

**SANIBEL CITY COUNCIL MEETING
FEBRUARY 21, 2006**

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

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

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

Council presented a framed copy of an article to Mayor Johnston in the News Press of a meeting that Mayor Johnston attended and was a speaker during public comment regarding water quality.

Public Comments:

None.

Council Comments:

Councilman Jennings spoke to attending the Edison Grand parade

Planning Commission Report:

Ms. Patty Sprankle gave a report of the February 14, 2006 Planning Commission meeting:

- Review of the permit activity report for the Planning Department
- Resolution approving height limits for above-ground pools
- Approval of application of a variance to permit construction of a new boat dock and development permit for dock
- Approval of request for 32 outdoor seats at Doc Ford's Rum Bar and Grill after 5:00 p.m.
- Certificate of Appropriateness to complete exterior alterations, repairs and minor modifications to the Cooper Home Homestead located at the Sanibel Shopping Center
- Upcoming Joint City Council/Planning Commission Meeting
- Upcoming discussion of the EAR amendments

CONSENT AGENDA:

Council pulled November 15, 2005 and November 17, 2005 minutes, and Mr. Cuyler requested that item (g) be pulled for discussion.

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to approve Consent Agenda items (c), (d), (e) and (f).

- c. **Approval to purchase 2 ½ ton pickups, 1 ¾ ton pick up and 1 one ton dump truck with 4 wheel drive options from Sam Galloway Ford for a net cost of \$82,342.00 (including trade-in of Unit 203 – 1997 F-250 Pickup Truck)**
- d. **Approval of Change Order #3 E. T. MacKenzie of Florida, Inc. Sanibel Sewer Expansion Project Phase 3B, to increase the contract in the amount of \$87,280.90 for construction of alternative methods along Sanibel-Captiva Road, and for removing and disposing of excessive asphalt and concrete, and authorizing the City Manager to execute said change order**
- e. **Request from the Clinic For The Rehabilitation of Wildlife, Inc. (C. R. O. W.) to hold the 26th Annual Taste of the Islands at Sanibel Community Park**

2221 Periwinkle Way, Sunday, April 30, 2006 to serve beer, wine and margaritas

- f. **Request from Sanibel Captiva Conservation Foundation (SCCF) to serve beer, wine and liquor at the Volunteer Recognition Party March 01, 2006 at B. I. G. Arts, 900 Dunlop Road in addition to the 58 dates previously approved by City Council for B. I. G. Arts in 2006**

The motion carried unanimously.

- b. **RESOLUTION 06-030 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-030

Councilman Rothman made motion, seconded by Vice Mayor Denham, to adopt Resolution 06-030.

The motion carried unanimously.

- a. **Approval of minutes – August 26, 2005 October 18, 2005 Regular Meeting, October 20, 2005 Special Meeting, November 15, 2006 Regular Meeting, and November 17, 2005 Workshop Meeting**

Council made the following changes.

November 15, 2006

Page 3 of 13 to change “taking legal action” to “investigate taking legal action”.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt the November 15, 2005 minutes with the amendment as stated above.

The motion carried unanimously.

November 17, 2006

Page 2 of 4 delete the word “small” in front of businesses

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to adopt the November 17, 2005 minutes with stated above.

The motion carried unanimously.

- g. **RESOLUTION 06-028 APPROVING BUDGET AMENDMENT/TRANSFER FOR NO. 2006-040 AND PROVIDING AN EFFECTIVE DATE** (to transfer \$84,000 from Reserves for Contingencies to Other Contractual Services and other Promotional Activities to make \$60,000 available for community education, media relations, and web design work and \$24,000 for printing, mailings and postage)

Mr. Cuyler stated that he added Section 2. to Resolution 06-028 as follows

“The Council’s determined that such expenditures were and are necessary as a result of emergency conditions and timeframes and such expenditures were and are in the best interest of the public and the City’s bidding and purchasing requirements are hereby waived.”

Ms. Zimomra read the title of Resolution 06-028

Councilman Brown made a motion, seconded by Councilman Rothman, to adopt Resolution 06-028 with the amendment as suggested by Mr. Cuyler.

The motion carried unanimously.

OLD BUSINESS

Ms. Zimomra spoke to organizing the water quality discussion outlining Dr. Loflin's report, new information, reports on meeting that have occurred since Council last meeting, upcoming meeting to make certain that staff had Council's position to take forward, legislation, and reports from the consultant. She also spoke to organizing the information into matrixes to make easier for Council to review. She further noted that there would be a matrix of the SFWMD projects that affect Sanibel in to a matrix.

Water Quality Issues

Staff report on Local Water Quality & Sea Grass Data & Documenting Impacts

Dr. Rob Loflin gave the following presentation:

- SCCF Marine Lab taking samples of seagrass (Turtle grass and Shoal Grass)
- Decline in 2004 and 2005 for both seagrasses
- Seagrasses in Pine Island Sound in decline and correlated in to salinity in parts per thousand
- Seagrasses in San Carlos Bay/Matlacha Pass in decline
- San Carlos Bay salinity decline after water released from Lake Okeechobee
- San Carlos Bay increase of chlorophyll-A after water released from Lake Okeechobee
- When salinity decreases chart shows a correlation to the fresh water releases from Lake Okeechobee
- Chart showing the quantifiable measure of how algae blooms correlate to the fresh water discharges from Lake Okeechobee
- Started a pulse one release late last week; Sanibel asked for less water to be discharge due to the concern of the health of the grass beds and SFWMD did not concur
- Meeting with Lee County Mayors that Peter Doran, Biologist for SFWMD, which coordinates with the Army Corps of Engineers weekly for water releases
- E-mail this morning that the SFWMD made a recommendation for the peak level one discharge be reduced to 2800 rather than 3300 and the Army Corps of Engineer accepted the recommendation
- 2800 was important because research shows that 2800 was the maximum discharge amount for many species in the estuary
- The Marine Lab had a hydro lab (water quality station) at Ralph Woodring's Dock that would give a better idea of what the pulse would do to the near shore waters and lower salinity
- James Evans performing monthly water quality testing and found the pulse release coming from the mouth of the Caloosahatchee River in the miserable mile in the island area not past the Causeway
- Found 29 parts per thousand at Woodring Point and 35 parts per thousand was pure sea level not yet affecting the estuary at a damaging level

Discussion ensued regarding Lee County requesting a release (half pulse) of 800 cubic feet per second in the wet season (Sanibel requested 600 cubic feet per second) and 2800 cubic feet per second in the dry season, health of seagrasses from this point on, monitor seagrasses, level one pulse was 1600 and peak release was 3300 in the 10 to 12 day schedule, the need for biological information and the level of releases, scientific evidence shows damage from the out flow of Lake Okeechobee, Mayor Johnston passed out a graph showing the water releases on a 30-day average of S-79 from April 2000 to present, and Dr. Loflin explained the straight lines showing the negative impact to estuarine organism and the peaks above the horizontal lines show the water that needs to go elsewhere, and percentage of water needs to be diverted evenly.

Mr. Cuyler stated that SFWMD would say that the water run-off in the basin was controlled by Lee County and plays a larger part of water releases.

Discussion ensued regarding Lock 79 was in Olga/Alva, Dr. Loflin Peter announced would be 3 level one pulse releases before May to allow Lake Okeechobee to go to 14 feet, the need for grass beds to recover, Dr. Loflin reported that Commissioner Hall was interested to getting the Lake level to 14 feet, Dr. Loflin also stated that by the end of April seagrasses would show if they are growing, track condition of algae bloom, track condition of grass beds and salinity, lulled into a false sense of security, political situation on Sanibel regarding the J. N. "Ding" Darling Wildlife Refuge and a change in attitude of management that employees and volunteers must not comment that the impact on the area was due to the Lake Okeechobee water releases, Rob Jess, Executive Director of the refuge was called to the Atlanta, Georgia office so he could not speak at the Florida Gulf Coast University meeting held by the SFWMD, and Vice Mayor Denham spoke to the changes in the refuge as follows:

- Emerald green algae floating on the water
- Algae coating the rocks and water banks
- Lillian Stokes, Wildlife Naturalist observed feeding activity in the bay was significantly diminished, less birds on the Causeway and not affected by the construction last year
- Osprey Foundation monitoring Osprey nest reported that the 11 nest on the East end of Sanibel only 2 were occupied

Discussion continued with the need to get other municipalities to agree with water releases, a proclamation of the Councils official position using 800 cubic feet per second in the wet season for water releases and 2800 per cubic feet in the dry season, even though there was no lake discharge there was natural water flow in to the Calooshattee River, such as excess sprinkler water, the need to average out water releases, send data to other municipalities with a cover letter, the need to clear with the Marine Lab and packaged in a way that would be suitable for the lab, plan to get Lake Okeechobee to 14 feet by May 1, Dr. Loflin stated that algae growing where there was grass beds, grass beds only stubble at this point, some areas there were no grass beds, Kissimmee basin in trouble and needs to be cleaned-up, Mr. Cuyler stated that Kissimmee was ahead of the southwest coast by 2 years, and fishing guides had no business due to no fish.

Education Component Update

Outline of Issue #2 H2O Matters

Ms. Zimomra passed out a mock-up of the graphics for the next water quality mailing. She stated that Council had previously directed mailing a series of water quality newsletters and information to property owners. She further stated that included would be what Sanibel had done to help water quality.

Discussion ensued regarding the newsletter being focused on condition of the wildlife refuge, Mr. Cuyler stated that there was a photo published by the New Press holding green algae within the refuge, perforated post card with information that could be mailed to other governmental entities, the need to have additional copies at City Hall front desk, and advise people to visit the refuge.

Ms. Merribeth Farnum, Farnum and Associates spoke to the following:

- Be specific with action needed

Additions to the Web Site

Ms. Zimomra stated that the website was currently being updated.

Reports on Meetings

Regional Planning Commission Meeting Reports of January 19, 2006 and February 16, 2006

Vice Mayor Denham spoke to the following:

- Lee County Board of Commissioners concern was the amount of money being spent by the SFWMD
- Wayne Daltry recommended a separate sub-committee formed by the SFWMD to review all water related actions and members should include Commissioners and Mayors from the affected areas of which Vice Mayor Denham asked to be on the committee

Report regarding attendance at the South Florida Water Management District (SFWMD) meeting schedule for Wednesday, February 8th at Florida Gulf Coast University (FGCU) beginning at 9:00 a. m.

Mayor Johnston spoke to attending this meeting and \$44 million dollars being spent by the SFWMD and most of the money goes to the east coast.

Report on Investigating Health Impacts of Water Quality Releases

Councilman Brown reported talking with Dr. Judith Hartner, Lee County Health Department Director regarding e-coli in the water had increased. He further spoke to other substances in the water and was told the Health Department was not checking for other substances. He also stated that long-term exposure to benzene was reported to be a factor in cancer and a community behind Bishop Verot that had an increase in cancers. He spoke to his meeting with Dr. Phillip Marks regarding the long-range health affects from the Calooshattee River, and Dr. Loflin stated that the SFWMD should pay for a lab to do water quality study, due to the expense. Councilman Brown also spoke to contacting the tumor boards at local hospitals.

Discussion ensued regarding a committee of island medical people to meet and determine that scope of work that would be needed and present to the SFWMD, IWA water testing, and the need for national attention.

Public Comment:

Patty Sprinkle spoke to speaking with Lee County schools, colleges and universities for possible solutions.

Wayne Ponader spoke to dividing the problem between short term and long term affects of Lake Okeechobee water releases.

Herb Rubin requested that Vice Mayor Denham not resign as a volunteer at the refuge.

Clare Mallon spoke to the problems at the refuge and suggested survey regarding illnesses.

Mike Valiquette spoke to contacting "Save the Manatee Club" and they were not interested, zero releases in the dry season means the water was going to the agricultural fields, municipalities for irrigation, and fresh water needs on the east coast, Franklin Lock – S-79, Moorehaven S-77 and Myakka S-308, St. Lucie S-80, pulse release schedules were not comparable due to a lake release lock and a river release lock, 1975 when the Myakka lock was built the release schedule was not updated, Moorehaven lock would need to be shut-off, Dr. Loflin stated that was a disconnect with releases, and worst case scenario was a total collapse of seagrasses in estuary.

Karen Storjohan spoke to sending the water quality newsletter to the national clubs and Ms. Zimomra stated that thus far the newsletter was not sent out nationally. She also spoke to the possibility of the Shell Museum having information regarding shelling.

Glenn Martin spoke to diplomacy not working with the SFWMD, and the need to review the legal aspect toward the SFWMD.

Council recessed at 11:17 a. m.

Council reconvened at 11:32 a. m.

Discussion ensued regarding the need to leave in the clean-up of Lake Okeechobee issue in the next water quality newsletter, statements made by Commissioner Bubba Ward regarding needing help to clean up Lake Okeechobee, the need to distribute money evenly collected by SFWMD, Commissioner Ward was not willing to concede anything to help with the Calooshatchee River, the need to focus on the refuge and seagrass surrounding Sanibel as the issue in the water quality newsletter.

Ms. Zimomra noted that Rhonda Hege, Acting Director of the Fort Myers SFWMD office was in the audience.

Status of Pending Water Quality Legislation

Ms. Zimomra called Council's attention to the agenda packet information and a matrix summary of the legislation. She went over each piece of legislation as follows:

- HM 539 Memorial resolution to the President of the US and Congress, urging the prompt enactment of legislation to authorize funding...to development of a comprehensive plan to assist in the implementation of the Lake Okeechobee and Estuary Recovery Plan
- S-1416 Provides legislative intent that restoration programs for Lake Okeechobee be reviewed to assess their potential to assist in implementing certain projects to develop alternative water supplies
- HB 599 Eliminate provisions for the appointment of members to water management district governing boards; requires board members to be elected; provides for staggered terms in office

Discussion ensued regarding Council backing the legislation, how boundaries would be drawn, Council unhappy with members being appointed, Ms. Zimomra recommended that staff contact the drafter of the House and Senate bills, as well as any considerations of boundaries she would bring that to the attention of the drafters.

- HR 2864 To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.
- Bill from Representative Trudi Williams

Discussion ensued regarding the purchase of land north of Lake Okeechobee and the reason and use for that purchase, and update matrix for the next Council meeting.

Public Comment:

Barbara Cooley spoke to anything relating to 373 that would require the SFWMD to declare an emergency could be removed from any legislation. She further spoke to her public records requests of the Attorney General's office and was told that it would not be fulfilled due to it being a public request, but if an elected official was to make the same request it would pull more weight.

Mr. Cuyler stated that the D. C. attorneys were following up on 373 and she would report back to Council.

Ms. Zimomra spoke to the Federal legislation as follows:

- HR 2864 To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States and for other projects.

Discussion ensued regarding modified water delivery in HR 2864 of the raising of Tamiami Trail, Dr. Loflin stated that the water component was critically important to Sanibel due to moving the water, letter from Senator Nelson noted that the bill passed the environmental committee, but did not reach the floor and Senators Nelson and Martinez had requested that Speaker Frist to hear the bill, send a resolution from Council to bring the legislation to the Senate floor, the need to ask residents visiting Sanibel or property

owners to contact their legislators, Dr. Loflin stated that Dr. Steve Bartone, Marine lab related that the oyster beds were dead at the mouth of the Calooshatchee River, and the need to mention something of the oyster beds destruction included in the water quality newsletter.

Upcoming Meetings and Events

Report on Commissioner Hall's meeting with municipal Mayors and Attorneys, Friday, February 17, 2006

Mayor Johnston spoke to this being a monthly meeting and the next meeting would be held on March 17, 2006 at the Regional Planning Conference Room.

Discussion ensued regarding Commissioner Hall not being the voice for Sanibel, other Commissioners not involved, Peter Duran gave a presentation, asked what impact lowering water of Okeechobee would have on the sea grasses, no discussion of where the water should go, the ability of Dr. Loflin to give his opinion who attended the meeting, Mr. Cuyler noted that there was discussion of funding of placement of temporary forward pumps to reduce the lake level and manage the lake at a lower level, and important that Sanibel should continue to attend the PURRE meetings.

Water Resources Advisory Committee

SFWMD Water Resources Advisory Committee Wednesday, February 22, 2006 9:00 a. m. to 3:00 p.m. Lake Okeechobee Civic Center, Lake Okeechobee, Dr. Rob Loflin, Natural Resources Director attending

Dr. Loflin advised Council that he would be attending the February 22, 2006 meetings and would be stating what Council's position was regarding water releases of Lake Okeechobee. He asked that Council enable him to make comments on Council's position.

Mayor Johnston asked if Council would be willing to discuss the following:

Council agreed.

Proposed Recreation Center

Proposed Recreation Center brochure regarding Expenditure Cap and Policy on Users Fees

Discussion ensued regarding including information of requesting an absentee ballot, the brochure would come back to Council March 07, 2006, splash pad and water slide need to be labeled on the design map, if the gym was not torn down there would not be room for 4 tennis courts, the need for the retention pond even if the recreation facility was not built and tennis courts would be built, add verbiage that each \$100,000 would be a certain amount of money per year added to the tax bill, concern trying to answer every question, shouldn't the brochure be available at the front desk, the need to answer any questions asked, use only the word slide instead of water slide, should be on the City's website, and the need for staging of the recreation center.

Public Comment:

Sam Bailey endorsed the construction of the proposed Recreation Center. He also spoke to the great loss of the Australian Pines. He spoke to keeping them trimmed.

Discussion about a second recreation center brochure – should we do a second one if all we're going to do is send out the same info we did the first time

No need for discussion due to Councilman Rothman reviewing the above-mentioned brochure with new information.

Proposed Timeline for Recreation Bids and Financing

Ms. Zimomra passed a revised timeline to Council.

Mr. Cuyler gave the differences:

- Legal requirements before the referendum vote
- 100% drawing completion
- Advertisement of pre-qualifying
- Drawings issued to sub-contractors
- Closing on the previous timeline change due to the need of time for voter approval and certain period of time drawings issued, bids made and bids locked in

Request for the following item to be included as a discussion item for the March 7th City Council meeting and staff be directed to conduct research and prepare a report for the item below:

Australian Pines – Things we should do now and before our November 21, 2006 meeting

Councilman Rothman requested the following:

- Ask staff to report back to Council March 07, 2006 regarding safety issues with Australian Pines before the 2006 hurricane season
- Suggested that staff conduct a survey on how people feel about Australian Pines before November 21, 2006 discussion

Discussion ensued regarding a survey of lift stations being a large project, looking at the access roads to the island, do not want to look at Australian Pines around lift stations, Council waiting until the scheduled November 21 Australian Pine discussion, Ms. Zimomra stated that staff had began to review lift stations prior to the moratorium that could be damaged by Australian Pines during a hurricane and had identified pines that could potential damage lift stations, Ms. Zimomra stated that there would be policy questions for grants already accepted that include removal of exotic plants including Australian Pines on public property, she further stated that if Council decided not to follow through with the pine removal then staff would need to return the funds and cancel projects, projects already underway approved by Council that include pine removal, Council wanted to know the number of projects underway, could bring back to Council the number of projects with inclusion of removal of Australian Pines, status of projects, could projects be held and the impact if held, decision made by Council to hold the Australian Pine discussion November 21, moratorium on removing Australian Pines until the November 21st discussion, and staff should already know the potential hazards before hurricane season.

Public Comment:

Karen Storjohan spoke to issues already voted on were brought back to Council regarding the removal of Australian Pines.

Barbara Cooley spoke to knowledge of safety issue and it was the City's obligation to take care of any safety issues.

Discussion ensued regarding the City Manager and staff taking care of any trees that would affect health, welfare and safety of residents, Council understanding that exotic trees were defined as Brazilian Pepper, staff had historically included Australian Pines as an exotic and remove for City projects, and cut down pine trees that were unsafe.

Herb Rubin spoke to Australian Pines disappearing for one reason or another and the changing character of the island.

Ms. Zimomra reiterated her understanding that if there were safety issues as in the past staff would go forward with removing Australian Pines. Council agreed. She further asked if Council wanted to see a staff report of any grants that included the removal of Australian Pines at the next City Council meeting.

Council by consensus agreed.

Ms. Zimomra stated that the governor's office called and there was a meeting on March 30 at 2:00 p. m. with Lee County Mayors.

Council recessed at 1:22 p.m.

Council reconvened at 2:06 p.m.

Water Resources Advisory Committee

Current Membership

Draft Letter regarding Local Representation

Ms. Zimomra noted that several Councilmembers attended the last meeting of the Water Resources Advisory Committee (WRAC) and it appeared that the membership was not equitably appointed of persons from Lee County. She stated that Beverly Grady was a member of the WRAC and Susan Brooklyn spoke to the Mayor. She further stated that April Carlson, Collier County current member of the WRAC would accept names for appointment. Ms. Zimomra stated she had forwarded the first draft of a letter with names being submitted for consideration.

Discussion ensued regarding current members of the WRAC, WRAC membership matrix noted Bubba from BIG SUGAR was a member, but his name had disappeared from the membership recently, putting forth James Evans, Environmental Conservation as the Sanibel representative, and Mike Valiquette, Business representative, Barbara Cooley, Public Interest (PURRE)

Council decided to request appointment of the following persons to the WRAC: James Evans, Environmental Conservation representative, Mike Valiquette, Business representative, and Barbara Cooley, Public Interest, Andy Schroeder, and Ralph Woodring. Council also made the following changes to the letter:

- First paragraph including the wording "Strongly urge" start another paragraph
- Change "regularly rotate" to "equally rotate"
- Remove the second equal

Army Corps of Engineers – Public Workshop on Lake Okeechobee – Dr. Rob Loflin, Natural Resources Director attending – February 22, 2006 7:00 p.m. – Okeechobee Civic Center

Dr. Loflin would be in attendance.

Invitation to attend C-43 Groundbreaking on Friday, February 24, 2006 West Storage Reservoir – 9:30 a. m. Berry Groves on SR 80

Council agreed for Vice Mayor Denham to attend representing Council.

Upcoming Proclamations

Seagrass Awareness Month (being drafted for Council consideration March 07, 2006)

To urge SFWMD to develop purifications methods before water is released to C-43 (being drafted for Council consideration March 07, 2006)

Ms. Zimomra stated that staff would bring back to Council a proclamation as requested by Council particularly Councilman Jennings and resolution urging that water quality be the utmost important when designing C-43 at the next meeting.

Discussion ensued regarding asking each municipality to adopt a resolution regarding utilizing water purification before releasing water to C-43, and a resolution for water releases for the wet and dry season including cubic feet per second.

South Florida Water Management District (SFWMD) scheduled meetings

Ms. Zimomra called Councils attention to the meetings in the agenda packet.

Discussion ensued regarding March 02 WRAC meeting and March 08 SWFWMD meeting, City Manager sending an e-mail regarding attendance, Mr. Cuyler spoke to current litigation dealing with certain discharge issues and the closed door sessions on the SWFWMD calendar, Mr. Cuyler spoke to continued litigation; 1) David Guest, Attorney with Earth Justice dealing with certain discharge issues; 2) Issues of discharges between water bodies; 3) Missosukee case that went to the U. S. Supreme Court and dealt with point source discharges, a closed door session of Eco Engineering and 2002 88 cases filed against SFWMD and Mr. Cuyler to investigate other topics of litigation and send a memo to Council.

Lake Okeechobee & Estuary Recovery Plan Recommended Actions by Local Governments To Reduce Pollution and Improve Water Quality

Ms. Zimomra stated that included in the letter received from the Department of Environmental Protection (DEP) speaking to the Lake Okeechobee recovery plan calls for local government to take 4 steps as follows:

- Adoption of an ordinance using low phosphorus fertilizers (DEP providing sampled of legislation)
- Conversion of septic tanks to central sewers (have 3,900 customers and invested \$64 million dollars)
- Urging the rest of Lee County to provide central sewers
- Creation and implementation of storm water utility (Capital budget funds the storm water improvements from the general fund and if there were a storm water utility less funding would come from the general fund and it would be funded similarly to the sanitary sewer)
- Acquire land for restoration and preservation

Discussion ensued regarding the need for a recommendation made from the City of Sanibel on what other governmental entities and unincorporated Lee County could do to ensure good water quality.

Other

Discussion ensued regarding Council meeting with the Washington, D. C. law firm regarding water issues, Washington, D. C. attorneys stated that Sanibel was 3.5 years behind the St. Lucie River, Seaside Sparrow found due to altering water releases from the St. Lucie River, ask the City Attorney to request the legal advisors prepare for litigation, the need to form consensus among other municipalities, Mr. Cuyler stated that during the period of the last discharge and want an injunction for equitable distribution, possible concern that levy and dikes would be breached, tough time to convince a judge life and safety versus the environment, taking steps getting the scientific base of evidence, governor in favor of water releases, and the need for litigation.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to confirm and direct the City Attorney and the Washington D. C. law firm to prepare a legal strategy for Council's review within 30 days and bring back at the March 21, 2006 City Council meeting.

Discussion ensued regarding the motion being preparing for litigation.

Mr. Cuyler stated that there would be an analysis regarding litigation. He further stated that the work product was exempt from public record, and the legal team would be ready with a white paper within 30 days. He also spoke to the need for equitable short-term solutions, and that there would be Council briefings. Mr. Cuyler stated the white paper would be a legal analysis for Council as the plaintiff, causes of action short-term and long-term, could be claims on existing statutes, endangered species, the need to have issues on the agenda, and the possibility of bringing a budget amendment back to Council whenever it was

necessary for continued funding for the outside Counsel. He also stated that Lee County Board of Commissioners had asked their legal Counsel to prepare to same type of white paper.

The motion carried unanimously.

Discussion ensued regarding the need for a press release about the engagement of the law firm.

Ms. Zimomra stated Sunday, February 20, 2006 a grant for docent assistant was approved.

Ms. Zimomra noted that Thursday, April 13, 2006 was the date that Council would all be available for a Goals setting workshop at 9:00 a. m.

Ms. Zimomra stated that the re-development workshop was scheduled for March 03, but all members would be available on March 09, 2006 at 9:00 a. m.

Council agreed to have the next joint City Council/Planning Commission meeting March 09, 2006 at 9:00 a.m.

Councilman Brown made a recommendation that the March 09, 2006 be the last meeting for a joint City Council/Planning Commission meeting on re-development.

Discussion ensued regarding Council needing time to discuss redevelopment.

Ms. Zimomra passed a memorandum out regarding formular retail and the recommendation of 3 alternatives of drafting an ordinance.

Ms. Zimomra stated that Clam Bayou project was open and nearing completion.

Ms. Zimomra stated that the fundraising for the school raised \$19,000.

CITY MANAGER'S REPORT

Informational items:

Planning Department Permit Application Activity Chart and Permit Activity Report

Building Department Activity Report

Ms. Zimomra called Councils attention to the reports in the agenda packet.

Tourism Development Council (TDC) grant list for FY 2006

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

Update of Council Activities

Canvassing Board – Library Board member Election – Councilman Jennings

Thursday, February 16, 2006 9:00 a. m.

Friday, March 03, 2006 9:00 a. m.

Tuesday, March 07, 2006 6:30 p. m.

Canvassing Board – Recreation Center Referendum – Councilman Rothman

Thursday, March 23, 2006 9:00 a. m.

Friday, March 31, 2006 9:00 a. m.

Tuesday, April 04, 2006 6:30 p.m.

Consortium Day – Tallahassee – March 23, 2006

(No Councilmember attending at this time)

Legislative Days – Tallahassee – March 29, 2006

(No Councilmember attending at this time)

Mr. Jennings agreed to attend.

Lee County Days – Tallahassee – March 27 thru 29, 2006

Councilman Jennings would attend.

Status of Joint Re-Development Workshop

Reported before the City Manager's report.

CITY ATTORNEY'S REPORT

The report was given under Water Quality.

PUBLIC COMMENT

Claudia Burns thanked Council for not discussing Australian Pines until November 21, 2006.

COUNCILMEMBERS' REPORT

Councilman Jennings noted that tickets were available for Kiwanis's Spaghetti Dinner. He further spoke to the need to purchase 2,000 facemasks for bird flu.

Discussion ensued regarding the need of a meeting for residents on bird flu, and a staff report would be on a future City Council meeting.

Vice Mayor Denham spoke to canceling September 5, 2006 City Council meeting, and Ms. Zimomra stated that the scheduled City Council meeting was Tuesday, and July 04 was a City holiday.

Discussion ensued regarding canceling the July 04 and September 05 City Council meetings, and September 09 would be the first budget meeting.

Councilman Brown made a motion, seconded by Councilman Jennings, to cancel the meeting of July 4th and September 5th City Council meetings.

The motion carried unanimously.

Mayor Johnston passed out information regarding the creation of 2 new committees.

Public Comment:

Claudia Burns thanked City Council for being honorable people regarding Australian Pines.

There being no further business the meeting was adjourned at 3:47 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk