

**SANIBEL CITY COUNCIL REGULAR MEETING
NOVEMBER 06, 2007**

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

Mayor Denham 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 for Congress Jewelers recognizing receipt of the Industry
Appreciation Award**

Councilman Jennings read and presented the proclamation to Doug and Scot Congress of Congress Jewelers.

Public Comments

Hazel Schuller spoke to the need for assisted living and work-force housing.

Herb Rubin spoke to attending a symposium; 1) green vehicle fleets; 2) renewable energy; and 3) energy efficiency

Karen Storijohann asked that item (h) be pulled from the Consent Agenda.

Dick Walsh asked that item (e) be pulled from the Consent Agenda.

Claudia Burns spoke to the closing of the Comcast office.

Mr. Cuyler stated that at the time Comcast came before Council requested to close the Sanibel office and was denied the new state franchise statute had not been adopted. He further stated that Comcast currently had a State franchise agreement due to the adoption of the new statute.

Council Comments

Vice Mayor Johnston spoke to budget discussions involving energy efficiency issues.

Ms. Zimomra spoke to Council approved staff recommendation environmental initiatives. She also explained that funds were set aside for initiatives if needed for red drift algae pick-up. She added that Harold Law, Building Official had spent most of his time at the Recreation Center during construction would focus on building efficiency issues for all City buildings. She further stated that Lee County Electric Cooperative (LCEC) would perform an energy audit at no cost to the City.

Report on Commission Hall's Mayor's meeting Friday, November 02, 2007

No verbal report.

Planning Commission Report

Dr. Berger gave the following report for the Planning Commission meeting Tuesday, October 23, 2007.

- Public Hearing to consider construction of a shoreline erosion control structure at 1248 Buttonwood Drive, and approved subject to conditions
- Schedule for the next Planning Commission meeting
- Discussion of amended site plan for Sanibel Captiva Medical Center would come back at the next meeting

- Discussion regarding density of Knave property, redevelopment and Periwinkle Way West District Plan

2007 Land Development Code Review Subcommittee Annual Report

Chairman Valiquette gave the following report on priorities:

- Wetlands definitions and conservation
- Periwinkle Way West District Plan
- Resort housing and residential non-conformities
- Outdoor dining
- Telecommunications
- Emergency electrical power generators
- Historic Preservation

Discussion ensued regarding Council's decision to focus on buildback, which legislation was adopted, commercial businesses on island, focus on wider issues of commercial development, which legislation was adopted, focus on motel/resort accommodations, and private residences

Dr. Berger stated that the Planning Commission discussion was to keep focused. He further stated that members were aware of Council's decisions.

CONSENT AGENDA

Council pulled Consent Agenda items (e), and (h) as requested by the audience.

- e. Approval of an amended Reuse Water Rate Agreement with Sanctuary Golf Club and authorize the Mayor to execute the amendment to the existing Easement and Effluent Disposal Agreement

Public Comment

Dick Walsh stated the agreement would serve as a model for the two other golf courses. He also spoke to residents paying more than the proposed rate.

Mr. Castle spoke to the following:

- Reviewed other agreements through-out surrounding counties/municipalities
- Reuse rates for general customer \$1.99 per 1,000 gallons previously adopted by Council
- Staff recommendation was for \$.50 per 1,000 gallons

Dick Walsh spoke a second time to residents paying \$1.99 and not available to all residents. He further stated the charge of \$.50 per gallon to golf courses was inequitable.

Discussion ensued regarding rates for residents in surrounding areas, Mr. Castle answered that the discount of \$.50 per 1,000 gallons was a higher discount than other counties/municipalities, Mr. Castle further stated that the \$.50 per 1,000 gallons was at a 75% discount and other entities give an average of a 60% discount, and the average bulk rates were \$.25 per 1,000 gallons to \$.50 per 1,000 gallons for individual rates.

Ms. Zimomra stated that this item could be table for two weeks to answer Council questions.

Council agreed

Vice Mayor Johnston made a motion, seconded by Councilman Pappas, to table discussion for two weeks for staff to determine analysis of rates.

The motion carried

- h. **RESOLUTION 07-150 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008-014 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$37,014 for native plantings and for the installation of two water drinking fountains along Periwinkle Way; the first fountain to be installed at Periwinkle Way and Pine Ridge, the second at Periwinkle Way and Casa Ybel. The work is totally funded by a \$43,609 grant from the Periwinkle Partnership. This amendment increases FY 08 revenues and expenses by \$43,609, which are 100% grant funded)

Ms. Zimomra read the title of Resolution 07-150.

Public Comment

Karen Storijohann asked if the water fountains have shut-off valves.

Mr. Castle stated if the literature did not include a cut-off valve one would be installed.

Karen Storijohann spoke a second time to the placement and should they be placed in areas there are no stores to obtain something to drink.

Ms. Zimomra stated one would be on Island Inn Road and was funded by routine funds, and the other two water fountains were being funded by Periwinkle Partnership. She further stated that if the fountains were used others could be placed in next year's budget.

Discussion ensued regarding the lack of places to get water and get out of the heat.

Vice Mayor Johnston made a motion, seconded by Councilman Ruane, to adopt Resolution 07-150.

The motion carried.

- b. Approval of minutes – September 25, 2007 Final Budget Hearing, October 02, 2007 Regular meeting, October 16, 2007 Regular meeting, and October 16, 2007 Joint City Council/Planning Commission meeting
- c. Request from the Horizon Council for funding in the amount of \$2,500 for the Industry Appreciation Lunch to be held September, 2008 (Funds appropriated in the approved FY 2008-07 budget and does not amend the budget)
- d. Approval of an Interlocal Agreement between the City of Sanibel and Lee County to fund previously approved Capital Expenditures at Community Park, 2221 Periwinkle Way, for impact fees in the amount of \$16,000 and authorize the Mayor to execute same
- f. Approve Professional Services Agreement with Johnson Engineering, Inc., to perform the City's FY 07-08 National Pollutant Discharge Elimination System Permit work in Sanibel Permit work in the amount of \$81,634.00 and authorize the City Manager to execute same (\$90,000 is available in the FY 08 Capital Improvement Budget – Fund 301 for this work. No additional funding)
- g. Award contract to Paints and Coatings, Inc., as sole source vendor to rehabilitate eleven sewer system structures identified in the Infiltration/Inflow Analysis and Study in the amount of \$136,255.81 (\$250,000 is available in the FY 2008 Utility Capital Improvement budget – Fund 451 for this work. Four of the structures are in Beachview; 3 in the Dunes; and 1 each in Gumbo Limbo, on West Gulf Drive, on Donax Street, and behind Bailey's)

- i. Approval of Change Order #1 for Periwinkle Way Improvements (Roadside Park to Community Church) project in the amount of \$56,540.00 for additional shared use path legends for safety and additional asphalt quantities required by the City to complete the project and authorize the City Manager to execute same (funds are available in contingency fund of the Capital Improvement budget – Fund 307 for this work)
- j. **Request from the Sanibel Captiva Chamber of Commerce for the City to Co-sponsor the Luminary and absorb the cost of security scheduled for Friday, December 07**

Councilman Ruane made a motion, seconded by Council Pappas, to approve items (b), (c), (d), (f), (g), (i) and (j).

The motion carried.

- a. **RESOLUTION 07-149 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-098 AND PROVIDING AN EFFECTIVE DATE** (Chapter 166.241 (3), Florida Statutes authorizes municipalities to make budget amendments to the prior fiscal year up to 60 days after September 30th. This budget amendment closes certain funds in fiscal year 2007 for which the projects have been completed and transfers any remaining balances to on-going project funds to reduce future year's needed appropriations. This amendment increases the FY 2007 budget by \$62,227 due to interfund transfers; however there are no new or additional funds appropriated by this amendment)
- k. **RESOLUTION 07-152 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008-013 AND PROVIDING AN EFFECTIVE DATE** (Pursuant to Florida Law, the City of Sanibel adopts an annual budget which lapses at the end of each Fiscal Year, September 30th. In order to complete projects which were budgeted and begun last Fiscal Year, the unspent funds must be re-budgeted in the subsequent Fiscal Year. This Consent Agenda item is to "roll forward" unspent Fiscal Year 2007. City Council had approved the expenditures in Fiscal Year 2007, but for various reasons, the funds could not be expended until Fiscal Year 2008. No new or additional funds are being allocated to any of these previously approved projects) (to roll-forward from FY07 to FY08 the following: 1) \$10,198 for the shared-use path master plan; 2) South Florida Water Management District grant #OT060503 of \$8,896 for wetland restoration along the Sanibel River and \$8,535 for carpeting in the legal wing of City Hall; 3) \$18,900 for drainage work; 4) \$126,670 for the City Hall hazard mitigation project; 5) \$15,000 for Shell Harbor canal dredging; 6) \$163,000 of Lee County grant funds from Sanibel Beautification, Inc., for the restoration of Periwinkle Way and \$163,000 in matching funds from the Periwinkle Partnership; 7) \$259,081 for sewer fund projects including: a) \$41,770 for completion of the sewer system evaluation survey; b) \$80,000 for odor control media; c) \$3,079 for Phase 3B low pressure closeout work; d) \$110,975 for completion of Phase 4 design work and e) \$23,257 for reimbursement for reclaimed water customers. To increase by \$3,640 to \$21,360 the re-encumbrance under BA2008-011 for the iguana eradication program. To decrease by \$1,200 to \$5,295 the re-encumbrance under BA2008-011 for the integrated license plate photo system and to decrease by \$2,328 to \$138,168 the re-encumbrance under BA2008-011 for Positron licenses. This amendment increases the FY 2008 budget by \$773,391. **There are no new or additional funds appropriated by this amendment**)
- l. **Participation in Lee County's Upgrade to the Reverse 9-1-1 and RESOLUTION 07-153 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008-015 AND PROVIDING AN EFFECTIVE DATE** (to appropriate up to \$25,000 from the General Fund Reserve for disasters for the City of Sanibel's contribution to Lee County to share in the cost of upgrading the county-wide reverse 911 notification system. This amendment does not increase the FY08 budget. The balance in the reserve for disasters after this amendment will be \$4,075,000)

Vice Mayor Johnston made a motion, seconded by Councilman Ruane, to adopt Resolutions 07-149, 07-150, 07-152 and 07-153.

The motion carried.

OLD BUSINESS

Water Quality Issues

Reports from City Council members

Senator Saunders Environmental Summit, October 30th

Councilman Jennings and Mayor Denham spoke to attending the above-mentioned meeting as follows:

- Local communities not focusing enough on urban development
- Good panel
- Attended well

Meeting with James Beever, Regional Planning

- Mayor Denham spoke to his meeting with Jim Beever, Biologist for Regional Planning Council
- New Northern Everglades Committee – James Evans/Dr. Rob Loflin attending as well as Mayor Denham - to fund projects
- Regional Planning Council priorities
 - C-43 retrofit
 - Lake Hipochee – divert canals and remove exotic species
 - Consider the mouth of the Orange River tidal creek add filter marshes, culverts, restore flow ways, stormwater retro-fit, restore berms
- Punta Rassa – widening sloughs, adding filter marshes and reducing aquatic vegetation

Discussion ensued regarding money for Northern Everglades, Dr. Loflin spoke to review Sanibel issues with RPC, important that prioritization be focused on pollution, and Councilman Jennings spoke to taking the information the Florida League of Cities.

Letter to Condominium Association of Sanibel Island (CASI)

Mayor Denham stated this information was in the agenda packet.

Draft of Status of City of Sanibel Algae Management

Draft Status of City of Sanibel Water Quality Initiatives

Mayor Denham spoke to communicating Council issues to residents.

Discussion ensued regarding \$20 million annually for the Northern Everglades project, extensive amount of work with the Lower West Coast subcommittee on urban issues, the need to reorganize information, need objectives, partners in the community and would be helpful to receive information from partners,

Public Comment

Mike Valiquette spoke to PURRE Board restructure, and invited staff to attend meetings. He stated more focused on issues across the state. He spoke to the following:

- ACOE implementing PURRE suggestions
- Regular meetings with DEP
- Enforcement of Water Act
- Meeting with U. S. Sugar
- Water testing across the state

Council asked for written information of PURRE's involvement.

Review of initiatives for the legislative delegation – Deadline for material submission and register to make a general presentation Thursday, November 15, 2007 at 5:00 pm – Lee County Delegation Meeting and Public Hearing Thursday, November 29, 2007 1:00 to 5:30 p. m. Room S-117 Edison College

Discussion ensued regarding the need to select two or three items, adding information for the Healthy Beach Program with DEP greater involvement, compliance and enforcement section have the ability to search out and locate where contamination was coming from, and advise local governments of contaminates within 5 days,

Councilman Jennings attending a meeting regarding water issues, Robert Coker in attendance, his interest was in working statewide, and the need for the state to have more input regarding Lake Okeechobee.

Public Comment

Mike Valiquette spoke to US Sugar's understanding that discussion was needed regarding water quality issues. He further stated PURRE's suggestion was to put a spill way on the Herbert Hoover dike. He also stated the ream canal would disperse water to existing canals.

Vice Mayor Johnston spoke to staff comments submitted regarding the C-43, ACOE had better data for the C-43 project than with the lowers project, suggestions to use someone from the University of Virginia, and a letter from ACOE regarding Colonel Grosskruger changing his tour of duty.

Council recessed at 10:30 a. m.

Council reconvened at 10:40 a. m.

Public Comment

None

Discussion ensued regarding residents high expectations, and Council will do the best if red drift algae pick-up becomes necessary.

Staff Reports

Discussion of Status of Acquisition of Sanibel Bayous Package Plant, 5325 Sanibel Captiva Road

Other

Ms. Zimomra spoke to the following:

- Council directed staff to negotiate
- City Manager and City Attorney worked with owner and owner's attorney
- Best negotiated deal
- If acquire does not guarantee subsequent beach closing, but would close on problem
- Operational perspective staff recommendation to transfer to the City's centralized sewer system

Ms. Zimomra gave the following proposal:

- Transfer utility to City for \$1
- Owner would withdraw claim of 8 units on the utility plant property
- City recognize amount Of 1.54 units per acre
- Owner convey 3 acres of environmentally sensitive land for a price of \$175,000
- Dr. Loflin has confirm that the 3 acres was historically a mangrove forest and the recommendation as part of decommissioning the plant the mangrove forest would be restored
- Owner would like completion of transfer and acquisition by December 31st
- City agreed that the corner commercial lot on San-Cap Road would be used for residential purposes and within 60 months and/or completion of acquisition the commercial use would cease to exist

- Combine density of commercial and residential allowing 2.2 acres density
- City responsible for upgrading and repairing the collection system, remediation and decommissioning the plant
- Assume responsibility for restore of the pond settling area and remove existing plant

Mr. Cuyler spoke to the following:

- As a matter of right have a certain density on the acreage and retained 1.8 acres additional density and combined with the commercially converted to residential use
- Council could not make any decision at this meeting
- Statutory requirement to hold a public hearing
- Council would give further direction
- Gather public input
- Staff prepare a contract

Discussion ensued regarding the need to look at the big picture, water quality issue, economic issue, health, safety and welfare of residents, hearing on contract first, Mr. Cuyler stated that the public hearing must come before the purchase, then consider the contract, and/or a contract with a contingency that all statutory requirements including the hearing pursuant to 180.301, public comment would be taken, should there be another clause to transfer other contracts or agreements, Mr. Cuyler stated that the owner noted that all would be transferred, owner attorney letter and comments, Mr. Cuyler stated that the attorney maintains that the owner never relinquished the density rights, documents in the file that owner authorized and fall back argue that when density was calculated staff used gross density and after approved Council changed procedure by ordinance where water bodies were not granted any density, spoke with planning staff and if water body filled in making 45 units and used 43 units, and purposes was first argument weaker and second stronger, density exist and acknowledge for 2 units and fraction as part of settlement include density,

Public Comment

Dick Walsh spoke to why DEP not forcing the owner to bring to plant up to standard, what costs associated with paragraph 8, need to review density as associated with the 2005 adopted charter amendment.

Discussion ensued regarding density not being exceeded, DEP consistently given citations for plant, citations only punitive, judgment of cost, Mr. Cuyler stated a suit could be filed, but DEP would try to force the owner to come into compliance.

Mayor Denham made a motion, seconded y Vice Mayor Johnston, to direct staff to hold a public hearing and work toward an agreement to purchase the Sanibel Bayous package plant.

The motion carried.

RESOLUTION 07-151 OF THE CITY OF SANIBEL IN SUPPORT OF CONGRESSIONAL APPROPRIATIONS FOR THE FUNDING OF THE REPAIRS AND REHABILITATION OF THE HERBERT HOOVER DIKE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 07-151.

Vice Mayor Johnston made a motion, seconded by Councilman Ruane, to adopt Resolution 07-151.

The motion carried.

Discussion regarding the process to be utilized to evaluate any proposals for Sanibel to provide central sewers on Captiva

Mayor Denham spoke to the following:

- Regional Planning Council adopted a resolution regarding package plants and DEP would not issue any permits of a barrier or bay island
- Suggest a way be found to eliminate to remaining package plants and go to a central sewer system
- Discussion held with Chairman Janes and would support any move to find a way to centralize sewer for Captiva

Discussion ensued regarding previous interest to connect with Sanibel sewer, numerous groups on Captiva, should deal with Lee County, asked Commissioner Janes to find someone to speak for Captiva, cost of a study, Lee County should go ahead with feasibility study, Captiva under the control of Lee County, what happens if central sewer increased density, vehicles on roads, what could the City tolerate, impact and cost, direct City Manager to develop a protocol for Council review, Ms. Zimomra not recommend staff discussion, and would be working through Lee County as the official entity, and contamination of package plants throughout Lee County.

Public Comment

Barbara Cooley spoke to problems on Pine Island (Pink Citrus Park) and needed to be addressed.

Discussion ensued regarding another issue of palm nurseries on Pine Island and run-off to the gulf, and DEP testing the source of the problems.

Discussion ensued regarding responsibility and others need to take responsibility for their communities.

Letter from Mayor Denham to Chairman Robert Janes, Lee County Board of Commissioners regarding proposed 24-hour dredging operations at Blind Pass

Mayor Denham spoke to his letter as enclosed in the agenda packet.

Ms. Zimomra stated that the request for dredging of 24/7 would come to Council.

Mr. Cuyler stated there was no legal requirement and discussion that Lee County needed to let people know of the proposal.

Ms. Zimomra stated the next step was the DEP permit and work to be completed in April, 2008, more specific time for project and most affected would be the small inns on the Sanibel side. She further stated that there had been discussion with businesses.

Public Comment

Larry Schopp asked for the permitting process.

Dr. Loflin stated the following:

- Permit continuing
- Sea grasses and mangrove problems
- Construction details being worked out
- All necessary governmental entities reviewing and project beneficial
- After permit issues contract would be negotiated

Council decided to discuss the following.

Discussion of placing the topic of “Authorization of City Staff to conduct a Dog Park Development Feasibility Study” on the November 20, 2007 City Council Agenda

Councilman Jennings spoke to the following:

- 130 residents wanting a dog park
- Residents would pay for park

- Need fenced area for dogs to run
- Need fresh water
- Residents would maintain
- Several dog parks throughout Lee County
- Staff could visit other dog parks

Discussion ensued regarding tasking staff with significant amount of work, residents must do the legwork, Council had already set priorities, and Council decided to began

Council recessed at 12:00 p. m.

Council reconvened at 1:10 p. m.

Council continued with the following discussion:

Discussion of placing the topic of “Authorization of City Staff to conduct a Dog Park Development Feasibility Study” on the November 20, 2007 City Council Agenda

Discussion ensued regarding resident should do a report on specific needs/issues for a dog park, and finding property would be the most difficult issue.

Public Comment

Dr. Harvey Sugerma spoke to finding an acceptable location for a dog park. He further stated that residents would totally fund the dog park, and requested staff help to find property.

Discussion continued regarding Councilman Pappas speaking with the City Manager regarding a location, and report back to Council at the November 20 Council meeting.

Joint City Council/Fort Myers Beach Meeting

Council decided to offer December 18, 2007 from 9:00 a. m. to 11:00 a. m. with Fort Myers Beach Town Council.

Recreation Center Issues

Staff Status Report and Construction Manager Monthly Report

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

Recreation Center Dedication

Invitations (honored/general guests)

Program

Recreation Center Schedule Sneak Peek/Open House Tours

Ms. Zimomra stated the information was included in the agenda packet.

Ms. Zimomra spoke to the dedication program in the Council agenda.

Council approved the program.

COMMITTEES BOARDS COMMISSION

Status of Planning Commission Board member appointments; 3 members terms expire January 07, 2008

Ms. Zimomra stated that staff had canvassed the three commissioners that terms would expire.

Discussion ensued regarding advertising, submission of application, and time line for appointments and interviews.

NEW BUSINESS

Request from Sanibel Community Church for consideration to waive a Special Event fee for their LOGOS Program to be held Wednesday, November 28, 2007

Staff recommendation for a new category for Special Event Permit Applications

Ms. Zimomra stated that Council had approved those groups with historical participation. She further stated that the permit fee would be required of the Sanibel Community Church. She also stated that there was a recommendation from the Planning Director for a minimal fee and requested direction to staff to proceed processing applications with a minimal fee bring back an amendment to the ordinance.

Councilman Jennings made a motion, seconded by Mayor Denham, to direct staff to come back with an ordinance with an amendment, and continue processing application for special interest groups with a \$5 application fee.

Public Comment

Nancy Gas thanked Council for their support.

The motion carried

Approval for canceling the Tuesday, January 01, 2008 (New Year's Day) City Council meeting

Councilman Jennings made a motion, seconded by Councilman Pappas, to cancel the January 01, 2007 Council meeting.

The motion carried.

CITY MANAGER

Informational Items

Upcoming Events

Bowman's Beach Dedication – Thursday, November 15

Recreation Center Dedication –Saturday, December 01

Employee Appreciation Luncheon – Thursday, December 06 Casa Ybel Resort

Chamber Luminary Friday, December 07

Ms. Zimomra called Council's attention to the above-mentioned dates.

Causeway traffic totals for September, 2007.

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

Community Housing Resources (CHR) Quarterly Financial Statement

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

Request from the Metropolitan Planning Organization (MPO) to fill a vacancy on the Citizen's Advisory Committee

Council directed staff to advertise.

CITY ATTORNEY'S REPORT

Mr. Cuyler spoke to the following:

- Comments were made within the deadline for C-43

COUNCIL MEMBERS' REPORT

Councilman Jennings asked for water quality information to take to the Florida League of Cities Board of Directors meeting

PUBLIC COMMENT

Karen Storijschmann asked if the Finance Director would be doing a report on the impact of the January 29, 2008 referendum.

Ms. Zimomra stated that the Finance Director would be reviewing options and the impact on Sanibel in the future.

Ms. Zimomra stated that the Periwinkle Way West Plan consultants would be making their presentation on Tuesday, December 18, therefore the proposed meeting with Fort Myers Beach Town Council needed another date.

After discussion Council decided on Monday, December 17, 2007 at 0900.

There being no further business the meeting was adjourned at 1:50 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk