CITY OF SANIBEL

RESOLUTION 12-039

A RESOLUTION AMENDING RESOLUTION 98-189, AS AMENDED, WHICH ESTABLISHED A POLICY FOR CONSIDERATION, BY THE CITY COUNCIL, OF REQUESTS FOR CERTAIN PUBLIC IMPROVEMENTS TO BE FINANCED BY SPECIAL ASSESSMENTS ON SPECIALLY BENEFITED PROPERTIES; AMENDING THE MINIMUM APPROVAL REQUIREMENT OF TWO-THIRDS (2/3) OF PARCEL OWNERS TO AT LEAST SIXTY PERCENT (60%) OF PARCEL OWNERS ONLY FOR STREET PAVING SPECIAL ASSESSMENT PROJECTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the home rule provisions of the Florida Constitution permit municipalities to make qualified public improvements and to finance them through special assessments on specifically benefiting properties; and

WHEREAS, Florida Statutes, Chapter 170, specifically authorizes cities to provide for the construction, reconstruction, repair, paving, repaving, hard surfacing, rehard surfacing, widening, guttering, and draining of streets; to construct reconstruct, repair, renovate, excavate, grade, stabilize, and upgrade swales, culverts, canals, and other drainage facilities; to provide for other public improvements; and to pay all or any part of the costs of any such improvement by levying and collecting special assessments on the abutting, adjoining, contiguous, or other specifically benefited properties; and sets forth procedures and requirements for specially assessing the cost of such projects; and

WHEREAS, other provisions of general law allow for financing public improvements by special assessments; and

WHEREAS, the City of Sanibel may specially assess for any public improvement, but particularly for public improvements which meet certain criteria and are not scheduled or budgeted for the immediate future when the majority of the benefited property owners are willing to pay for such improvements through special assessments; and

WHEREAS, the City Council wishes to amend its general policy as set forth in Resolution 98-189, as previously amended by Resolutions 10-068 and 11-091, for the consideration of requests for certain public improvements to be financed through special assessments; and

WHEREAS, the City Council finds it appropriate to require that at least sixty percent (60%) of the parcel owners in a street paving assessment district project sign a petition requesting such improvements, rather than two-thirds (2/3) of such parcel owners;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sanibel, Florida, that City of Sanibel Resolution No. 98-189 be amended, with underlined language indicating additions and ~~strike through~~ language indicating deletions as follows:

SECTION 1. The City Council shall consider the advisability and feasibility of making certain types of public improvements and financing the cost of such improvements through special assessments on the benefited properties when presented with a petition requesting the improvements signed by the owners of at least 50% (by acreage) or 80% (by parcels) of the properties to be specially benefited by such improvements, with the exception of:

(A) Canal dredging improvements which shall be presented by petition requesting such improvements signed by the owners of at least 51% (by parcel) of the properties to be specially benefited by such improvements; and

(B) Street paving improvements which shall be presented by petition requesting such improvements signed by the owners of at least ~~two-thirds (2/3)~~ sixty percent (60%) (by parcel) of the properties to be specially benefited by such improvements, with such petition containing the following information:

a. A general description of the public improvements requested; and
b. A list of the properties, and the owners, which will be specially benefited by such public improvement.

SECTION 2. The City Council will consider the possibility and advisability of acquiring privately-owned streets, rights-of-way, and canals, and of improving such streets, rights-of-way and canals to City standards and funding such improvements by special assessments, whenever presented with a petition as described in Section 1 above, but also including an offer by the owners of 85% (by acreage) of the private street, right-of-way, or canal to deed their interest in such street or canal to the City, without payment, and a statement of the City's Public Works Director identifying necessary improvements. In such case, if the remaining owners are unwilling to deed their interest therein to the City, the City Council will consider the advisability of a negotiated purchase or the institution of eminent domain proceedings to acquire such portion of the street, right-of-way, or canal, as part of the project cost.

SECTION 3. The City Council will consider the advisability and feasibility of localized drainage projects for special assessment based upon a petition meeting the requirements of Section 1 of this Resolution. Localized drainage projects are those which are large enough to require a contractor, but receive less than 50% of runoff from collector or arterial roads, as depicted on the Existing Traffic Circulation Map of the Sanibel Plan.

SECTION 4. The City's share of the public improvement cost is established at the special assessment hearing and will be based upon a determination that the assessment is fairly apportioned between the public and the benefiting properties.

SECTION 5. All costs and expenses of the improvement project, whether in-house or contractual, will be included in the total cost calculation of the project. Such costs include, without limitation, administrative, legal, title, land acquisition, engineering, financing and construction costs.

SECTION 6. As a general guideline, the public share of street projects, canal dredging projects and drainage projects will be 1/3 of the total costs and expenses of this project. This is not in any way binding, and will be considered at the time of the special assessment hearing.

SECTION 7. The City Council will consider the advisability and feasibility of beach nourishment or renourishment projects for special assessment, in accordance with its beach management plan and based upon a petition meeting the requirements of Section 1 of this Resolution. However, the extent of City participation, if any, will be based upon an economic benefit analysis to be conducted in conjunction with the special assessment process.

SECTION 8. Wastewater projects are not included in this Resolution. They are covered by the City's wastewater master plan and ordinances, and by special assessment resolutions pertaining to wastewater.

SECTION 9. Any other special assessment projects not specified in this Resolution will be considered on a case-by-case basis by the Council.

SECTION 10. Resolution 98-189 is hereby amended.

SECTION 11. Effective Date.

This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida this 1st day of May, 2012.

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: Kenneth B. Cuyler, City Attorney Date 4/17/12

Vote of Council Members:

Ruane _____
Denham _____
Congress _____
Harrity _____
Jennings _____

Date filed with City Clerk: _____