

**SANIBEL CITY COUNCIL REGULAR MEETING
OCTOBER 02, 2007**

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

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

Members present: Mayor Denham, Vice Mayor Johnston, Councilman Jennings,
Councilman Pappas and Councilman Ruane.

PRESENTATION(S)

Proclamation recognizing Rob Jess, J. N. “Ding” Darling Wildlife Refuge Manager, upon his departure

Mayor Denham noted that Mr. Jess was unable to be present to accept the proclamation, but would be given to him on Friday, October 05, 2007.

Proclamation for Breast Cancer Awareness Month – Bonnie Olsen, Executive Director, Susan G. Komen for the Cure Southwest Florida

Ms. Mary Ann Loh, Education Chair for Susan G. Komen was present to accept the proclamation.

Ms. Loh spoke to the importance of breast cancer detection.

Mayor Denham made a motion, seconded by Councilman Jennings, to add under new business, “Discussion of the Naples City Manager position.”

The motion carried.

Public Comments

Claudia Burns gave the turtle nesting report; 12 nests on west end and 2 nests on the east end.

Ed Seibert thanked Council for their work. He further spoke to the signs on the Shared Use Path that saw “Bicycle Only” and the new signs that say “Bicycle Path.” He further spoke to a bump on Periwinkle Way.

Mayor Denham explained that the bump would disappear when construction was completed.

Council Comments

Councilman Jennings spoke to “Ding” Darling Days and the Duck Stamp Artist competition.

Ms. Zimomra stated that signage should read “Shared Use Path.” She further stated that a final paving was completed the manhole rings would be leveled and smooth.

Vice Mayor Johnston suggested having a sign that states, “No motorized vehicles allowed.”

Mayor Denham spoke to the passing of David Burr, Executive Director of the Regional Planning Council.

Ms. Zimomra stated that Mayor Denham was asked to speak at the memorial service held Monday, October 01, 2007.

Planning Commission Report

Dr. Berger gave the following report of the September 26 Planning Commission meeting:

- Discussion of Hazel Schuller comments of beach carrying capacity
- Mayor Denham gave a report

- Joint City Council/Planning Commission
- Land Development subcommittee discussion
 - Wetlands
 - Beach Carrying Capacity
 - Emergency electrical generators
 - Telecommunications – analysis of cellular facilities
 - Outdoor dining as it relates to take-out restaurants
 - Periwinkle Way West District Plan
 - Issues of Historic Preservation
- Prioritization of discussion was as follows:
 - Periwinkle Way West
 - Outdoor Dining
 - Wetlands Conservation
- Other Issues of Interest
 - Alternative Energy
 - Waste Management and Carrying Capacity

Discussion ensued regarding Dr. Berger reported that two commissioners agreed with Hazel Schuller's comments regarding beach carrying capacity.

First Reading of an ordinance and scheduling of public hearing.

ORDINANCE 07-014 ESTABLISHING MEMBERSHIP FEES FOR THE CITY OF SANIBEL RECREATION CENTER; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 07-014.

Council set the second reading and public hearing for October 16, 2007 at 9:45 a. m.

Second Reading and Public Hearing

ORDINANCE 07-013 PERTAINING TO CHAPTER 14 OF THE SANIBEL CODE ENTITLED "BUILDING AND BUILDING REGULATIONS"; AMENDING ARTICLE IV, PERMITS, SECTION 14-191, FEE SCHEDULE, AND ARTICLE V, STANDARDS, SECTION 14-212, VALUE OF PROJECT OR WORK; AMENDING THE BUILDING PERMIT AND BUILDING REGULATION RELATED FEES SET FORTH THEREIN; ESTABLISHING THE CURRENT SCHEDULE OF FEES AND SUPERCEDING AND REPEALING ALL PRIOR ORDINANCES AND RESOLUTIONS INCONSISTENT HERewith; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 07-013. She reminded Council that additional research was being done regarding the development fees and the Planning Department fees would come back to Council for discussion.

Discussion ensued regarding subdivision fee increase previously.

Mayor Denham made a motion, seconded by Councilman Ruane, to adopt Ordinance 07-013.

The motion carried.

CONSENT AGENDA

Mr. Cuyler stated that item (b) spoke to there being a change of ownership and the blank would include the number 4.

Vice Mayor Johnston made a motion, seconded by Councilman Ruane, to approve the following Consent Agenda items.

- a. Approval of minutes June 05, 2007 Regular Meeting
- d. Award 2007/2008 Thermoplastic Striping Repair contract to Trutwin Industries, Inc., in the amount of \$155,019.50 and authorize the City Manager to execute same (funded by the existing budget)
- e. Award Beach Walkover Replacement contract to Schippers Marine Construction, Inc. in the amount of \$74,274.00 and authorize the City Manager to execute same (funded by a Tourism Development Council grant (TDC))
- f. Award 2008 Resurfacing Project – Phase I contract to Ajax Paving Industries, Inc., in the amount of \$429,274 and authorize the City Manager to execute same

The motion carried by consensus.

- b. **RESOLUTION 07-124 DETERMINING THE REQUEST FOR AN ENTERTAINMENT LICENSE AT THE SANIBEL BEAN, 2240 PERIWINKLE WAY (THE PRIOR ENTERTAINMENT LICENSE HAVING AUTOMATICALLY EXPIRED AS A RESULT OF CHANGE IN OWNERSHIP); AND PROVIDING AN EFFECTIVE DATE**
- c. **RESOLUTION NO. 07-134 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008-001 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$8,008 for general program support for the Historical Village and Museum funded by a \$8,008 grant from the State of Florida. Contract #08-7520 from the State of Florida, Division of Historical Resources is attached)
- g. **RESOLUTION 07-135 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008-0003 AND PROVIDING AN EFFECTIVE DATE** (to move \$47,500 from the reserve for contingency line to provide funds for as needed staff assignments appropriate funds in preparation for opening the Recreation Center. This amendment does not increase either revenue or expense)
- h. Acceptance of a grant in the amount of \$20,000 from the U. S. Fish and Wildlife for the Iguana and Nile Monitor Lizard Program and **RESOLUTION 07-136 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008/002 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$20,000 for the lizard/iguana control/eradication program funded by a \$20,000 grant from the US Fish and Wildlife Service. Requisition #41540070047 from US Fish & Wildlife is attached. This amendment increases revenue and expenses by \$20,000)
- i. **RESOLUTION 07-139 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS HAVING A DEPRECIATED VALUE OF UNDER \$5,000 USING AN INTERNET-BASED AUCTION SYSTEM; AND PROVIDING AN EFFECTIVE DATE.**

- j. **RESOLUTION 07-140 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008-004 AND PROVIDING AN EFFECTIVE DATE** (to reallocate approved FY 08 budgeted funds from the Police and Public Works CIP program in the amount of \$318,178, Police Department budgeted funds in the amount of \$51,000 and Recreation Center Fund 170 budgeted funds in the amount of \$25,000 to fund priority police retention and MIS programs. This amendment does not increase either revenue or expense)

Mayor Denham made a motion, seconded by Council Jennings, to adopt Resolutions 07-124, 07-134, 07-135, 07-136, 07-139 and 07-140.

The motion carried.

Council recessed at 9:43 a. m.

Council reconvened at 9:54 a. m.

OLD BUSINESS

Water Quality Issues

Reports from City Council members

Mayor Denham spoke to the following:

- Council approached the South Florida Water Management District (SFWMD) for funding of red drift algae clean-up
- Council budgeted for clean-up

Discussion ensued regarding Councilman Jennings attendance to the Florida League of Cities Board (FLC) meeting and discussion of keeping Colonel Grosskruger in his position, copy of Council's resolution to the FLC board members, a Sanibel Councilmembers serving on a separate council, Mayor Denham stated he would serve, letter of requesting Colonel Grosskruger remain in his current position, bringing back the letter later in the meeting, need to apply for an extension of the DEP permit, Ms. Zimomra stated that the permit was for testing and expires to coincide with snowy plover nesting, she stated that her understanding was that Council would be interested in a permit to pick-up algae for more than a two week period, no discussions with DEP for a permanent permit to pick-up algae, staff does not know that DEP would issue a permit until testing was completed, focus on testing, and the testing permit took 4 months with extensive discussions and caveats, Ms. Zimomra recommended hearing from Natural Resources' staff for the basis of the draft, need for clarification from staff, and 091807 revised memo by staff.

Dr. Loflin spoke to the following:

- Trigger similar to red tide with number of fish on beach given a numerical value for beach clean-up
- Determined the measurement of algae on the beach to trigger clean-up
- Algae must cover 1,000 linear feet
- Severe environmental impact when equipment was placed on the beach, and a trigger must take the damage into consideration
- Sand removal would happen with algae removal
- Clean-up to remove nutrients
- Affects on shore birds
- Extensive use of algae by birds when in small amounts
- Beginning February 15 there should not be manually or mechanical removal of algae from beach due to shorebird nesting
- Sea turtle nests marked by SCCF and clean-up could be performed
- No vehicle access of beach for clean-up at Lovers Key
- Policy does not speak to location
- Council's decision of where to clean-up

- Technique needed to be decided

Ms. Zimomra stated that Council discussed staging/access points at the September 18th Council meeting.

Public Comment

Erick Lindblad asked to hear from staff.

Dr. Loflin referred to Gates Castle, Public Works Director for staging:

- Five public beach accesses that could be used by heavy equipment for access during algae clean-up
- Based on a 15 minute round trip to haul algae all areas were covered with the exception of 6,600 feet along West Gulf Drive west of Tarpon Bay Road going east
- Identified properties in the center of the dead zone

Discussion ensued regarding Council accepting all five public beach access for heavy equipment use, offer from Bert Jenks to use his access, public must understand that heavy equipment would be on the beach, premature to establish a trigger point since there has been no testing, 23 conditions on the temporary permit from DEP, a trigger point for the testing of equipment, new dumpster that compacts material and allows eight times more material, was there a trigger point for testing, September 18 Council meeting was left that the testing of the equipment would be done at the discretion of the City Manager.

Council agreed that mechanical equipment testing would be decided at the discretion of the City Manager.

Sonia Smith spoke to the need of the facts and a time certain discussion.

Karen Storijohann spoke to the chart presented at the September 18 Council meeting for mobilization, cost of the testing, and pick a volume to provide a cost factor.

Ms. Zimomra stated that a matrix was completed to provide information, but the single largest cost factor was the volume of the algae.

Erick Lindblad, SCCF spoke to the less frequent of algae pick-up would be better.

Wayne Ponader spoke to previous discussion and a mistake to find trigger points to begin a process due to not being able to perform testing because there had been no algae.

Ralph Woodring spoke to considering pulling algae on the beach to dry and then pick-up, and the Mayor answered that was considered, but due to the nutrients could not be done.

Claudia Burns spoke to the City no having a permit for beach clean-up. She asked what the conditional permit implied. Mean high water line

Mr. Cuyler explained that the mean high water line was the average high tide, but was not a fixed point and considered the rack line.

Dr. Loflin stated DEP would set the point on a sloping beach and considered the active rack line, not the storm line. He further stated that high tide would push the algae toward the mean high water mark.

Mr. Cuyler explained the state claims the land between the mean high water and physical edge of water.

Discussion ensued regarding DEP permit for testing only, and staff would be applying for a permanent permit after testing was completed.

Barbara Cooley asked consideration be given to the large amount of sand that would be removed when removing algae.

Discussion ensued regarding a representative from state, Ms. Zimomra stated that at the final meeting a turtle protection program was required and SCCF was designated to continue the turtle nesting program and the temporary DEP permit was issued and there was no plan to have a regular beach clean-up program.

Staff Report

Final Project Implementation Report and Environmental Impact Statement for the Calooshatchee River (C-43) West Basin Storage Reservoir prepared by the Army Corps of Engineers (ACOE)

Dr. Loflin spoke to the following:

- Everglades Restoration Project
- Construct a reservoir to store water
- Water would be diverted in to the storage basin and a resident time of 200 days
- Water be held and use for agricultural purpose
- Trickle releases in to Lake Okeechobee
- Other storm water treatment areas (STA) have an area where water flows and plants would up-take nutrients then flowed out of the STA the water would be cleaner
- C-43 does not have the STA component
- 1800 acres owned by SFWMD that could be utilized for an STA
- Northern Everglades program with additional funds
- Comment period October 22, 2007

Discussion ensued regarding previous discussion by the SFWMD including a STA, Beveridge and Diamond providing comments, letter from Secretary Sole and the Mayor would respond to letter, as well as the ACOE, and Mr. Cuyler stated that Beveridge and Diamond would be responding for the City.

Recommendations for the legislative delegation

Dr. Loflin spoke to staff's proposal:

- Meeting November 29, 2007
- One page two-sided document with photographs designed to catch attention
- Would not have all back-up

Ms. Zimomra stated that Senator Saunders would be present at the October 16, 2007 Council meeting.

Discussion ensued regarding a distinction in information presented to the delegation and information to be taken to Tallahassee in March, 2008, need legislators to use influence of spending funds, waters surrounding Florida define Southwest Florida, action needed by Southwest Florida delegation, indent STA for C-43, and added property in Glades County for water treatment.

Dr. Loflin that land in Hendry County was land along the river to be used for water storage and filtration of river water. He further stated that the acreage should be part of the priority delegation list. He also stated that the mod waters was tied up with WURDA for funding and the President stated he would veto the bill.

Discussion ensued regarding the delegation could continue to put pressure to get the state to review mod waters from a transportation point-of-view, mod waters issue was building an 11 mile bridge that would lift the existing Tamiami Trail so water would flow and should be included within the list to the delegation, flow way south was mod water, the flow way south was different than mod waters, without mod waters there could be no flow way south, the flow way south from Lake Okeechobee through the EAA south to the northern part of the Everglades, need to be consistent with Lee County, Councilman Jennings requested a list of water issues for federal officials because he would be seeing some federal officials, and number one issue was that the President should not veto WURDA.

Ms. Zimomra stated that the amended recommendations would be made available to Council.

Vice Mayor Johnston spoke to the following:

- MPO discussed earmarked funds for Coconut Road
- Four State and Federal agencies request not going forward with Coconut Road because it would damage to DRGR, which was the wetlands to the east of I-75
- Road built east to west in to the DRGR that water consequences would be severe, as well as development issues

Joint City Council/Fort Myers Beach Town Council

Ms. Zimomra stated that there was not a date in November that all Councilmembers were available.

Discussion ensued regarding three members being unavailable November 14 and 16, last Council meeting the dates of November 14 and 16 were decided on and taken back to Fort Myers Beach, Mr. Cuyler suggested allowing the City Manager to check, rather have the meeting at the end of a regular Council meeting rather than another day, and check with Councilmembers for available dates.

Ms. Zimomra further stated that the City Clerk would be contacting Councilmembers for their availability in December.

Final approval of Recreation mailing

Ms. Zimomra stated this item would be rolled over until the October 16, 2007 Council meeting.

Council decided to discuss the following

NEW BUSINESS

Recommendation from Mike Cuscaden, City Council representative to the Lee County Human Services Council, for the City to participate in the development of the Lee County Human Services Council's Ten Year Plan to End Homelessness with the City's financial contribution of \$539.70 of the \$50,000 project cost

Request from Charles Sobczak, President START, Sanibel-Captiva Chapter to fund in part an automated beach conditions reporting system in the amount of \$500

Discussion ensued regarding the adopted millage rate, suggested that funds would be allocated within the parameters set by Council when adopting the millage rate, need for a Council policy in the future and direct staff to prepare, Council should participate in funding,

Vice Mayor Johnston made a motion, seconded by Councilman Ruane, to approve the funding of the two above-mentioned items and direct staff to prepare a policy for future funding requests.

Public Comment

Karen Stori Johann asked why such an odd number for the Lee County Human Services and how were the requested fund amount calculated?

Ms. Zimomra stated that normally funding requests were done on a per capita basis, which was in the back-up agenda packet information. She further stated that the Start program would be related to real time air quality.

The motion carried.

COMMITTEES BOARDS COMMISSION

2007 Annual Report – Capital Improvements Code Review Subcommittee
2007 Annual Report – Permitting Process Code Review Subcommittee
2007 Annual Report – Below Market Rate Housing Code Review Subcommittee

Bob Duffy spoke to the following:

- Three annual reports from three Planning Commission sub-committees
- Recommendation from Capital Improvements Sub-committee was for Council to adopt the City's Capital Improvements Plan, which was adopted at the September 18 meeting
- Recommendation from the Below Market Rate Housing Sub-committee to encourage CHR with their mission to provide below market rate housing
- Recommendation from the Permitting Process Code Review Subcommittee ensure website and program management system work, provide reports on trends, and proceed with efforts with Building Department to better coordinate application for modeling of pre-firm residential structures

Council recessed at 11:56 a. m.

Council reconvened at 1:06 p. m.

Council decided to discuss the following.

Discussion of the City Manager's recruitment for the City of Naples City Manager position and Council Options

Ms. Zimomra stated she had submitted her resume' to the headhunter for the Naples City Manager position notifying Council. She further stated that the base salary was approximately \$40,000 higher than that of Sanibel. She also stated that Naples City Council had short-listed the group of applicants with Sanibel and City of Palm South Carolina City Manager in the top 2 with a final decision being made October 23, 2007.

Discussion ensued regarding the amount of grants achieved during the City Managers' tenure, keeping Council advised, City winning state and national awards, cost of advertising and headhunter for a new city manager, cost of interim city manager, loss of momentum on City projects, offer an additional \$30,000 to Ms. Zimomra's base salary making it \$190,000, the need to consider the worth of Ms. Zimomra, Ms. Zimomra would stay for a base pay of \$189,000, as well as an increase to the housing allowance,

Mayor Denham made a motion, seconded by Councilman Jennings, to increase the City Manager's base salary to \$189,000, increase the housing allowance by 8%, direct the City Attorney to amend the contract and authorize the Mayor to execute the contract.

Discussion ensued regarding the current base salary of \$160,900, would everything increase, Mr. Cuyler stated that under the City Manager's contract the City makes a contribution to the Health Savings Plan, he also stated that the deferred compensation was replace by the pension, and City Council authorize health insurance and other core benefits, compare the Sanibel manager job to other positions would be difficult, and should put a value of Ms. Zimomra to the community.

Public Comment

Karen Storijschann spoke in favor of the above-mentioned discussion.

Alan Silberman spoke in favor of the above-mentioned discussion.

The motion carried with Councilman Pappas voting in opposition.

Public Hearing

RESOLUTION 07-116 OF THE SANIBEL CITY COUNCIL EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON-AD VALOREM ASSESSMENTS WHICH HEREINAFTER WILL BE LEVIED BY CITY COUNCIL IN

ACCORDANCE WITH THE PROVISIONS OF CHAPTER 197.3632, FLORIDA STATUTES, FOR THE SANIBEL ISLES-WATER SHADOWS CANAL AREA; PROVIDING THAT SUCH NON-AD VALOREM ASSESSMENTS SHALL BE FOR THE PURPOSE OF CANAL DREDGING OF THE MAIN CHANNEL LEADING TO SUCH CANALS; SETTING FORTH THE NEED FOR THE LEVY OF SUCH NON-AD VALOREM ASSESSMENTS; SETTING FORTH THE LEGAL DESCRIPTION OF THE BOUNDARIES OF THE REAL PROPERTY SUBJECT TO THE LEVY OF NON-AD VALOREM ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 07-116.

Mr. Cuyler spoke to the following:

- Last step for Water Shadows main canal dredging district
- Residents requested the district
- Special assessment would be on the 2008 tax bill

Mayor Denham made a motion, seconded by Vice Mayor Johnston, to adopt Resolution 07-116.

The motion carried.

CITY MANAGER

Informational Items

Draft Report regarding the City's housing stock

Ms. Zimomra called Council's attention to the agenda packet information.

Lizard management program status report

Ms. Zimomra passed out a map of recent sightings and removal of Iguana and Nile Monitor lizards. She spoke to the heaviest concentration in the Beachview areas. She also stated that it would be premature to make a guess of the number of lizards on the island.

Causeway Vehicle Counts, July and August, 2007

Ms. Zimomra called Council's attention to the agenda packet information.

Planting Update

Ms. Zimomra called Council's attention to the agenda packet information.

CITY ATTORNEY'S REPORT

None.

COUNCIL MEMBERS' REPORT

Councilman Jennings spoke to an iguana lizard problem in Fort Lauderdale. He asked if Council would agree for him to attend the National League of Cities in New Orleans November, 2007.

Council agreed.

PUBLIC COMMENT

Claudia Burns spoke to recommendations from staff that would go to the legislative delegation.

Ms. Zimomra stated this information would go to the delegation and back to Council on October 16, 2007.

Ms. Zimomra passed a letter to Council that would go along with Resolution 07-123 to request to extend Colonel Grosskruger's term.

Council designated Vice Mayor Johnston to work with staff.

There being no further business the meeting was adjourned at 1:43 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk