

**SANIBEL CITY COUNCIL MEETING  
JANUARY 17, 2006**

Mayor Johnston called the meeting to order at 9:00.

Mr. Cuyler spoke to Council regarding the need to excuse Councilman Brown from the meeting.

Members present: Mayor Johnston, Vice Mayor Denham, Councilman Jennings and Councilman Rothman. Councilman Brown was excused.

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

**PRESENTATION(S)**

**Recognition of the “Employee of the Quarter”**

Mayor Johnston announced that Coby Amadio was the Employee of the Quarter.

**Presentation of a proclamation to Darla Letourneau, Karen Pati, Nola Theiss and Anna Rodriguez for receiving the “People to Praise” Award:**

Mayor Johnston read and presented the proclamation to Darla Letourneau, Karen Pati, Nola Theiss and Anna Rodriguez of Zonta International.

Karen Pati thanked Council and spoke to all the work the women mentioned-above had been involved in regarding Human Trafficking.

Councilman Rothman made a motion, seconded by Vice Mayor, to excuse Councilman Brown.

The motion carried unanimously.

**Public Comments:**

Jim Lavelle spoke to 2 articles in the Wall Street Journal in late December regarding the change in health benefits for retired employees.

Nola Theiss spoke to the beginning of Renaissance Academy classes.

Ms. Zimomra stated that retired employees were not provided healthcare.

Ed Seibert spoke to an article appearing in Christian Science regarding a rocket scientist working with algae. He also spoke to the budget, borrowing of \$10 million for repayment of Hurricane Charley, \$50,000 for a consultant grant writer, up keep of the Recreation Center, Periwinkle Way Corridor Restoration Project, Bike Path, building fees, employment compensation, lack of revenue due to no Causeway surplus, and less building department fees.

Ms. Zimomra stated that building department fees were not down, but would decrease unless there was another Hurricane. She further stated the additional building fees were put in a fund for hurricane preparedness. She also explained that Council voted to pay the Hurricane Charley debt in 4 years with \$4 million left over and was budgeted. She also spoke to reduction in the gas revenue when the Interlocal Agreement comes due because of the creation of additional Lee County municipalities.

Jack Samler gave the Planning Commission Report of January 10, 2005 as follows:

- Appointed Jack Samler as Chairman
- Appointed Mike Valiquette as Vice Chairman

- Commissioner Valiquette and Vice Mayor Denham attendance to a meeting in Moorehaven.

Dick Walsh spoke to his disagreement of the inclusion of funds for a grant writer in the budget. He also spoke to the necessity of the relocation of the Periwinkle Way bike path.

### **Council Comments.**

Councilman Rothman spoke to the Hazardous Waste Day on Saturday, January 28, 2006 at the Public Works complex from 8:00 a. m. to 2:00 p. m.

Vice Mayor Denham spoke to volunteering at J. N. "Ding" Darling Wildlife Refuge and Monday seeing numerous scum balls, and increased algae. He further stated that 2 separate visitors asked about the algae and scum balls.

### **FIRST READING AND PUBLIC HEARING**

**ORDINANCE 06-001 AMENDING THE SANIBEL CODE, PART II, SUBPART B. LAND DEVELOPMENT CODE, CHAPTER 126. ZONING, BY AMENDING ARTICLE XIV. SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 8. TIMESHARE UNITS, SECTION 126-1096 CRITERIA, TO PERMIT TIMESHARE UNITS TO ONLY BE LOCATED IN THE RESORT HOUSING DISTRICT AND TO REQUIRE THAT TIMESHARE ESTATES CAN ONLY BE ESTABLISHED IN A DWELLING UNIT, IF ALL DWELLING UNITS IN THE BUILDING IN WHICH THAT TIMESHARE UNIT IS TO BE LOCATED ARE ALSO TIMESHARE UNITS AND BY AMENDING ARTICLE XII. RESORT HOUSING DISTRICT, SECTION 126-634 PERMITTED USES, TO CLARIFY THAT FRACTIONAL FEE AND TIMESHARE ESTATES ARE PERMITTED IN THIS DISTRICT, AND BY AMENDING CHAPTER 78. GENERAL PROVISIONS, SECTION 78-1. RULES OF CONSTRUCTION AND DEFINITIONS, TO AMEND THE DEFINITIONS OF SINGLE FAMILY DWELLING AND TIMESHARE ESTATE AND TO ADD DEFINITIONS FOR FRACTIONAL FEE AND SINGLE FAMILY TIMESHARE DWELLING; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Ordinance 06-001

Mr. Ken Pfalzer, Deputy Planning Director gave the following report:

- 2 years ago the topic came to light due property on Kinzie Island and a proposal to sell a piece of property to multiple owners (fractional ownership from fee simple)
- Definition of fractional fee currently stated; "tenancy in common interest in a dwelling interest created or held to or more persons, partnerships, corporations or joint ventures of similar entities where the joint tenants has formally arranged by written agreement for preferred or exclusive use by one or more of the tenants in common during the specific time period a form of time share estate
- Ordinance does not jeopardize tenants in common
- Definition changed to make it written agreement rather than verbal agreements
- Question was the arrangement to share a common residence
- Residential neighborhood property could be rented
- Only timeshares within the resort housing district
- Buildings must be all timeshares or no timeshares

Discussion ensued regarding timeshare only in the Resort Housing District, adds definition to the regulations, purchase of a house by several families and use by families would not be timeshare, timeshare would have a written agreement, Mr. Cuyler spoke to a single-family dwelling being purchased not only by multiple people, but for specific a specific purpose and not uncommon for family members to split up time but there would be no separate deed for separate times, he further stated that the family would all own an undivided interest, staff not aware of other properties on Sanibel with timeshare interest, and the reason for this ordinance was to protect residential neighborhoods from having a revolving door of residents.

Mr. Duffy, Planning Director stated that if a house were rented outside the Resort Housing District it must be rented for 4 consecutive weeks.

Mr. Pfalzer stated that in a residential neighborhood houses could not be rented as in the Resort Housing District because outside the Resort Housing District a house must be rented for at least 4 consecutive weeks.

Discussion ensued regarding protecting the rights for family ownership, Mr. Cuyler stated it was not uncommon to have regulations that conform to single-family regulations of four weeks or more in re-development, occupational license needed to rent homes, with the development of timeshare condominium construction increased, becomes an investment, may not care about the community and use only as an investment.

Public Comment:

Bill Christensen spoke to his ownership at Kinzie Island, asked about the location resort housing district, and Mr. Pfalzer spoke to the district being both sides of Middle Gulf Drive, suggested adding limitations of no more than 4 weeks and not more than 2 times per year.

Louise Johnson spoke to controlling of the division of ownership and having timeshare only in the Resort Housing District.

Dick Walsh spoke to approving the ordinance. He further spoke to there being individually parcels that were consider resort housing outside the Resort Housing District.

Mr. Cuyler stated that there would be an additional public hearing.

Jack Samler spoke to all buildings in a complex needed to be included.

Mr. Duffy stated that amendments would be addresses and brought back at the next public hearing.

Discussion ensued regarding resort housing outside the resort district and what would happen if they decided to go timeshare, could not go timeshare, could rent less than 4 weeks and on a daily rental, Mr. Cuyler stated that there was an economic interest, the need for Council to adopt a resolution at the February 7, 2005 Council meeting due to the statute providing that one of the public hearings need be after 5:00 p. m.

Discussion ensued regarding the possibility of adding a section that would limit the amount of times the number of times per year a dwelling could be rented, and included within the redevelopment study.

Councilman Jennings made a motion, seconded by Councilman Rothman, to hold the second reading and public hearing February 07, 2006 at 9:30 a. m.

He motion carried unanimously.

Council decided to discuss the Consent Agenda.

### **CONSENT AGENDA:**

Council removed item (b) and (c) from the consent agenda.

Councilman Rothman made a motion, seconded by Councilman Jennings, to adopt Consent Agenda item (a)

The motion carried by consensus.

- a. **Approval of minutes – September 01, 2005 Emergency Meeting and September 10, 2005 Regular Meeting**
- b. **RESOLUTION 06-014 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-033 AND PROVIDING AN EFFECTIVE DATE** (to appropriate up to \$40,000 from the General Fund reserve for contingencies for web site enhancement)

Ms. Zimomra read the title of Resolution 06-014.

Discussion ensued regarding the amount of projects that MIS currently had, would require time to work with the consultant, as well as other departmental involvement, no need to upgrade the City's website, and important to invest money in the website due to the website being the primary means of communication.

Public Comment:

Herb Rubin spoke to essential to provide information on water quality as well as making the City's website attractive.

Barbara Cooley spoke to the website not kept up to date and add new links as necessary.

Karen Storjohann spoke to the need for Sanibel information off-island, the need to accurate access to island information.

Discussion ensued regarding the importance of upgrading the website, staff time require to put together a well done website, \$40,000 would cover upgrading the website and fold in maintenance, Ms. Zimomra stated that Council wanted to add a link to water quality, but changed that to upgrading the website, and if approved the development of a scope of services would be the next step, and the need for a user friendly website.

Councilman Rothman made a motion, seconded by Mayor Johnston, to approve Resolution 06-014.

Discussion ensued regarding the cost of the upgrade and if the funds would be enough for the upgrade.

Mike Valiquette spoke to proposing on-line permitting for the Planning Department.

John Harris spoke to having to visit City Hall instead of having access to specific information on the website.

Claudia Burns spoke to the Chamber having a good website and ask the Chamber for help to save money.

Ms. Zimomra stated that a significant amount of money was spent to develop the Chamber website.

Kurt Stendahl spoke to the need to development specifications of the website.

Ms. Zimomra stated that out of the \$40,000 the new information for water quality costs \$7,000, the MIS Director did spend a significant amount of time, Council direction was to have a link for water matters.

Discussion ensued regarding for public support to upgrade the City's website,

The motion carried 3 to 1 with Vice Mayor Denham voting in opposition and Councilman Brown excused.

c. **Authorization for Staff to proceed with a grant application to the State of Florida for a mobile emergency operations center**

Ms. Zimomra stated this was a request from the Chief of Police.

Chief Tomlinson spoke to the recognition of the communication capability shortfall. He explained that the need for a mobile unit would include a back-up dispatch, link to the City's website during evacuation and recovery. He further explained that this would take all the City's technology and put it under one mobile roof.

Discussion ensued regarding the biggest issue during Hurricane Katrina in New Orleans was the lack of communications and could be used for any emergency.

Public Comment:

Dick Walsh stated that he thought the City had a mobile unit.

Chief Tomlinson answered that the grant was awarded before Hurricane Charley and deleted by the state. He stated that the matching \$50,000 would come from the City contingency.

Discussion ensued regarding there being enough money in the department for the match and Ms. Zimomra stated that the City had a contingency line item, how would it link to Homeland Security, Chief Tomlinson stated that every emergency was handled the same way, would Homeland Security have a grant, Chief Tomlinson answered he would need to investigate the possibility, and he further stated that the region was currently looking at regionally communication needs, but would not affect Sanibel, consider private foundations and the grants being very small, consultants were looking for opportunities for grants and have not found any at this time.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to authorize staff to proceed with the grant.

Public Comment:

None.

The motion carried unanimously.

Council recessed at 11:04 a. m.

Council reconvened at 11:18 a. m.

## **CITY ATTORNEY'S REPORT**

### **Report on Verizon Litigation and Appeal Results**

Mr. Cuyler gave the following report:

- His first duties was to represent the City in a hearing where Verizon Communications was applying for a permit to construct a 149-foot telecommunications tower on City property at Wulfert Point adjacent to the sewer plant
- Objections at the hearing from the Sanctuary Homeowners Association and Caloosa Shores with regard to the tower
- Hired an attorney and raised a number of legal arguments
- Memorandum supplied to Council and advised that Council was proceeding legally and arguments not persuasive
- Petition for writ of certiorari (someone challenges Council decision) and taken to court in the nature of an appeal
- Brief by City Council and the lower court over ruled stating that the application was not appropriately approved

- Verizon appealed to the 2<sup>nd</sup> District Court of Appeals, the City was a part of the appeal for a short time
- Council then decided not to continue to be apart of the appeal, but not to oppose Verizon
- 2<sup>nd</sup> District Court of Appeal overruled the lower court decision and ruled Council had acted legally and appropriately in approving the Verizon application
- Verizon approached City to move forward and would be reviewing draft documents
- Leased would come before Council then Verizon would apply for a development permit for a communication tower
- City looking for communication space on the Verizon tower which would enhance communications

Discussion ensued regarding co-location allowances, improved cell phone service if the tower was constructed, timeline of construction, building a monopole tower, would be least obtrusive, pole height would be 149 feet, tower could be only 149 feet by ordinance, differences in the new tower and post office tower.

Public Comment:

Dick Walsh asked if the time of appeal had expired and Mr. Cuyler answered yes.

## **CITY MANAGER'S REPORT**

### **Informational items:**

#### **Approval of the Agenda for January 31, 2006 Joint City Council/Planning Commission draft agenda.**

Ms. Zimomra called Council's attention to the agenda packet information and noted the agenda would be revised for the upcoming meeting.

Councilman Jennings made a motion, seconded by Councilman Rothman, to approve the agenda.

The motion carried unanimously. Councilman Brown was excused.

### **Planning Department Activity Report**

Ms. Zimomra called Council's attention to the agenda packet information. She noted that if the number holds for the first quarter the City would be at an all time high.

### **Building Department Activity Report**

Ms. Zimomra called Council's attention to the agenda packet information. She further stated that 200 was an unusually high number of permits, but it was due to the hurricane season. She also stated that if money was made from building fees it must be stay in the Building Department. She explained that Council did set aside funds for other preparatory work in the Building Department.

Council asked for a break down per quarter.

### **Police Department Parking Revenue Report:**

Ms. Zimomra noted the impact of revenue from the hurricane season for beach parking. She explained that all parking lots had been converted to receive credit cards and ATM cards and this was done with revenue from parking funds. She also explained that every day for the past 3 years at peak parking time a parking occupancy was taken.

Discussion ensued regarding allowing people that stay more than 2 hours receive a cut rate for the next 2 hours or so, find ways to expand the scope of use for awarded grant monies, and Ms. Zimomra stated that the enterprise funds had designated uses. She also spoke to a high priority was to install cameras at parking lots, and Ms. Zimomra stated that there were a number of spaces not used, variable pricing for beach parking, Ms. Zimomra stated that for \$2.00 per hour per carload it was relatively inexpensive costs for recreation.

Ms. Zimomra mentioned that this Friday, January 20 was Sanibel Arbor Day and Sunday, January 22 at 2:00 p, m, at SCA was the memorial service for John Butler, the first Police Chief.

## **OTHER PRESENTATION**

### **Report by Mike Maguire, Maguire and Associates of the FY 2005 Indirect Cost Study and RESOLUTION 06-015 ADOPTING A COST ALLOCATION PLAN, (ALSO KNOWN AS AN INDIRECT COST PLAN) FOR THE FISCAL YEAR 2004-05; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CERTIFICATE OF COST ALLOCATION PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF OMB CIRCULAR A-87; AUTHORIZING THE DISTRIBUTION OF THE CENTRAL SERVICE OVERHEAD COSTS TO QUALIFYING GRANTS AND ENTERPRISE FUNDS; ESTABLISHING THAT REGULAR UPDATES TO THE COST ALLOCATION PLAN BE MADE; AND ESTABLISHING AN EFFECTIVE DATE**

Ms. Zimomra stated this was an annual report given to Council. She noted how important it was for an accurate accounting of indirect costs, as well as recouping costs from the enterprise funds.

Mr. Mike Maguire, Maguire Associates gave the following report:

- Regulations since late 70's, which give direction for an allocation methods
- To charge indirect cost to beach parking and sewer
- Allocate costs to central services use most fair and equitable management methods
- Allocate all insurance costs
- Changes in the plan; instituted 2 plans 1) the Office Management and Budget 87; and 2) a Full Cost Plan (including the Police Department)

Discussion ensued regarding the new plan of adding the Police Department, Office of Management and Budget allows grants to be charged, and Full Cost Plan allows the ability to charge multiple departments without worrying about the regulations, beach parking had higher revenue, \$35,000 was made in in-direct cost with the Full Cost Plan.

Ms. Zimomra stated that previous and current Council was very clear the enterprise funds carry their full share of the costs. She stated that \$35, 000 less paid by taxpayers was a win-win situation.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Resolution 06-015.

Ms. Zimomra read the title of Resolution 06-015. She recommended Resolution 06-015 be amended to included not only OMB Circular 87, but Full Cost Plan.

Vice Mayor Denham and Councilman Jennings agreed to the amendment.

#### **Public Comment:**

Dick Walsh asked if this should be for FY 2005-06

Ms. Lynch stated that the actual cost would be reflected.

The motion carried unanimously

Council decided to discuss the following:

#### **Recreational Center User Fees:**

Discussion ensued regarding the fees for running the Recreation Center was a fiscal concern, consider having user fess that would substantially offset the cost of operations, user fees for security purposes, track

the use of the recreation center, possible addition of 5.03 FTE's to run the recreation facility proposed several months ago, employee modification and reduction of lifeguards due to modification of the swimming pool, Council had not decided the hours of operation, receptionist would be needed, Ms. Zimomra stated that staff or a contract person would be used for programming that had worked at the Senior Center, flexibility for programming, hiring contractual staff for programs, individuals would pay for programs, not all costs were recovered for Senior Programming, and Ms. Zimomra stated that the after school program and summer youth program were subsidized through the budget, approximately \$800,000 cost for current facility, no contribution from the Lee County School Board in past years for operating costs, 2.5% projected as an increase to operating the new facility, user fees would provide additional funds as well as providing security, additional rental fees for room usage and additional program fees, and the need for a study for fee based programming.

**Public Comment:**

Glenn Martin spoke to paying \$500 per year asses to the tax bill to support the recreation center in Tahoe, Nevada and he supported anyone using the facility should pay for that use.

Herb Rubin spoke to usage of the current of the recreation center.

Ms. Zimomra stated that tours were currently being given for the recreation center. She further explained that there was a nominal fee for programming.

Dick Walsh agreed there should be user fees. He suggested that there should be annual user fees, and he spoke to the contribution from Lee County Board of Education for operational costs. He further spoke to the increase of construction costs and consider adopting a resolution that would include the amount of financial support from the School Board and Board of Commissioners and the amount of the bonds.

Discussion ensued regarding \$1 million dollars budgeted for cost escalation, \$8.4 million a cap for the construction of the proposed recreation facility, and Council directed staff to bring a resolution back to Council at the February Council meeting using the \$8.435 million dollars cap, and other financial support for the proposed recreation center.

Claudia Burns spoke to being involved in selling the proposed recreation center. She further spoke to the electorate distrusting Lee County and what would stop bus loads of Lee County residents from coming to Sanibel to use the facility and Council answered that there would much better recreation center built for Lee County residents.

Mr. Cuyler stated that the Interlocal Agreement had not been before Lee County Board of Commissioners or City Council.

Ms. Helene Phillips, Recreation Director spoke to a new facility that opened in Lee County. She further stated that there was a new recreation facility being constructed in Estero.

Barbara Cooley spoke to the need for meaningful user fees, Sanibel residents receiving a discount, use user fees to offset costs, and operate the same hours.

Armand Ball spoke to the recreation center offering a different scope of services than the island fitness center and Curves, may have expanded hours and would change the operating budget, the need for direction for a nominal fee and what that might include.

Discussion ensued regarding having a nominal fee for recreation facility, and to many variables to decide the amount of a user fee at this time.

David Bath asked if there would be an annual fee and Council stated discussion would be an annual fee, but a daily fee for visitors. He spoke to the current operating cost of the recreation center was approximately \$850,000 and taxpayers paying for the capital costs.

Armand Ball asked when Council wanted recommendations from the Parks and Recreation Committee.

Discussion ensued regarding using Council names and speaking on behalf of the facility.

Mr. Cuyler stated that there were guidelines and restrictions on the City for using public funds. He stated that there were no legal restrictions for Council, but a policy issue and Council as a whole may have a policy position. He stated that Councilmembers were not individuals, but speak as a Councilmember. He cautioned balancing being involved individually versus Council's position.

Discussion ensued regarding Council's individual roles in supporting the recreation center, Council should be able to speak of their opinion, Mr. Cuyler stated that Council could have decided to construct the proposed recreation center, but decided to allow the electorate to decide.

Council recessed at 1:22 p. m.

Council reconvened at 2:20 p. m

Council decided to discuss the following:

### **NEW BUSINESS:**

#### **Request from Rotary Club of Sanibel-Captiva to fly the Rotary flag under the American Flag on February 23, 2006 and March 8, 2006 at the Lindgren/Periwinkle Way intersection**

Ms. Zimomra called Council's attention to a letter from the President of the Rotary Club requesting to fly To fly the Rotary Club flag on 2 separate occasions at the City flagpole at the intersection of Causeway Boulevard/Periwinkle Way/Lindgren Boulevard. She stated that her memorandum spoke to Gate was for Castle, Public Works Director investigating the ability to fly 3 flags on the flagpole. She further stated that also in the agenda packet was the policy established by a previous Council to fly the MIA/POW flag. She also stated that Mr. Castle found that there was no weight or space limit.

Discussion ensued regarding previous and past Council discussion, should establish a policy to allow services clubs to fly their flag for a single day, defining service clubs, and Mr. Cuyler stated that a resolution could be brought back to Council establishing criteria for consideration.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to allow the Rotary Club to fly their flag on 1 day letting them choose, and direct Mr. Cuyler to bring back a resolution regarding service clubs flying their flag on the City flag pole, and flag pole donated by the Rotary Club.

Discussion ensued regarding

#### **Public Comment:**

John Carney spoke to the donation of the flag pole at Periwinkle/Lindgren Boulevard. He further stated that February 23, 2006 would be the 100<sup>th</sup> birthday of the Rotary and March 8 would be the 26<sup>th</sup> anniversary on Sanibel.

The motion carried to 4 to 1 with Councilman Rothman voting in opposition. Councilman Brown excused.

Mr. Carney chose February 23, 2006 to fly the Rotary flag.

### **OLD BUSINESS**

#### **Water Quality Issues**

Councilman Rothman passed out the print out from flows from the S-77 (Moorehaven) and S-79 (Caloosahatchee River).

Discussion ensued regarding there being no water released at the S-77 and S-79 locks since January 12<sup>th</sup>, estuary needs a mixture of fresh and salt water, lose water through irrigation in the EAA, other water (run-off) was also released into the Caloosahatchee River.

Dr. Rob Loflin spoke to the watershed including other creeks, subdivisions and developed areas, and quite a bit of freshwater continued to flow into the Caloosahatchee River. He also stated that freshwater was taken from the river for drinking water.

## **Intergovernmental Efforts:**

### **Other**

#### **Report on trip with Moore Haven High School students to tour Lake Okeechobee**

Vice Mayor Denham gave the following report:

- Presented 2 books on the history of Sanibel
- Moore Haven issue – the death of Lake Okeechobee
- Believe that south Florida was facing an economic disaster
- Zero dollars being spent to repair lake Okeechobee
- Lack of birds on the lake
- Lake Okeechobee looks and smells bad
- Asked the Glades County Commissioner present if flowing of water could be stopped during seagrass growth season and that wasn't an option
- Spraying the weeds growing in the lake weekly
- Spoke to a sugar farmer (4<sup>th</sup> generation) and the farmer stated the water was measured before the water comes from the lake and before it is returned and the sugar cane cleans the water

#### **Public Comment:**

Glenn Martin spoke to the need for the lake to be guaranteed. He spoke to pools developed in Lake Tahoe to catch the run-off.

Barbara Cooley spoke to reading numerous articles including a recent Bass Fishing Tournament.

Mike Valiquette spoke to the initial concept was to get Moore Haven and Sanibel working together. He asked what would be the maximum. He called Council's attention to a flyer from PURRE regarding a meeting at Harborside Convention Center on January 28, 2006 at 9:00 a. m.

Dr. Loflin stated that a low lake was the ultimate goal, which should be done in a gradual process. He answered the dry season maximum would be 600 cubic feet per second as measured at the Franklin Locks and rainy season, which begins in June, 2800 cubic yards per cubic second at the Franklin Locks. (as established by the SFWMD own biologist)

Claudia Burns spoke to people drinking polluted water from Lake Okeechobee.

#### **Meeting with Congressman Connie Mack January 11, 2006:**

Councilman Jennings spoke to his conversation with Congressman Mack and his understanding the Congressman Mack would be helping.

Discussion ensued regarding a committee that Congressman Mack's was a member of that oversees the Corps of Engineers.

#### **Senator Nelson announcement of January 9, 2006:**

Mayor Johnson stated that Senator Nelson was in Ft. Myers on January 9 and was interested in passing a bill for an appropriation to help with the problem.

## **Letter to Governor Bush:**

Ms. Zimomra stated that this letter was sent to Governor Bush as well as sending the letter to Mayors of other entities.

Mayor Johnston stated that she would be meeting with the Mayor of LaBelle later this week and met with the City Manager of Clewiston along with a member of SFWMD and a member of the sugar industry. Commissioner Tammy Hall had called a meeting Friday for Mayors and City Attorneys

Mike Valiquette spoke to the original photos of scum balls were before Hurricane Charley.

Dr. Loflin spoke to the lawsuit of the snail kite from 2003 was just now getting before a judge. He further stated that there had been no change on how the water release was done.

Discussion ensued regarding the need of an e-mail of Congressman Mack's information.

Barbara Cooley spoke to the Plan Temporary Deviation. She stated that in 2004 a environmental impact study was done that the estuaries could benefit from more freshwater. She stated there was a real discrepancy of water releases on the chart versus what Chip Merriman reports.

Karen Storjohann spoke to exciting the public to affect the November vote for water board members.

Dr. Loflin stated it was true of water pollution and the recharge of the aquifers, and long-term concern.

## **Update regarding educational program**

### **Web Site Update**

Ms. Zimomra spoke to Council's discussion at the January 03, 2006 meeting to pursue community education, coalition building of other governments, and continuing to pursue all legal options. She also spoke to the direction for education was to develop information on the City's webpage and utilizing Merribeth Farnum, Farnum and Associates to develop that information with Dr Loflin reviewing for technical factuality. She further stated that the website information would be developed into a newsletter since Council direction staff to start community education with a direct mailing to Sanibel residents.

Merribeth Farnum, Farnum and Associates have the following report:

- Website development a priority
- Website would link to the City's website
- The need to decide information placed at the navigational buttons
- Could get the website up and running within 3 weeks
- First page could be implemented this week
- Information to be included on the website
- Governing board meeting dates included
- Lake Okeechobee projects
- Photo gallery running one after another to depict the problem
- Include Sanibel's achievements regarding water quality
- Total Concept to build webpage

Ms. Zimomra stated that the primary goal was to get the content approved and proceed with a direct mailing to residents.

Discussion ensued regarding what would be mailed to the citizens, series of mailings, 4 pages (front and back), photographs for a visual affect, a self mailer, contact information to governmental entities, water survey, the use of hyperlinks, and 1<sup>st</sup> description of crisis.

Dr. Loflin stated he was working on the draft and the need to invite the public to participate with keeping the water releases from Lake Okeechobee on everyone's mind.

Council asked Mr. Cuyler his opinion regarding placing links from the City to other websites.

Mr. Cuyler stated that it would be better to site the website rather than a link, but was a policy decision for Council

Ms. Farnum spoke to expanding the e-mail database.

Discussion ensued regarding Channel 4 flying over the gulf reviewing the plumb of water

Dr. Loflin spoke to the last flyover and the filamentous green algae seen was an indicator of the classic nutrient dead water. He stated that the sandbar was covered, at Lighthouse Beach there was algae growth and the seagrasses were in terrible condition.

### **Discussion regarding SFWMD board vacancies**

Ms. Zimomra spoke to it appearing that the Key West representative would like to be re-appointed and the Broward County seat must be a representative from Broward County. She stated that Governor Bush was looking for a change.

Councilman Jennings agreed to call the Key West representative and would have the City Manager follow-up. He stated that Mark Foley and David Aronberg were both familiar with the issues.

Discussion ensued regarding a possible bill being introduced to elected water board members rather than appointed, had a discussion with Congressman Mack regarding the bill, Ms. Zimomra stated Council may want to get a copy of the bill with the bill summary, and Council agreed to the website banner.

### **Legal Issues:**

Mr. Cuyler stated he would be making a decision in the next 2 days regarding a law firm, as well as weighing environmental expertise, availability and capacity, conflict of interest, cost and travel issues. He further stated he expected the chosen firm to be working next week and Council would be updated. He explained that shade sessions were only permitted when there was settlement discussions, or cost of litigation but there could be no strategy discussion during a shade session without filing a lawsuit or litigation being eminent. He stated he was still pursuing and following-up with the Attorney General's office and felt that there would be no intervention with the SFWMD unless there was something from the Governor's office.

Discussion ensued regarding if Council still wanting to pursue a possible lawsuit, the need to be prepared, and Mr. Cuyler noted that there was a certain amount of cost becoming prepared, and he would help to the chosen law firm as follows:

- Review the alternative
- Administrative challenges
- Law firm to brief Council individually or in open session

Discussion ensued regarding a document in question being several years old (Barbara Cooley), City and County Attorney would be meeting Friday, January 20 and the County Attorney would be updating the County Commissioners on January 28, 2006, the need for a technical advisor, Ms. Zimomra stated that this person would need to be in the Natural Resources department and increasing the capacity of Natural Resources, could be a contract employee, and would need to flow through Dr. Loflin.

Mr. Cuyler considered having Lee County attorneys as co-counsel.

Chuck Duwroken spoke to the technical person should be in the City Attorney's office as a liaison.

Discussion ensued regarding placing public education before litigation, and should the City stay separate from PURRE, Mr. Cuyler answered that from the litigation perspective and preparation perspective Council needed to stay separate, sharing information and the PURRE attorney did not want the public restraints.

Barbara Cooley stated that PURRE would want to remain separate from the City.

**Discussion of City Council Protocols for Staff requests:**

This was not discussed.

**CITY ATTORNEY'S REPORT:**

Mr. Cuyler stated the appraiser was contacted and the appraisals should be forthcoming.

**PRESENTATION:**

**Status Report of Fiscal Year 2004 Audit by Marty Redovan, CPA, Partner, Schultz, Chaipel, Redovan & Baker, CPA's, LLP**

Ms. Zimomra stated this was an interim report as requested by Council. She continued to explain that there were 2 challenging areas; 1) Utility Collection; and 2) Procurement Cards (split purchases and over the dollar amount).

Discussion ensued regarding following up on FY 2004 audit comments.

Ms. Redovan gave the following report:

03-02

A periodic review of the sewer system accounts receivable aging report should be performed to follow up on past due accounts and to stop provision of water service.

Recommendation:

With each billing cycle, the sewer accountant should review the accounts receivable aging and take appropriate steps for customers with balances over 90-days past due.

Discussion ensued regarding this finding dealt with past due utility accounts receivables, problem still exists, balance increased through FY 2005, 110 accounts were a result of selling the property, after sell of property who would be responsible, ordinance did not address the purchase and payment of utility bill, procedures performed in October, 2005 with delinquent notices and again in December, 2005, half of outstanding utility balances was due to transitioning properties, corrective actions in place since the end of FY 2005, unless there was a lien on sold property the City would not be notified of the sell to allow the unpaid utility bill amount to be attached to the sale of the property, and Mr. Cuyler explained that the seller must sign an affidavit that all liens were settled, but if not then it would be incumbent of the new owner to settle any unpaid balances.

03-03

Purchase card activity should be reconciled monthly with expenditures charged to the appropriate accounts.

Recommendation:

The Finance Department had implemented a procedure to provide notice to the City Manager on a monthly basis of the Purchase Card holder(s) who have not turned in Visa purchase reconciliation on a timely basis. Employees not submitting detailed breakdown for purchasing card purchases within required timeline will be subject to progressive discipline.

Discussion ensued regarding that not all statements were turned in a timely manner and not all receipts were attached to the statements, great improvement in statements being turned in with receipts, the need to change or modify the procurement card policy, and procedures in review at the Executive Staff level.

04-01

Purchase card activity should include the proper back-up documentation for each amount charged.

Recommendation:

The City has reviewed and updated the limits for and necessity of having a Visa Purchasing Card for every City employee issued a purchasing card. The limits have been reduced and unless regular purchasing necessity dictates. Cards have been collected and are stored by each Department Director to be signed out by the employee as needed. Additionally, the Finance Director had ordered brightly colored stickers to be affixed to each purchasing cards, which states, "City Use only".

Discussion ensued regarding proper documentation, purchases should not be split if the dollar limitation had been reached, maximum monthly limits, and during an emergency certain employees may need to increase the purchasing limit.

04-02

State Revolving Loan balances should be reconciled each month the statement balances

Recommendation:

A reconciliation of the loan balance and interest payable should be performed monthly and such reconciliation should be reviewed by appropriate supervisory personnel.

Discussion ensued regarding reconciliation of State Revolving Loan balances being completed monthly.

04-03

City policy is to have two manual signatures on all checks greater than \$2,500.

Recommendation:

The Finance Director should enforce the City's policy regarding the issuance of checks greater the \$2,500.

04-04

City policy for emergency purchased is to have "Emergency" documented on the Departmental Requisitions

Recommendation:

Management should enforce the City's policy regarding the waiving of the bid process in emergency situations.

04-05

Travel authorization forms are to be approved by the City Manager.

Recommendation:

Management should enforce the City's policy regarding the travel documentation requirements. All amounts not supported properly should be referred back to the employee for reimbursement or not paid by the City. If purchased on a City Visa card suspension of the employees' use of the card or termination (if a recurring problem) should be considered)

04-06 Department Heads should be responsible for acquisitions made for their department

Discussion ensued regarding a policy being written, Ms. Zimomra stated that broadening the scope of responsibility for the MIS Department, consider centralized purchasing, overwhelming technology issues, and continue being an issue in the upcoming budget.

Recommendation:

When the MIS Director deems technology purchases need to be made, the appropriate department head authorization should be required prior to purchase. Items should be delivered directly to the department

requisitioning the items, if possible. Department heads should be responsible for verifying the receipt and installation of all technology items ordered.

04-07

The City levied assessments for the sewer system expansion projects. As part of the assessment, the customers have the ability to make periodic payments on the balances they owe or pay the full assessment off at any time. A periodic reconciliation of amounts due from customer should be prepared and reconciled to the general ledger balance

Recommendation:

Rather than maintain two separate listings for assessments receivables, the Miscellaneous Receivables module should be used exclusively. Monthly reports should be generated from this system and reconciled with the balances per the general ledger.

04-08

A User policy us used to control of user accounts, removal of user accounts and security modifications

Recommendation:

MIS should create and implement a policy mandating written requests for all user accounts. This policy should include directions for notification, storage of request, action taken and the date for each activity listed.

04-09

A back-up and recovery policy should be on file

Recommendation:

MIS should create and implement a policy containing the methods of backup, procedures, location of storage, steps of recovery and data verification. There should be written log for dates of verification and changing of media.

04-10

Physical access to servers and backup media should be restricted to authorized personnel only.

Recommendation:

If possible, move all equipment and materials not directly related to MIS into a separate location. Install a key card locking mechanism and only give access to appropriate personnel. Immediately create a sign-in sheet and enforce the use of this sheet. The sign-in sheet can be eliminated upon the installation of a key card system.

Public Comment:

None.

## **COUNCILMEMBERS' REPORT**

Councilman Rothman spoke to the letter sent to Rob Jess, regarding the parking area he wanted to create and Ms. Zimomra stated that Robert Duffy, Planning Director met with Rob Jess and she would get a memo to Council regarding that meeting.

Mr. Rothman stated that he would like to have an additional option to voting yes or no, and Mr. Cuyler stated that by state statute that Councilmembers could not abstain from voting, but could explain the reason for voting a particular way.

There being no further business the meeting adjourned at 5:15 p.m.

Respectfully submitted by,

Pamela Smith, CMC  
City Clerk