

**SANIBEL CITY COUNCIL MEETING
FEBRUARY 07, 2006**

Mayor Johnston called the meeting to order at 9:03 a. m.

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

Councilman Rothman made a motion, seconded by Councilman Brown, to excuse Vice Mayor Denham due to the passing of his father.

The motion carried by consensus.

Member present: Mayor Johnston, Councilman brown, Councilman Jennings and Councilman Rothman. Vice Mayor Denham was excused.

PRESENTATION(S)

Proclamation for Safe Boating Week February 5 to 11, 2006

Mayor Johnston read and presented the proclamation to the Marine Advisory Committee and the Sanibel Captive Power Squadron.

Mr. Jim Struthers, Chairman invited the public and City Council to Sanibel Safe Boating Day Saturday, February 11, 2006 from 9:00 a. m. to 1:00 p. m. at the Recreation Facility..

Council thanked the Marine Advisory Committee and the Sanibel Captiva Power Squadron for their efforts, and discussion ensued regarding not using alcohol while boating.

Presentation by Lynda Flynn, Director of Asset and Debt Management, Ocala County for the Government Finance Officers Association (GFOA) Award to Renee Lynch, Finance Director and the Finance Department

Ms. Linda Flynn presented the 18th Certificate of Excellence to Renee Lynch, Finance Director and her staff.

Public Comments

Herb Rubin spoke to rejecting the recommendation from the Vegetation Committee to eradicate Australian Pines from Sanibel. He requested that City Council not discuss Australian Pines between April to November.

Sandy McCarty Aler spoke to rejecting the recommendation from the Vegetation Committee to eradicate Australian Pines.

Bob Bannister spoke to rejecting the recommendation from the Vegetation Committee to eradicate Australian Pines.

Yoland Welch spoke to rejecting the recommendation from the Vegetation Committee to eradicate Australian Pines.

Claudia Burns requested that City Council schedule a discussion of Australian Pines policy for February 21 or March 07 City Council meetings.

Hazel Schuller asked that Council direct the Historical Preservation Committee complete a study of historical Australian Pines.

Ed Seiber spoke to his agreement of all above-mentioned comments.

Louise Johnson spoke to managing the Australian Pines and the need for an ordinance with parameters for retaining pines.

Mary Cutair spoke to her agreement of all comments.

Discussion ensued regarding having discussion of Australian Pines at the February 21 City Council meeting.

Councilman Brown made a motion, seconded by Councilman Jennings, to table discussion until November 07, 2006 City Council meeting regarding Australian Pines.

Ms. Zimomra stated there were no plans to cut down Australian Pines.

Public Comment:

Barbara Colley spoke to not holding discussion on November 07 election day.

Sandy Aler spoke to the need of a moratorium.

Discussion ensued regarding LCEC removing trees within their right-of-way, tabling discussion was the equivalent to a moratorium, the last Council not taking any action regarding Australian Pines, and LCEC's responsibility was to make certain that power lines were free and clear of vegetation.

Councilman Brown amended his motion to hold discussion at the November 21, 2006 City Council meeting at 10:30 a. m., and Councilman Jennings agreed.

Hazel Schuller spoke to previous Council taking action on Australian Pines, history that pines were protected, and were in the Sanibel Plan.

The motion carried unanimously.

William Compton requested that staff take another look at City boardwalks, walkovers destroyed during Hurricane Charley at Buttonwood and Seagrape Lanes, petition signed by some residents regarding the boardwalks, and vegetation does not grow under boardwalks.

Discussion ensued regarding Councilmembers reviewing the Boardwalks at Buttonwood and Seagrape Lanes, vegetation and Planning Commission issue, signed contract and work had begin, Ms. Zimomra stated that there was a signed contract to replace all walkovers destroyed during Hurricane Charley. She also stated that there had been emails urging staff to replace the walkovers, those not yet replaced Donax, Casa Ybel, Seagrape and Buttonwood, contractor would have a small mobilization fee if work stopped, Ms. Zimomra outlined the options; 1) contractor continue work, 2) assign contractor to work on Donax and Casa Ybel walkovers while Council decides on policy and/or receive input from Council advisory committees; 3) have the portion of the contract non-perform by the present contractor and address at a later time, Ms. Zimomra explained that the repairs were funded by FEMA and the State, which have strict guidelines and was only funded what was lost; but the design could be augmented anyway Council decided but any additions other than what was lost would be funded by the City, protection of the dune system, walkover should be at least 3 feet in height to allow vegetation growth underneath the walkover, should walkovers go further to the beach rather than as currently constructed, and stop work until the designs were the best to protect the dune system.

Councilman Rothman made a motion, seconded by Councilman Brown, to halt construction on any remaining dune walkover and direct staff to research the design of the walkovers regarding what was planned protecting the dune, and come back to Council with recommendations.

Ms. Zimomra stated that there would be a mobilization cost if the contractor changed focus, and a different mobilization cost.

Wil Compton spoke to the new construction of walkovers would go no further than the old walkovers, begin a pilot program on Seagrape with a shell walkover rather than a raise walkover.

Discussion ensued regarding Council making decisions without staff having the opportunity to bring a report back to Council, FEMA money had a timeline, the need to rebuild the walkover correctly, original review of building walkover, should Council's Advisory Committees review the construction, the need to protect the dunes, and Ms. Zimomra stated the reconstruction was replacing existing walkovers; and the need for a staff report.

The motion carried unanimously.

Maureen Valiquette spoke to educating the community regarding water quality, and possible event March 18 at the Community Park.

Sue Carter asked the following questions:

What would have to be done to rehabilitate the current recreation facility and how much would it cost?

How many people are currently using the facility?

How many more people have been anticipated would be using the new recreation facility?

She stated that it would be a good idea to share with residents what the committees were working toward.

Council recessed at 10:41 a. m.

Council reconvened at 10:51 a. m.

Council Comments.

Councilman Brown spoke to giving staff more work to do without taking into consideration that the work it takes to complete the tasks.

Councilman Jennings spoke to the Water Matters brochure and the H2O Matters website, he asked that there be a 2nd Recreation Center mailing to be done in March.

Councilman Rothman spoke to February being Black History Month. He suggested that Council asked the Historical Preservation Committee add the School for Black Children to the Historical Museum. He also spoke to strip mining being considered within Horse Creek that flow into the Peace River.

Planning Commission Report:

Dr. Phillip Marks gave the following report of the January 24, 2006 Planning Commission meeting:

- Designated new chairs of Planning Commission sub-committees
- Discussion regarding of height limits to above-ground swimming pools
- Discussion of the commercial land use report by Bob Duffy, Planning Director
- Recommended to involve the business community
- The need to produce a guide regarding the buildback ordinance

Council decided to discuss hear a report from Dr. Loflin:

OLD BUSINESS

Water Quality Issues

Dr. Rob Loflin, Natural Resources Director gave the following report:

- SFWMD newspaper article \$1.8 billion to further accelerate 14 out of 64 CERT projects including forward pumps and cleaning canals allowing water to go south
- Deviation letter regarding the change in the water release schedule went to Army Corps of Engineers and the only change was very small and adds considering the conditions of estuaries, seagrasses were not mentioned, still a pulse one release, which was 1600 cubic feet per second at the Franklin locks and more that staff feels the estuary can take at this point
- Army Corps of Engineer considering 300 to 600 cubic feet per second at the Franklin locks pulse releases
- Corps could go over the above-mentioned release rate without public input

Update regarding educational program

Ms. Zimomra stated that Council had previously directed staff to follow a three-prong approach.

- Education
- Political Arena
- Litigation

She further stated that staff was pursuing the approach as directed by Council. She further stated that Ms. Farnum was involved in the educational package. She explained that Ms. Farnum had the ability to package the information to make it more readable and understandable as well as having a wealthy media background and multiple contacts that the City could use. She also explained that the content was provided by City staff, put in to context by Merribeth then reviewed by staff and the Washington D. C. attorneys. She also stated that an e-mail was sent to Council for suggestions or information for the next newsletter.

Discussion ensued regarding health statistics from the health department, the need for information from tumor boards at Lee Memorial and all medical facilities along the Caloosahatchee River providing information, high incidents of cancer in neighborhoods due to the discharges in the Caloosahatchee River, no need to include phosphate strip mining in water quality mailings, concentrate on current issues for the H2O Matters newsletters, and CHNEP would be addressing strip mining.

Merribeth Farnum, Farnum and Associates gave the following report:

- SFWMD advised that busloads would arrive at the SFWMD meeting being held at FGCU Wednesday, February 08, 2006
- Media Packet would be distributed at the SFWMD February meeting being held at FGCU
- Include the letter sent to the Army Corps of Engineers
- Include the Water Quality Newsletter
- Include a News Release in media packet
- Key Points from Dr. Loflin that Sanibel wants to occur from the SFWMD

Discussion ensued regarding information in the packet, the need for Councilmembers names in the packet, media should be able to speak with each Councilmember, add the sancouncil e-mail address, Council thanked Councilman Jennings for his idea of a media packet, the need for stronger points in the media packet including immediate cessation of water discharges into the Caloosahatchee River, the need for some water movement, the need to be very specific, the goal was to allow Sanibel estuaries to recover, the time to communicate and discuss the issues,

- Eliminate the first bullet, "Our estuary needs time to recover from extreme discharges."
- Keep to specifics
- No more than an average of 600 cubic feet per second discharge in a pulse release during the dry season
- A maximum of 2800 cubic feet per second discharge during the rainy season
- Water release schedule to be modified to maintain Lake Okeechobee at a level of 11 to 13 feet

- Consider the health of the estuaries

Mayor Johnston made a motion, seconded by Councilman Rothman, to only keep the above-mentioned bullets

Discussion ensued regarding the objective of stopping the water releases, the main objective was to allow the estuaries to recover, the level of releases for 2006, not provide a specific cubic feet per second or Sanibel would sue, if any other private industry had polluted the water as the water releases had done EPA would have been fining that entity, clean up Lake Okeechobee and not send the pollutants to the Caloosahatchee River, information was going to the media not the Army Corps of Engineers or the SFWMD, and changing the first bullet to read, "In order to permit the Caloosahatchee estuary to recover the parameters must be:,"

Public Comment:

Karen Storijohann spoke to the media packet.

Discussion ensued regarding Ms. Farnum being the media point person at the SFWMD meeting of February 08 to distribute the media packet, 200 media packets, public works employees would be taking the media packets at 7:30 a. m. in the morning, first sentence saying that the releases are slaughtering the estuaries and the environment of Sanibel and speak to safe measurement of releases, should tell the media that Sanibel was going to take legal action, and the first bullet reading, "The 2005 water releases from Lake Okeechobee are slaughtering our environment and our economy and then the next sentence "In order to permit the Caloosahatchee estuary to recover Sanibel expects," Replacing the word "slaughter" with "our devastated estuary needs time to recover and we expect", or "the 2005 water releases from Lake Okeechobee have devastated our estuary in order to permit recovery Sanibel demands", Sanibel needs the help of other community, "devastated estuaries on both coast", as alternative words use insists or requests rather than demands, the need for immediate action, possibility of using; "The 2005 water releases from Lake Okeechobee have devastated the estuaries on both coast. In order to permit recovery Sanibel demands, add 4 bullets and then add "our way of life in South Florida is at risk"

Mayor Johnston amended her motion and was accepted by Councilman Rothman as follows:

"The 2005 water releases from Lake Okeechobee have devastated the estuaries on both coasts. The situation as it exists is intolerable. In order to permit recovery Sanibel demands: 1)cut the first bullet; 2)leave the next 4 bullets; 3)cut the last 2 bullets; and 4)add a sentence "Our very way of life in South Florida is at risk"

Public Comment:

Wayne Ponader suggested adding "the situation as it currently exist is intolerable."

Dan Mobe suggested adding "it is lethal to wildlife habitat as well as humans."

The motion carried unanimously.

Merribeth Farnum stated that she had received clarification regarding the order of events and Sanibel would be item 57.

Discussion ensued regarding if SFWMD arranged busloads of people to attend, no sense of the timeline of the schedule, item 57 would allow Lee County to speak first with 30 minutes to speak, Lee and Collier Counties 10 minutes to speak, each municipalities 5 minutes to speak, public comment limited to 3 minutes, the need to make certain that the 2006 releases were acceptable, voting at the meeting pertaining to the 2006 release level and schedule, which was 1,600 average. and Sanibel wanted 600, and public comment would require a card to be filled out to speak.

Public Comment:

Barbara Cooley spoke to the latest agenda showing on the web that public comment was in the beginning of the meeting. She stated that in the weekly memorandums from the SFWMD it was recommended 300 or 600 cubic feet per second water releases, and the Army Corps of Engineers not agreeing. She spoke to the need for the SFWMD to question the Corps of Engineers.

Discussion regarding ensued public speaking at the SFWMD meeting, Lee County always had public comments in the beginning and rarely deviate from that forum.

Ms. Farnum read directions for public comment at a SFWMD. She also explained that while Mayor Johnston was speaking slides would be rolling.

Ms. Zimomra stated that Dr. Loflin, James Evans, public works employee and Merribeth Farnum would be in attendance.

Discussion ensued regarding Mr. Cuyler attending, and Mr. Cuyler stated he was available to attend, the need to show water problems within the estuaries, contacting Skip Dunn, Tagger Two (fishing charter) to include photos in the PowerPoint presentation, Mayor should have a prepared statement, focus on the issues, Ms. Zimomra stated that staff would be given a phone card with pertinent numbers, and Mr. Cuyler advised Council that they should have only numbers to find each other without discussion between themselves.

Erick Lindblad spoke to a one month goal to get people to attend the Lake Okeechobee Advisory Committee, PURRE would be soliciting memberships, over 300 members thus far, February 21 PURRE meeting, spoke to Fort. Myers Civic Association. He spoke further to lawsuits due to treating lake water with chlorine, which create carcinogens.

Ms. Zimomra stated that all sister cities were mailed the newsletter as well as state, federal and county governmental officials.

Mayor Johnston spoke to her meeting with other Lee County Mayors.

Dr. Loflin stated that when the blue green algae was at the highest bloom point in the river it was producing toxins that were a problem for the water intakes for both Cape Coral and Lee County with effects on drinking water when toxins were being produced.

Ms. Zimomra stated that staff was contacted by Rob Jess, Executive Director of J. N. "Ding" Darling Wildlife Refuge to advise that he was called to Atlanta for a meeting and would be unable to attend, and Mr. Cuyler encouraged everyone to tour the refuge to review the changes from the freshwater releases.

Discussion ensued regarding asking Commissioners Albion and Judah to request background information from the Lee County Health Department, Commissioner Hall wanting to work with the SFWMD and the Corps of Engineers, and plan for Lee County having 30 minutes to speak at the upcoming SFWMD.

Web Site Update

Regional Planning Commission Report (Vice Mayor Denham)

Report regarding meeting with Randall Bengston, Mayor City of Labelle

Mayor Johnston spoke to her meeting with the above-mentioned officials.

Councilman Rothman spoke to a conversation he had with Kevin Burdish, President of the Fishing Club that there were no trout south of the power lines.

Report regarding a meeting between Lee County Mayors and Vice Chair Tammy Hall Lee County Board of Commissioners

Mayor Johnston reported Chairperson Hall, Lee County Board of Commissioners called a meeting for Mayors and City Attorneys. She stated that officials decided to meet from time to time.

Mr. Cuyler spoke to a discussion of forward pumps to reduce the level of Lake Okeechobee, which was a short-term answer to manage Lake Okeechobee at a lower level at the meeting.

Information regarding House Bill 559 Elections of SFWMD members

Mayor Johnston stated the text of the bill was in the agenda packet.

Ms. Zimomra stated that there was not a companion bill in the house.

Discussion ensued regarding possible district size and staff would watch.

Discussion regarding a response to the correspondence from Chip Merriam, Deputy Executive Director of South Florida Water Management District (SFWMD)

Councilman Rothman stated he understood that this was a response to Mr. Merriam.

Other

Councilman Jennings stated that Representative Trudi Williams was introducing a bill to provide another governing board for to watch the Caloosahatchee River.

Ms. Zimomra stated that staff was in contact with Ms. Williams and when a legislator comes up with an idea it is sent to bill drafting. She further stated that staff hoped to obtain a copy by the end of the week.

Council recessed at 1:03 p.m.

Council reconvened at 1:52 p. m.

Council decided to discuss the following

Council pulled the following items from the Consent Agenda; Minutes of September 10, (d), (f), (i), and (j).

Councilman Brown requested that item (j) be moved forward.

CONSENT AGENDA:

Councilman Rothman a made a motion, seconded by Councilman Brown, to adopt the minutes with the exception of the September 10 minutes.

The motion carried by consensus.

- a. Approval of minutes – September 10, 2005 Budget Hearing, September 20, 2005 Regular Meeting, September 20, 2005 Second Budget Hearing, October 04, Regular Meeting, October 19, 2005 Emergency Meeting, October 21, 2005 Special, October 23, 2005 Emergency Meeting, October 24, 2005 Special Meeting and October 26, 2005 Special Meeting
- b. **RESOLUTION 06-016 SUPPORTING THE COMMUNITY HOUSING AND RESOURCES, INC., APPLICATION TO THE EXECUTIVE OFFICE OF THE GOVERNOR, OFFICE OF TOURISM, TRADE AND ECONOMIC DEVELOPMENT TO OBTAIN THE DESIGNATED SPONSOR STATUS FOR THE COMMUNITY CONTRIBUTIONS TAX CREDIT PROGRAM; AND PROVIDING AN EFFECTIVE DATE**

- c. **RESOLUTION 06-017 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-034 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$3, 974 from the General Fund reserve for Building Department Hurricane Preparedness for new construction costs for new computers to improve pre and post hurricane efficiency of the Department)
- e. **RESOLUTION 06-018 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-036 AND PROVIDING AN EFFECTIVE DATE** (to roll-forward the unspent funds from FY 2005 to FY 2006 for the AM Radio project)
- g. **RESOLUTION 06-027 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-039 AND PROVIDING AN EFFECTIVE DATE**
- h. **RESOLUTION 06-023 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-037 AND PROVIDING AN EFFECTIVE DATE** (to roll-forward the unspent funds from FY 2005 to FY 2006 for the security monitoring system at the Historical Village)
- k. **RESOLUTION 06-024 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-038 AND PROVIDING AN EFFECTIVE DATE** (to appropriate the \$40,000 grant from the U. S. Fish and Wildlife for the Lighthouse Beach Park Restoration Project plantings for wildlife habitat from August 1, 2005 to August 1, 2006 per Cooperative Agreement #401816G014)
- l. **RESOLUTION 06-025 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OF SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE** and request a waiver to standard bid procedures and approval to purchase a 2006 Ford Explorer for \$26,143

Ms. Zimomra read the title of Resolution 06-016, 06-017, 06-018, 06-027, 06-023, 06-024, 06-025

Councilman Rothman made a motion, seconded by Councilman Brown, to adopt Resolutions 06-016, 06-017, 06-018, 06-027, 06-023, 06-024, and 06-025.

The motion carried unanimously.

- d. **RESOLUTION 06-019 STATING THE COUNCIL'S POSITION ON FUNDING FOR THE PROPOSED RECREATION CENTER AND CONFIRMING THE MAXIMUM AMOUNT OF CITY FUNDS TO BE DEDICATED TO SUCH PROJECT; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-019.

Councilman Brown made a motion, seconded by Mayor Johnston, to adopt Resolution 06-019.

Discussion ensued regarding Section 1 (c) adding the amount of funds in the operating budget and Council agreed to add to the first page Section 1 part c "Funds in the operating budget for architectural, engineering and construction manager expenses (\$

The motion carried unanimously.

f. **RESOLUTION 06-026 REORGANIZING THE DEPARTMENT OF NATURAL RESOURCES TO DEDICATE STAFFING TO ADDRESS WATER QUALITY ISSUES IMPACTING THE CITY OF SANIBEL; AMENDING THE CLASSIFICATION PLAN AND PAY SCHEDULE FOR FISCAL YEAR 2005-2006; ADOPTING NEW AND RE-DESCRIBED JOB DESCRIPTIONS; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-026.

Discussion ensued regarding to the need for a technical advisor on issues coming before Council,

Ms. Zimomra spoke to the following:

- Council directing staff on more and more issues
- Department that has remained really stretched
- 1999 2,000 request to department
- 2005 over 4,000 request to department
- Council members need to discuss issues with the staff
- Workload from the 2 highly educated staff that could be given to a new staff member
- Recommendation was to bring in a new entry level employee
- Costs for remainder of year would be \$40,000 funded out of the contingency line item

Discussion ensued regarding an employee to work only for the water issue only, permanent employee, included in the packet was the \$10 million dollars of grant money brought in by Dr. Loflin, tremendous amount of administrative function for grants, and Mr. Cuyler stated that when working with attorneys there was always the need to look to the technical employees within the department.

Councilman Brown made a motion, seconded by Mayor Johnston, to adopt Resolution 06-026.

Discussion ensued regarding the need for another employee, Council requests for Natural Resources Department had more than doubled, and the need for a designated employee that works on water a significant amount of time.

Public Comment:

Erick Lindblad spoke to the need of an additional employee in the Natural Resources Department.

Herb Rubin spoke to his agreement of Resolution 06-026.

The motion carried unanimously.

j. **RESOLUTION 05-174 DETERMINING THE REQUEST FOR AN ENTERTAINMENT LICENSE AT THE JACARANDA RESTAURANT AT 1223 PERIWINKLE WAY**

Ms. Zimomra read the title of Resolution 05-174.

Discussion ensued regarding the Jacaranda (Patrick Harder, Manager) coming back with a plan.

Mr. Harder gave the following report:

- Added a door person to check I. D.'s on Friday and Saturday from 10:00p. m. to 1:00 a. m
- Added employee helps to keep parking lot secured
- Last call at 12:00 to 12:15 a. m.
- Last drink served at 1:00 a. m

Council requested that Mr. Harder provide a written plan to staff.

Daniel Mobe, new owner of Jacaranda spoke to the atmosphere of the Jacaranda, and wanted to keep it as an island landmark.

Councilman Brown made a motion, seconded by Councilman Jennings, to adopt Resolution 05-174.

The motion carried unanimously.

i. **RESOLUTION 06-020 ESTABLISHING COUNCIL POLICY AND CRITERIA FOR THE FLYING OF FLAGS ON CITY OWNED PROPERTY LOCATED AT CAUSEWAY BOULEVARD AND LINDGREN ROAD; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-020.

Discussion ensued regarding who a service organization would be, Mr. Cuyler stated that service organizations were any organization that fits under the definition and the City Manager would have the authority to bring any questionable organization to City Council for approval, he further spoke to whenever there were situations some were more than recognizable than others, could appeal the resolution and not allow flags, or treat everyone the same way, and Rotary representative stated the flag pole donation had no strings attached.

Councilman Brown made a motion, seconded by Councilman Rothman, to deny the adoption of Resolution 06-020 and send a letter to the Rotary.

The motion carried unanimously.

Council decided to discuss the following:

**SECOND READING AND PUBLIC HEARING
RESOLUTION 06-021 ELECTING TO CONDUCT PUBLIC HEARINGS PRIOR TO 5:00 P. M. REGARDING A PROPOSED ORDINANCE THAT AMENDS THE SANIBEL LAND DEVELOPMENT CODE AND WHICH HAS BEEN COMMONLY REFERRED TO AS THE "TIMESHARE ORDINANCE"; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-021.

Councilman Jennings made a motion, seconded by Councilman Brown, to adopt Resolution 06-021.

The motion carried unanimously.

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.

Discussion ensued regarding the positive contribution from residents, mixed units that are timeshare, and Mr. Duffy noted that Casa Ybel had timeshare and ownership units, Sanibel Beach Club had 5 timeshare buildings, treated in the long-term and the draft would allow 4 units per building and remains unchanged, Sanibel Beach Club would be non-conforming, whole project must be all timeshare, this was an amendment to Ordinance 06-001, smaller units of 4 units or less that would be easier to convert and the proposed amendment Section 126-1096 and reads "however if the residential development includes units that are in single family dwellings, duplexes and multi-family buildings of 4 dwelling units or less, all units in the development, except for one (1) on-site management unit, shall be timeshare units."

Ms. Pfalzer stated that the entire project would need to be converted to timeshare, uses could not be mixed, if buildings had more than 4 units

Discussion ensued regarding did not want to increase timeshare ownership, Council wanted to keep in one district, nothing in the timeshare regulation that would prevent a unit owner from converting to timeshare, but with the amendment would only allow all units to converted to timeshare, restrain timeshare to the resort housing district, 384 timeshare units within the resort housing district, ordinance would limit and constraints on timeshare usage, and does not set a cap in number of future timeshares.

Public Comment:

Dick Walsh spoke to previous Council discussion when it was proposed to fractionalize Kinzie Island.

Mary Cutair asked how Sanibel Siesta would be affected and could the ownership be forced, and Mr. Cuyler answered that ownership could not be forced.

Mr. Cuyler stated that this ordinance would be an all or nothing situation and the entire association would have to agree. He also stated that the ordinance would not allow someone to do something contrary to code.

Mr. Duffy stated that developments having a mixed use the building with 4 units could only convert if other building decided to convert.

Mr. Cuyler stated that if Council wanted him to look into the prohibition of limiting timeshares he could do that, because this ordinance does not speak to that issue.

Claudia Burns spoke to her understanding was to limit new development of timeshares and why it was different for smaller complexes, and Mr. Duffy stated that it would put a greater

Mr. Cuyler stated that Council's objective was to identify land use objectives without making laws cumbersome, and address appropriate land use goals.

Discussion ensued regarding choosing 4 as the magic number, and Mr. Duffy stated that the number was noted as common and addressed the issue of conversion of the small cottages.

Hazel Schuller spoke to the gulf beach zoning housing continued to be developed in resident housing, and no housing converted to temporary housing for tourism.

Herb Rubin spoke a second time regarding the density, traffic and movement that if units wanted to go timeshare the ordinance would not allow.

Wayne Ponader stated the ordinance was due to a problem and a notice of pendency was adopted. How long was the notice of pendency affected?

Mr. Cuyler stated there was no case law of a time limit.

Councilman Rothman made a motion, seconded by Councilman Brown , to continue the public hearing on Ordinance 06-001 until March 21 at 9:30 a. m., and direct the City Attorney to prepare a report regarding Council's ability to limit timeshares for March 07 City Council meeting.

Hazel Schuller asked way can't the resort district be taken out of the proposed ordinance.

The motion carried unanimously.

Transit Issues:

Discussion regarding transit stop sites and access to City-owned streets

Mayor Johnston cited her concern of where bus could stop within the City.

Appointment of the Sanibel representative to the City representative to the Transit Authority Over Site Committee

Mayor Johnston spoke to the proposed creation of the above-mentioned committee, authority would be paid for by sales tax, construction of board was not decided, all municipalities would have one seat and have an oversight committee to draw-up Interlocal Agreements.

Council agreed by consensus to appoint Mayor Johnston to the new committee.

Appointment of the Lee County Metropolitan Planning Organization (MPO) Citizen Advisory Committee

Ms. Zimomra noted that one application was received and it was from Linda Robison.

Councilman Jennings made a motion, seconded by Councilman Rothman, to appoint Linda Robison to the Citizen Advisory Committee of the MPO.

Council agreed by consensus.

COMMITTEES, BOARDS, COMMISSION

Ms. Zimomra stated that with the first mailing took 2 drafts for Councils to approve, could be a self-mailer, and respond to answer questions, bring back February 21, 2006 Council meeting and the final draft March 07, 2006 Council meeting.

Discussion ensued regarding Council input, citizen input and Parks and Recreation Committee input.

Public Comment:

Dick Walsh spoke to there being no report of the current Recreation Center from a structural engineer. He further stated that the previous Council personally inspected the facilities and there was a recognition that 50% of the building would need to be re-built and meet current codes, it was felt that there was a need to construct a new facility. He further spoke for the need for security for the children.

Discussion ensued regarding the need to have had a structural analysis done minutes leave out what citizens speak to, previous Council discussion, past agenda showing whenever Council discussed the recreation center, and verbatim minutes take hours to complete.

Councilman Brown made a motion, second to draft a second recreation mailing and bring back to the February 21, 2006 Council meeting.

Recommendation from the Parks and Recreation Committee regarding User Fees for the Recreation Center

Armand Ball spoke to offices being lost, bathrooms rented, build on to the existing building if a new Recreation Center Facility was not construction, serious security problems at the Recreation Center due to the frame work of the current building, Parks and Recreation Committee never said the building was not currently sound, but did recognized the building needed to be rehabilitated and it would be at 50% of the building,

Mr. Ball gave the following report on User Fees:

- Committee reviewed previous Council comments
- Nominal membership fee similarly to the beach parking fee structure to supplement income from program user fees, which was approximately \$123,000 and increasing as necessary
- Assumptions of memberships (photo card for each individual)
- Recognize fee structure differences for residents and non-residents
- Annual membership
- Passes for weekly, day and etc.
- Bring back proposals for Council review
- Would be adjusted annually
- No one denied use due to financial matters
- Continue scholarships

Ms. Zimomra stated those center with a high initial fee programming was included, but with a small up-front fee that would be additional programming fees.

Discussion ensued regarding using the parking decal program as an example, charge a fee to offset the operating costs, nominal fee to help control facility, Ms. Zimomra stated that Council had received a chart showing fees charged by other facilities, she also stated that normally facilities that charge a higher initial fee programming seems to be included, facility could have nominal fees for different programming, rental fees, and a way to revoke membership.

Councilman Jennings made a motion, seconded by Councilman Rothman, to adopt the recommendation of the Parks and Recreation Committee.

Public Comment:

Dick Walsh agreed with the Parks and Recreation Committee recommendations for user fees, but need to consider a user fee for non-residents. He further spoke to the operating hours, and possible weight room fee above the normal user fee.

The motion carried unanimously.

NEW BUSINESS

RESOLUTION 06-022 APPROVING DEDICATIONS OF RIGHT-OF-WAY, A PUBLIC RECREATION AREA, MAINTENANCE EASEMENT, CONSERVATION EASEMENT, AND PRESERVATION EASEMENT AS REQUIRED BY THE PRELIMINARY PLAT CONDITIONS OF PLANNING

COMMISSION RESOLUTION 05-17 ACCEPTING MAJOR SUBDIVISION APPLICATION 04-2234; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-022.

Mr. Ken Pfalzer, Deputy Planning Director explained the following:

- City Council's role to approval dedications
- Map depicts different colors to manage different aspects of the proposed subdivision
 - Orange – road right-of-ways
 - Pink – conservation easement to protect the gopher tortoise no tin the preserve to SCCF
 - Purple - Identification and protection of the Oliver Bowen grave site
 - Dark Green – area set aside if maintenance necessary for the Calm/Dinkins Bayou
 - Blue – SCCF conservation easement
 - Approval by Planning Commission
 - Final approval would only occur after Council approves the dedications required to make the project comply with the standards of the LDC
 - Next step would be the preparation and review of construction drawings and plans for building the infrastructure and required improvements for the subdivision
 - Council was required to approve certain public dedications allowing the developer to go forward to plan the infrastructure and lay out the lots and nothing could be sold until final plat and recording
 - Council would approve the final plat and accept the dedications on behalf of the City

Discussion ensued regarding application for a major subdivision, LDC required review and consideration by the Planning Commission, approval today involved the public recreation area, the maintenance and conservation easements.

Mr. Cuyler stated that the primary jurisdiction was the Planning Commission and the body that reviews the application, reviews the petition, goes through the hearing, looks at the evidence, and makes the final decision if the subdivision was approved or not.

Ms. Zimomra stated all the appropriate departments had reviewed the plans; 1) Natural Resources reviewed all items going to SCCF, the easement for gopher tortoise habitat, and the easement for the Clam/Dinkins Bayou project; 2) Public Works reviewed the land next to the Waste Water Treatment Plant and the land dedication for the Clam/Dinkins Bayou maintenance access easement, 3) Historical Preservation Committee reviewed the Oliver Bowen gravesite, as well as staff that staffs the Historical Preservation Committee. She stated that subdivision had extensive review and everything requested was incorporated.

Discussion ensued regarding conservation easement, public recreation area and grave site be marked to show, Mr. Pfalzer stated the final plat would have more detail and be the governing document for description of the lots, City park property would be shown for City development, the preservation areas would be divided by a fence to show the areas, and Mr. Cuyler stated that Council could require the developer to mark the grave site in a certain way.

Alan Wertzel, developer stated that there would be a fence around the gravesite, and a split rail fence around all conservation areas.

Discussion ensued regarding the Island Water Association (IWA) tank being the white area on the development map, and Mr. Cuyler stated the IWA water tank was outside the plat.

Public Comment:

Dick Walsh spoke to past discussion of the Sanibel Bayous treatment plant and the difficulties and Mr. Wertzel stated there was a requirement to hooked-up to the Sanibel sewer system.

Mr. Cuyler stated that the land was excluded, as a separate piece of property and a discussion never took place regarding the Sanibel Bayou Treatment Plant.

Councilman Rothman made a motion, seconded by Councilman Jennings, to adopt Resolution 06-022.

The motion carried unanimously.

Discussion regarding composing a letter to Lee County Electric Cooperative regarding Florida Power & Light (FPL) changes to decrease hurricane infrastructure damage

Councilman Rothman stated that earlier in the year the LCEC franchise agreement was approved, and discussion was incorporated regarding underground power lines. He continued to speak to FPL agreement to harden the east coast system, and he suggested writing a letter to LCEC to get comments on FPL proposal for the east coast.

Councilman Rothman made a motion, seconded by Councilman Jennings, to compose a letter to LCEC to respond to the FPL project on the east coast.

Discussion ensued regarding the need to have the best and current technology.

The motion carried by consensus.

CITY MANAGER'S REPORT

Informational items:

Contract with Lee County Supervisor of Elections to use the Senior Center as Precinct #16 for 2006

Ms. Zimomra called Council's attention to Precinct 16 being at the Senior Center for the March 07, 2006 Library Board election and the April 04 Recreation Center referendum.

Quarterly Statement of General Fund Revenues and Expenditures (October 1 to December 31, 2005)

Ms. Zimomra called Council's attention to the agenda packet information. She stated that she and Ms. Lynch would meet with any Councilmember. She also stated that Council would find some footnotes on the quarterly report.

Ms. Zimomra called Council's attention to the following Legislative Days.

March 29, 2006 Legislative Day Tallahassee

Ms. Zimomra explained that this was the municipal days for elected officials to go to Tallahassee.

March 23, 2006 Consortium Day Tallahassee

Ms. Zimomra explained that this event was for counties between Sarasota and Collier County.

March 27 to 29 Lee County Days.

Ms. Zimomra noted that this was the Lee County delegation and sister cities. She spoke to Sanibel having more items in front of the legislature. She also stated that if any Councilmember wanted to be a part of any of the three above-mentioned governmental days let staff know so that reservation could be made.

Discussion ensued regarding Councilman Jennings attending the Lee County Days, and Council agreed.

CHR's Quarterly Financial Statement

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

Status of experimental automatic dumpster locks

Ms. Zimomra stated that the new lock system was keeping raccoons out as well as some people.

Status of recreation center project escalation cost

Ms. Zimomra stated that at Council direction staff met with the architect regarding the percentage of escalation cost for the Recreation Center Project. She further stated she had forwarded an e-mail to Council last night.

Discussion ensued regarding Council asked staff to revisit the escalation cost and what had happened, escalation running from 1% to 1.5% per month and do anticipate the percentage staying this way for the next few months. She also stated that a major price increase for building materials was expected on July 1st.

Canvassing Board Meetings – Designation of City Council member

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

Discussion ensued regarding which Councilmember would participate in the canvassing board meetings and the decision was as follows:

March 07 election canvassing board meeting - Councilman Jennings

April 04 canvassing board – Councilman Rothman

Designation of staff liaison to work with Lee County DOT on Congestion Pricing Grant Study

Ms. Zimomra stated that Council received an e-mail for a staff member to be the City liaison and that would be Bob Duffy, Planning Director.

Discussion ensued regarding price

Household Hazardous Waste Day results

Ms. Zimomra stated there were 386 vehicles and 3 bikes.

Sanibel Library Financial Statements years ending September 30, 2004 and September 30, 2005

Ms. Zimomra stated that the Financial Statements for 2004 and 2005 for the Sanibel Library was in the agenda packet.

Chico's Edison Festival of Lights 2006 Junior Parade presented by Sprint Yellow Pages – Sunday, February 12, 2006 at 1:30 p. m. and Edison Festival of Lights Grand Parade presented by Sam Galloway – Saturday, February 18, 2006 at 5:30 p.m.

Ms. Zimomra stated the in the past Council had participated in the two parades.

Discussion ensued regarding Councilman Jennings participating in the February 12, 2006 parade and Mayor Johnston and Councilman Jennings would participate in the February 18, 2006 parade.

Council agreed.

Ms. Zimomra noted that Commissioner Judah would be making the presentation at the SFWMD being held at FGCU, which would be a PowerPoint presentation. She further stated the presentation would be e-mailed to the City Clerk and she would forward to the City Manager who would forward to Council.

She passed to Council a directional map to FGCU and phone card with Council phone numbers.

Ms. Zimomra gave Council the changes incorporated from the talking points for the SFWMD meeting.

CITY ATTORNEY'S REPORT

None

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

Council agreed by consensus.

Councilman Jennings chaired the remainder of the meeting.

PUBLIC COMMENT

None.

COUNCILMEMBERS' REPORT

Councilman Brown spoke to the possibility of the City donating the property in front of the Library to the Library.

Councilman Rothman spoke to not following the agenda.

Ms. Zimomra stated that Council could change anything on the agenda and advocating self-discipline.

Mr. Cuyler spoke to public comment being timed for 20 minutes.

Discussion ensued regarding having public comment for 3 minutes rather than 5 minutes and institute the public signing a card to speak.

There being no further business the meeting was adjourned 5:10 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk