CUSTOMERS; PROVIDING FOR CODIFICATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

Mr. Cuyler read the title of Ordinance 07-010.

Public Comment

None.

Councilman Ruane made a motion, seconded by Mayor Denham, to adopt Ordinance 07-010.

The motion carried. Councilman Pappas was unexcused.

### **Report on meetings with Lee County Commissioners regarding water quality**

Vice Mayor Johnston reported on before the break.

### **Report on Regional Planning Council water quality initiatives**

#### **Letter from South Florida Water Management District (SFWMD) regarding request for information on local fertilizer ordinance status**

#### **Letter from South Florida Water Management District (SFWMD) regarding request for information on total costs for upgrading wastewater treatment facilities in the southwest Florida region**

Mayor Denham spoke to the following:

- Mayor Denham put forth that the Vice Mayor would focus on Lake Okeechobee issues and the Army Corps of Engineers and Council did not disagree
- Mayor focusing on urban pollutions (i.e. releases from sewage treatment facilities, releases from package plants, storm water treatment and septic systems)
- Regional Planning adopted 2 resolutions (i.e. fertilizer control and upgrading of waste water treatment facilities in the 6 counties of Southwest Florida)
- Package treatment facility resolution on the next agenda for the next Regional Planning meeting
- Another resolution being created by the South Florida Management District for storm water
- Regional Planning Council staff sent out 2 letters as directed by the Regional Planning Council to the 6 counties and approximately 20 municipalities requesting a fertilizer ordinance be adopted by the end of 2007
- 2<sup>nd</sup> letter was mailed out regarding waters from sewage treatment facilities and requesting throughout the 6 county region of the cost to modify the sewage treatment facility process to comply with the Regional Planning resolution
- Planning Council would take the estimates and apply for state and federal grants for the region
- Spoke to Rebecca O'Hare League of Cities attorney
- Working with Farnum and Associates on water quality articles

Discussion ensued regarding the work of the Regional Planning Council for combined grants, involving the Florida League of Cities, Department of Agriculture convening a meeting in September regarding fertilizer, and Councilman Jennings newly appointed to the League of Cities Board of Directors would carry the discussion forward as mentioned above.

#### **Public Comment**

Karen Storijohann spoke to a French water system for potable water. She further spoke to providing water through desalination plants. She also spoke to the need to recharge the aquifer.

### **Staff Report**

#### **Water priority initiatives**

Dr. Loflin spoke to the following:

- New priority list in the agenda packet
- For use by Council and staff

Discussion ensued regarding the need to combined numbers 4 and 5, modifying the list to have a different list for different groups, make list simpler, should delete number 1, focusing people on related ACOE issues, Dr. Loflin stated there were staff tasks and the overwhelming need was to keep ACOE focused, track Lake Okeechobee operations, put unfinished business to follow through with needed water storage,

Council asked the Vice Mayor to work with the City Manager and staff regarding SFWMD water acreage, and the need to get out an issue of the newsletter.

Dr. Loflin reported about the Northern Everglades Project:

- Committee meets monthly
- Looking for recommended projects to fund
- Timeline October
- Putting together a draft list for projects

Discussion ensued regarding to have representation on the committee and the appointment process, Phil Flood, SFWMD may have some influence, best approach or location for funds, involve Beveridge and Diamond, find a way for the City to receive part of the \$15 million Lee County received from SFWMD, shortfalls in the state due to the tax reform bill, Governor Crist's instruction to the legislature was to cut programs due to the tax reform legislation, attend the SFWMD public hearings and DEP had not given a permit for mechanical clean-up.

Dr. Loflin stated October was the timeline to prioritize specific Northern Everglades Initiatives.

**Evaluation Appraisal Report (EAR)**  
**Review and discussion of the State's Report to the City on the City's**  
**Evaluation and Appraisal Report-Based Amendment to the Sanibel Plan** (the report, the objections recommendations and comments was prepared by the Florida Department of Community Affairs)

Mr. Duffy and Ken Pfalzer spoke to the status of the review of the EAR based amendments as follows:

- 2<sup>nd</sup> hearing an adoption hearing
- 120-days to submit EAR to the Department of Community Affairs (DCA)
- DCA comments very favorable
- Staff organized the few modifications in to 5 discreet areas
- 1 finding with the need to include a table on the 5-year capital improvements to address concurrency
- City does not address concurrency due to the nature of the plan and the approach to growth management
- Staff provided suggested ways to modify the policy that deal with 5 sections and subsections of the plan

Discussion ensued regarding the next agenda, grammatical errors and comments had been passed to the City Manager.

**RESOLUTION 07-102 ELECTING TO CONDUCT A PUBLIC ADOPTION HEARING, PRIOR TO 5:00 P. M., REGARDING A PROPOSED ORDINANCE THAT AMENDS THE SANIBEL PLAN; SETTING THE TIME AND DATE FOR THE SECOND PUBLIC HEARING FOR THE SANIBEL PLAN AMENDMENT; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 07-102.

Mayor Denham made a motion, seconded by Councilman Ruane, to adopted Resolution 07-102 and set the second reading and public hearing for September 18, 2007 at 9:15 a. m.

The motion carried. Councilman Pappas was unexcused.

Council decided to discuss item (r) on the Consent Agenda as follows:

**r. Reconfigured Sextant Drive Access**

- i. Acceptance of a temporary construction easement from Mariner Pointe Condominium Association, Yacht Haven Condominium Association, and Tennis Place Condominium Association for the reconfiguration of Sextant Drive ingress/egress to Sanibel boat ramp property ingress/egress; and**
- ii. Grant to same condominium associations a permanent non-exclusive easement over boat ramp property to provide replacement ingress/egress**

Mr. Cuyler spoke to the 2 documents in the agenda packet; 1) a temporary easement that allows construction workers to go on the condo property to remove Sextant Drive near Causeway Boulevard area in the right-of-way; 2) a perpetual ingress/egress easement to re-route traffic from Sextant Drive to the boat ramp property exiting the boat ramp drive. He stated there were 4 conditions are as follows for Council consideration:

- Condos requested that the City assure that anticipated construction to Causeway Boulevard would occur
- The easement run to not only the condo associations, but to residents and visitors as well
- Requested a title search
- In the temporary construction easement the condo attorney requested a broader indemnity clause

Mr. Cuyler spoke to condition number 4 and stated that it was low risk, but high liability. When asked, he further stated that his advice would be not to have an indemnity clause.

**Public Comment**

Gilbert Harris spoke to mitigating the traffic risk.

Discussion ensued regarding the re-working of Causeway Boulevard for health, safety and welfare, when asked what was in the agreement Mr. Cuyler stated that there were certain caps towards claims against a municipality for torque (personal injury), no need for a title search, shared expense with Lee County and would not be completed by September 8<sup>th</sup>.

Ms. Zimomra stated the Causeway Boulevard right-of-way must be completed by September 08.

Mayor Denham made a motion, seconded by Vice Mayor Johnston, to approve the two easement documents without a title search and without an indemnity provision.

The motion carried. Councilman Pappas unexcused.

**Recreation Center Update**

**Staff Status Report and Construction Manager Peter Brown Report (Stuart Pope)**

Ms. Zimomra stated the progress report was in the agenda packet.

Approval of Change Order No. 7 polish, stain and seal for teen room, first-aid recreational room and multi-purpose room and **RESOLUTION 07-113 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-089 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$9,873 from the Recreation Center Fund reserve for contingencies for a change order to the Peter Brown contract to furnish and install all necessary labor,

material and equipment to polish, stain and seal hard concrete floors # 127,128,131,132 and 133 of the recreation center. There is no change to the budget by this budget amendment)

Ms. Zimomra read the title of Resolution 07-113.

Mayor Denham made a motion, seconded by Vice Mayor, to adopt Resolution 07-113.

Public Comment

None

The motion carried. Councilman Pappas unexcused.

Revised Sound System Proposal and Change Order No. 8 and **RESOLUTION 07-114 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-090 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$40,180 from the Recreation Center Fund reserve for contingencies for a change order to the Peter Brown contract to expand the existing sound system at the recreation center. There is no change to the budget by this budget amendment)

Ms. Zimomra read the title of Resolution 07-114.

Councilman Jennings made a motion, seconded by Vice Mayor Johnston, to adopt Resolution 07-114.

Discussion ensued regarding this being an addition to the current sound system, Ms. Phillips, Recreation Director stated this system would reach all other areas not within reach of the gym and it would be used for emergency purposes, and more economical to include the wiring.

Public Comment

None

The motion carried. Councilman Pappas was unexcused.

Consideration of whether it wishes to approve Change Order No. 9 – back-up generator and Consideration of whether it wishes to approve **RESOLUTION 07-115 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-091 AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 07-115. She stated that there was interest for Lee County funding.

Councilman Jennings made a motion, seconded by Councilman Ruane, to adopt Resolution 07-115.

Public Comment

None

The motion carried. Councilman Pappas was unexcused.

Ms. Zimomra spoke to Council approval of the following items.

### **Approval of Facility Rules**

Ms. Zimomra spoke to the code of conduct, which would be in plain site for members and was taken to the Parks and Recreation Committee.

Discussion ensued regarding room names, Ms. Zimomra stated that the times were in accordance to the previous times, state law requires that hours be posted, last page insert after the word “constructed,” “by the City of Sanibel,” change energy efficient lighting fixtures, include “energy efficient heating and lighting on package,” wording on the plaque, remove “dark skies,” and change “to energy efficient” should include dark skies, include state of the art energy efficient heating and lighting.”

Mayor Denham made a motion, seconded by Vice Mayor Johnston, to include dark skies and add “state of the art energy efficient heating and lighting.

The motion carried with Councilman Jennings opposed and Councilman Pappas was unexcused.

### **Approval of Signage Design**

Mayor Denham made a motion including the type of room, seconded by Councilman Ruane accept signage

Discussion ensued regarding including the complete address.

The motion carried. Councilman Pappas was unexcused.

### **Approval of schedule through dedication**

Ms. Zimomra stated the contractor anticipates substantial completion September 28 and final inspection. She continued to explain that a soft opening around Thanksgiving.

Mayor Denham made a motion, seconded by Councilman Ruane, to accept the opening schedule.

Public Comment

None.

The motion carried. Councilman Pappas was unexcused.

### **Approval of Aerobics contract for new facility**

Ms. Zimomra stated that the City and the Fitness Center had work to have a partnership for aerobic classes 5 days per week 10 to 11 and 530 to 630

Mayor Denham made a motion, seconded by Councilman Jennings, to approve the contract.

Public Comment:

None

The motion carried. Councilman Pappas was unexcused.

### **Presentation of Revised After-School Program (Implementation for post-opening of new facility)**

Ms. Zimomra stated the inclusion of the program was in the agenda packet, which would dramatically improve the programming.

Councilman Jennings made a motion, seconded by Mayor Denham, to approved the after-school program.

The motion carried. Councilman Pappas was unexcused.

### **Facility rental and event packages**

Ms. Zimomra spoke to reviewing facilities rentals in other areas and a comment from the Parks and Recreation Committee was the need for a minimum amount. She further spoke to bringing in additional revenue.

Discussion ensued regarding of down time between 1100 and 100 on Saturday for a pool party, and minimum room capacity would be included.

Councilman Ruane made a motion, seconded by Vice Mayor Johnston, to approve the facility rental and events packages.

The motion carried. Councilman Pappas was unexcused.

### **Recreation Center Update**

#### **Staff Status Report and Construction Manager Peter Brown Report (Stuart Pope)**

Henry Woodroffe spoke to the following:

- Recreation Center 85% complete
- Thanked Council for the flooring decision
- Side work concrete had begun
- Parking lot beginning to develop

### **Update Financial Matrix**

Ms. Zimomra stated the matrix was in the agenda packet and within budget.

Council recessed at 12:11 p. m.

Council reconvened at 1:02 p. m.

Council decided to discuss the following issue.

### **Solid Waste Management Program and Fee Discussion**

#### **Collection post bridge opening**

#### **Discussion regarding franchise fees and direction to staff**

Gates Castle, Public Works Director spoke to the following:

- 2005 the City re-bid waste collection; 1) with weight restrictions; and 2) without weight restrictions
- Gone to the pricing with no weight restriction
- Added the 4.6% for FY 06/07
- Received Lee County's tipping fee rate
- Waste Pro requested a 1.5% CPI for this year
- Council to decide the following
  - Grant the 1.5% CPI
  - Keep small trucks on residential and commercial can routes
  - Increase of 3.5% to keep the small trucks
  - Impact the resident and commercial can rates

Discussion ensued regarding the reason for the smaller garbage trucks, and Council asked Mr. Castle to explain the reasoning.

- Mr. Castle explained 2003 the smaller trucks were implemented due to the Causeway bridge problems
- Usage of smaller trucks better for the island due to small narrow roads with vegetation
- Larger trucks have more impact to roadways
- Small truck 18 yards and weigh approximately 24,000 to 25,000 pounds
- Large trucks 32 yards and weigh 38,000 pounds
- 25,000 pounds difference in larger versus smaller trucks loaded
- More stress and damage to roadways with repetitive use of large trucks
- Franchise fee currently 5% of the gross revenues
- Franchise fee was the payment Waste Pro makes to Sanibel in return for the exclusive use of roads

Discussion ensued regarding the franchise fee being a revenue stream and what was is being spent on, Ms. Lynch stated that the franchise fees/occupational licenses were pledged under a 1979 debt service for a land

acquisition and equates to \$187,000 annual debt service payment, she further explained that any amount collected of franchise fees/occupational licenses over that amount could be use for any governmental purpose, and typically use for various capital projects, and other debt service requirements or transferred to the general fund to reduce taxes.

Mr. Castle stated the final item Council would need to decide was setting the solid waste surcharge. He explained that amount was a per ton dollar amount. He continued to explain that every ton of garbage that goes to the Lee County's incinerator or landfill would be measured and a report would come from Lee County as to the tonnage of garbage. He also explained that currently the City was collecting \$20 per ton and the recommendation was to increase to \$25 per ton for the surcharge.

Discussion ensued regarding the increase of the surcharge fee, the fee was associated with the garbage that goes to the incinerator or landfill, and City's hauler would reimburse the City whatever the tonnage was when garbage was weighed, Council decides the surcharge, which was a user fee.

Ms. Zimomra explained that any fee established by Council would be calculated for the following year, but any fee change not adopted by October 1<sup>st</sup> would be booked the following year.

Discussion continued the fees would bring an additional \$300,000 annually, Mr. Castle stated that was correct if Council adopted the \$25 surcharge and 15% franchise fee, the average residential user increase would be \$8.00 per year from the current \$313.92 to \$321.12, to bring in \$300,000 ad Valorem tax what would be the increase \$

#### **Discussion regarding alternative to solid waste disposal surcharge**

Mr. Castle spoke to the per ton dollar amount of garbage that goes to the incinerator or landfill would be measured by Lee County. He further stated that currently the fee was \$20.00 per ton. She explained that the tonnage taken to Lee County would generate revenue by the tonnage taken to Lee County.

Mr. Castle stated this was a user fee for the use of a franchise fee to use the roads.

Ms. Zimomra stated that any fee establish before the beginning of the new fiscal year could be used for the new fiscal year, but if established after the fiscal year begins the fee would be implemented the following year.

Discussion ensued regarding average residential user would increase by \$8.00 per year, would bring in \$300,000 in revenue, by bringing \$300,000 through Ad Valorem taxes what would be the cost, road projects have been deferred, need to achieve an amount that would go over the \$188,000 to take care of debt, revenue stream needed for services, Ms. Lynch answered that \$300,000 in revenue would calculate to .05778 mils and the tax value of \$37.31 per year per property, small truck \$321.12 or \$14 difference, staff recommendation was to go with the large truck to maximize the revenue and minimize the revenue to Waste Pro, if small truck was used what would the funds be, 15% of the 3.5% would go to the City and 3.5% would go to Waste Pro, with 3.5% increase that would come to the City, the garbage rate increased to cover the cost of the small truck purchase, but the City did not purchase the small trucks, City does not own the smaller trucks,

Keith Basanik stated that when Waste Pro took over the contract the island was re-routed with good coverage. He stated the 5-day week service provided decreased issues.

#### **Public Comment**

Karen Storijohann spoke to the issue of the smaller trucks

Councilman Ruane made a motion, seconded by Councilman Jennings, to continued with the small garbage trucks and 15% increase.

The motion carried. Councilman Pappas was unexcused.

**RESOLUTION 07-112 APPROVING A SOLID WASTE RATE STRUCTURE FOR FISCAL 2007-08; APPROVING A SOLID WASTE FRANCHISE FEE AND A SOLID WASTE DISPOSAL SURCHARGE; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 07-112.

Mayor Johnston made a motion, seconded by Councilman Ruane based on the previous motion at the rates previously adopted.

The motion carried. Councilman Pappas was unexcused.

Council decided to discuss the following:

- n. **RESOLUTION 07-108 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-085 AND PROVIDING AN EFFECTIVE DATE** (to adjust the FY07 budgeted amounts of revenue and expense on three Urban and Community Forestry (U&CF) Grants for a tree planting project on Periwinkle Way. FY06 actual revenue and expense were greater than expected so FY07 revenue and expense will be less than budgeted. This amendment reduces the FY07 budget by \$276,248)

Ms. Zimomra stated this budget amendment was rolling forward the actual beginning fund balance and a mathematical error was found.

Ms. Lynch explained that this budget amendment was attempting to roll forward funds from the prior year.

Mayor Denham made a motion, seconded by Councilman Ruane, to adopt Resolution 07-108

The motion carried. Councilman Pappas was unexcused.

Council decided to discuss the following:

**PUBLIC HEARING**

**RESOLUTION 07-103 OF THE SANIBEL CITY COUNCIL TO DETERMINE THE PROPERTY AND ADVISABILITY OF ESTABLISHING AND IMPLEMENTING THE SANIBEL ISLES-WATER SHADOWS CANAL AREA DREGING ASSESSMENT DISTRICT, AS TO THE COST AND FUNDING THEREOF, THE MANNER OF PAYMENT THEREFOR, AND AS TO THE AMOUNT TO BE ASSESSED EACH PROPERTY SO IMPROVED, PURSUANT TO SECTIONS 170.07 AND 170.08, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 07-103.

Mayor Denham made a motion, seconded by Councilman Ruane, to adopt Resolution 07-103.

The motion carried. Pappas was unexcused.

**RESOLUTION 07-104 OF THE SANIBEL CITY COUNCIL SITTING AS THE SANIBEL EQUALIZATION BOARD; EQUALIZING AND APPROVING A SPECIAL ASSESSMENT FOR THE SANIBEL ISLES-WATER SHADOWS CANAL AREA DREDGING DISTRICT PROJECT; PROVIDING FOR PREPARATION AND FILING OF A FINAL ASSESSMENT ROLL FOR SAME;**

**PROVIDING FOR CONFIRMATION OF THE PROJECT AND ASSESSMENT;  
AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 07-104.

Mr. Cuyler explained that preliminary assess roll would be the final assessment roll. He further stated there was no one in the audience to come before Council.

Mayor Denham made a motion, seconded by Vice Mayor Johnston, to adopt Resolution 07-104.

The motion carried. Pappas was unexcused

**Public Comment**

Andy Schroeder thanked the City Manager, City Attorney and Public Works Director.

Mr. Cuyler explained that there was a separate proceeding in order to make this a non-ad Valorem assessment on future tax bills. He asked Council to schedule a public hearing for October 02, 2007 at 1:00 p.m.

Mayor Denham made a motion, seconded by Vice Mayor Johnston, to schedule the above-mentioned public hearing on October 02, 2007 at 1:00 p. m.

The motion carried. Councilman Pappas was unexcused.

Council decided to discuss the following:

**Discussion regarding the development of a Council policy for Councilmember absences from meeting**

Mayor Denham spoke to Councilmember's being absent from a Council meeting without requesting to be excused.

Mr. Cuyler read the charter as it applies to a Councilmember having 3 unexcused absences.

Discussion ensued regarding issue of setting guidelines on circumstances that were acceptable for being absent from Councilmember's, Council all volunteers, the need for a standard, Councilmember should be able to request to be excused, need a policy that requires a Councilmember to request to be excused, Council can not legislate responsibility, something that deals with the amount of absences if there was no sickness, Ms. Zimomra stated Council could come up with basic parameters, and direct the City Manager to bring back a policy at the 091807.

**Public Comment**

Claudia Burns spoke to a person running for election knows what was involved to be active on Council.

**COMMITTEES BOARDS COMMISSION**

**Appointment of members to the Historical Preservation Committee**

**Appointment of members to the Marine Advisory Committee**

**Appoint a member to the Wildlife Committee**

Mayor Denham made a motion, seconded by Councilman Ruane, to appoint members to the Historical, Marine Advisory and Wildlife Committees as follows:

Historical Preservation Committee

Deborah Gleason

Linda Uhler

Marine Advisory Committee  
Kevin Vertesch  
William Burch

Wildlife Committee  
Paul Reynolds

The motion carried. Councilman Pappas was unexcused

## **CITY MANAGER**

### **Informational Items**

#### **Request for Council liaison for Historical Museum & Village, Inc., Board**

Councilman Jennings stated he would serve as liaison.

#### **Public Comment**

Alex Werner spoke to meeting with the Board of directors and welcomed Councilman Jennings.

#### **Community Housing Resources (CHR) Quarterly Financial Report as of June 30, 2007**

Ms. Zimomra stated the report was in the agenda packet.

#### **Senator Saunders confirm attendance to the Tuesday, October 16, 2007 Council meeting**

Ms. Zimomra stated this attendance had been confirmed.

#### **Councilmember participation in the City of Cape Coral Veterans Day parade Saturday, November 10, 2007**

Councilman Jennings would attend the parade.

#### **Development Permit Activity Report for July 2007 and Permit Comparison Chart for the 3<sup>rd</sup> Quarter FY '05-'06 to FY '06-'07**

Ms. Zimomra stated this report was in the agenda packet.

#### **July 2007 Code Enforcement Activity Report**

Ms. Zimomra stated that the report was in the agenda packet

#### **Permits and Inspections Monthly Report Building Department Monthly Revenue accumulative as of July 31, 2007**

Ms. Zimomra stated that the report was in the agenda packet.

**CITY ATTORNEY'S REPORT**

Ms. Cuyler stated that Council had in their mailbox the City's comments on the Lake Okeechobee comments for the water release schedule. He further explained to the audience the reason for the comments.

**COUNCIL MEMBERS' REPORT**

None.

Public Comment

None

There being no further business the meeting was adjourned at 2:02 p.m.

Respectfully submitted by,

Pamela Smith, CMC

City Clerk