

**SANIBEL CITY COUNCIL MEETING
MAY 16, 2006**

Council provided a reception for Ms. Sandra Wall, Police Department Dispatcher honoring the occasion of her retirement and 17 years of service to the citizens of Sanibel from 8: 15 a. m. to 9:06 a. m.

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.

Mayor Johnston suggested taking the following items as follows: 1) the proclamation; 2) public comment; 3) Council comments; and then the Army Corps of Engineer presentation.

PRESENTATION:

Proclamation recognizing the retirement of Sandra Wall, Police Department

Mayor Johnston read and presented a framed proclamation to Ms. Wall for her 17 years of service to the Police Department as a dispatcher. She also received a piece of crystal by Luke Century.

Chief Tomlinson thanked Ms. Wall for her dedication.

Public Comments:

Hazel Schuller spoke to Sanibel's natural beaches, and recommended adding Mr. Bruce Rogers, past Planning Director beach historic preservation recommendation to the EAR.

Doug Dietrich spoke to the City not maintaining roads and the need to budget funds to maintain roads.

Ann Hack thanked Council for the delineators on the Shared Use Path.

John Gresbaum spoke to taking a lot from the Dunes subdivision and incorporating it into the Pond Apple Park property without proper public notice.

Councilman Jennings made a motion, seconded by to direct the City Attorney to look in to the matter.

The motion was withdrawn and Council decided to discuss later in the meeting.

Patty Sousa spoke to a "Ride of Silence" honoring killed cyclist on roadways May 17th at 7:00 p.m., and Friday, May 19th "National Ride to Work Day".

Bruce Rodman spoke to the delineators being a good idea.

Billy Kirkland donated \$3,000 to the City for the improvements of the Shared Use Paths.

Council Comments:

Councilman Rothman welcomed audience guests, thanked Council for the flowers due to Ms. Rothman's recent surgery. He also congratulated Officer Ken Sutton for being nominated Sanibel's Officer of the Year.

Councilman Jennings recommended sending a special thanks in the form of a letter to the Lee County Board of Education for working with the City and funding \$1.6 million dollars to help fund the Recreation

Center and Lee County Board of County Commissioner for contributing \$3.2 million dollars to help fund the proposed recreation Center. He recommended attending Island Night Wednesday, June 07, 2006.

Councilman Brown thanked Council for the flowers for Ms. Brown after her recent surgery. He spoke to the purchase of Pond Apple Park and putting on the agenda for June 06, 2006 for discussion of the parcel from the Dunes.

Discussion ensued regarding staff providing background information, the need for Council discussion and an attorney opinion coming before Council, Mr. Cuyler needing more time to prepare an opinion, and the need for background opinion.

Vice Mayor Denham welcomed guest from the various water associations.

Mayor Johnston explained the reason that representatives from the SFWMD and the Army Corps of Engineers and that was because a letter was sent to Carol Wehele, Executive Director of the SFWMD and Pete Milam, Project Manager, Lake Okeechobee, Army Corps of Engineers.

Council asked that specific questions be addressed that were posed in a letter from the City.

Presentation by Carol Wehele, Executive Director of SFWMD in response to the City's May 08, 2006 letter:

Letter from City of Sanibel to South Florida Water Management District Executive Director Carol Wehele and to Colonel Carpenter in response to 04/27/06 correspondence from Rhonda Haag, Director Lower West Coast Service Center and presentation 05/02/06 from Pete Milam, Project Manager Lake Okeechobee

Carol Wehele, Executive Director of SFWMD gave the following report:

- Benita Whalen, Service Center Director for Lake Okeechobee and Project Manager SFWMD for Public/Private Lands Storage Initiative
- George Horn, Deputy Executive Director for Operation and maintenance of the System
- 2 projects; 1) the U. S. the federal government retain ownership upon completion was the levy system in the southern portion of the Mississippi River; and 2) the Hubert Hoover Dike at Lake Okeechobee
- Hubert Hoover Dike, the navigational channels, the structures leading out of Lake Okeechobee, and the regulation schedule were 100% federal facility and authority as authorized by federal statute
- Central and Southern flood control project was a partnership between the Army Corps of Engineers (ACOE) and SFWMD, and the SFWMD had the operational and maintenance responsibility for the project
- Any emergency plan for releases from Lake Okeechobee would be developed and implemented by the federal government
- Storage needed for emergency purpose and SFWMD Board directed staff to explore options; 1) opportunity to store water on private land – SFWMD do not have condemnation authority 2) inventory to date of publicly owned lands; some under the ownership of the SFWMD and would be made available to the federal government for water storage and other lands were under other governmental ownership
- Look at lands in all directions from Lake Okeechobee for water storage on properties
- Quantified the amount of water that could be stored
- SFWMD was ready and had always participated by providing information to the federal government and input on a weekly basis to the ACOE on environmental issues and the status of water supply demands from Lake Okeechobee
- COE committed to doing a regulation schedule and have aggressively pursued that schedule
- Recommendations graded by all participate to a proposed schedule and SFWMD and the City representative were in agreement on a recommendation to the ACOE

Benita Whalen, Director for Lake Okeechobee Service Center and Project Manager SFWMD Public/Private Lands gave the following PowerPoint presentation:

- May 31, 2006 conducted and completed assessment of public lands for water storage
- Installed a pump at a 15,000 acre grove for a water storage operational project and estimated that 7,500 and 10,000 acre feet of water could be stored
- Executed 4 agreements for 4 other private lands owners for storage and treatment facilities with one agreement having a pump station with an estimated 2,400 acre feet retention area
- Working on conceptional designs and cost estimates for all public lands, with engineers and consultants working on details for the most storage and cost effective
- Avon Park Air Force Range and Kissimmee Prairie Preserve State Park – 4 separate components to 12 to 24,000 acres per cell
- Working with Seminole Tribe
- Conceptual design and by May 21, final
- Ground water supply and feasibility study for deep well injection
- Taylor Creek ASR and activating that well
- 2 assessments complete and rank by potential water storage
- The need for site alterations
- Northern Water Shed - List of all public lands that had potential for water storage and the need to factor environmental concerns (105,000 affect acreage available) 127,356 acre feet of water 1 foot of water was 450,000 acre feet from Lake Okeechobee
- Agreements had been drafted
- Southern water shed – looking for the implementation 179,000 acreage and assume 2 feet of depth allowed the total 358,736 acre feet of Lake Okeechobee water
- Pilot projects moving forward with final construction and agreements in place – treatment of water – took 3 years to develop the pilot projects
- Reviewing water management project
- Total for project 278,831 acre feet
- Consumer services implementation taking exiting wetland footprints to hold back water and 129% increase in wetland area
- Use 25% conservation wetland increase in basins additional 4,500 acres of wetlands in the area
- Interim project which were land purchased for future projects
- Reviewing emergency type adjustments
- Next steps – continuing to develop agreement, assessing landowners – looking at cost effectiveness and additional storage facilities

Carol Wehele spoke to the following:

- Two impairments to moving water south; 1) Tamiami Trail (S-12) culverts/structures that flow to the Everglades National Park –SFWMD agreed to perform operation and maintenance on the culverts before the modified water delivery project was built to move more water south
- Impairment with project was large mounds of vegetation built-up over the years and the need for Everglades National Park allowing the removal of the vegetation
- Modified water delivery – need help
- Fight in House and Senate (Appropriations Committee for Interior and Appropriations Committee from the ACOE) regarding how to fund and who would pay
- ACOE ready to build the project – Modified Water Delivery Project (need appropriation)
- Fish & Wildlife Conservation Commission – property south of Lake Okeechobee need for a letter of support that additional storage was critical and request to support the emergency time for the additional 2 feet of storage on Holy Land Rotenberger (65,000 acre feet)

Discussion ensued regarding Sanibel's obligation, could not release water south due to past law suits, Ms. Wehele spoke to the commitment the SFWMD's progress in procuring land for water storage, commit that the federal governmental could access anything the SFWMD needs for an emergency plan, pumps in place

to move the water, and ready to participate in working with the federal government for an emergency storage plan.

Carol Wehele continued:

- Institute fertilizer ordinance for all municipalities
- The need to discontinue the sale of time released phosphorus and nitrogen fertilizer
- The need for tax incentives for private storage

Discussion ensued regarding how much water storage was available in 6 months, Ms. Wehele stated the total acreage for 2006 was 450,000 acre feet of water storage if land dry, how much private, Ms. Wehele mostly public and small amount private, if land was wet the land would already have water on it and the effective storage would be reduced, during the wet season the excessive water would go to the Caloosahatchee, St. Lucie River, or south, S-12 being plugged have stopped the water and very critical, how much vegetation needs to be removed, several areas of vegetation needs to be removed, sparrow nesting season impacts the removal of the vegetation, standard wet summer what would be the reduction, hard to determine, Lake Okeechobee down to 12.9 feet, could water be released to the dry land, Ms. Wehele stated the challenge for the ACOE and develop an emergency storage plan, criteria for emergency and how to get the water to the land, ACOE regulation schedule, do not want all Lake Okeechobee go to the Caloosahatchee River, the need to repair the Hubert Hoover Dike, environment and wildlife critical to the life of Sanibel, the need for a guarantee to flood the Caloosahatchee River, 23% to 24% of water discharge from Lake Okeechobee to the Caloosahatchee River, Ms. Wehele spoke to being able to show the percentage of water releases to the Caloosahatchee River, phosphorus from the Kissimmee Valley and settles in Lake Okeechobee and large canals out of Lake Okeechobee for water supply purposes south. Would provide the information of percentages of releases, tremendous amount of water that goes south, copy of the PowerPoint presentation, difference in water percentages quoted going south and north, Mr. Anderson stated that the critical area at S-12, Ms. Wehele stated only numbers the quantity of water off the agricultural areas and a map that shows inflows, ride tide a possible result of the water releases, majority of water comes through the Caloosahatchee River and Ms. Wehele agreed, lobby for higher authorization for the Corp to make emergency repairs to the dike, the need to get the level of authorization for a higher Lake Okeechobee level and the need for appropriations, status of seeking authorization for appropriation, money \$19 million and additional for this year, but funds needed to make the changes, look at rain flows in basin, how it is coming in and how it would effect, Pete Milam, ACOE have authority and a funding stream for this year and next year for the dike and the need for more funding to get dike to proper standard, \$320 million and \$19 million this year and \$40 million 2007, the need to understand if there was a break in the dike, Ms. Wehele stated that ACOE on record does not disagree on technical findings by the SFWMD, dike was 70 years old and constructed by placing dirt and built on muck, today need for a certain quality of soil to impact, 250 feet at base, high, integrity of loosely pile material know have holes that water escapes on a more frequent bases, undetected holes and failure would occur due to material being loosely compiled, and flood controlled project that could not be operative.

Andrew Geller, Lake Okeechobee Basin Operational Manager spoke to the following:

- ACOE number one priority was public health and safety, as well as flood control
- State responsibility was water quality
- Hubert Hoover Dike built in early 1920's
- ACOE designed a levy to protect residents from storm surge
- CNSF project consists of Kissimmee Chain of Lake, Lake Okeechobee, Water Conservation Areas 1, 2 and 3
- Water storage on Water Conservation Areas 1,2 and 3
- Lake Okeechobee level at 12.9 feet
- Kissimmee Chain of Lakes at the bottom of schedule and with this storage any rain fall or water movement the water movement would go to the water conservation areas
- Water was limited by treatment capacity (water quality)
- STA design to move water to the Conservation areas was STA 34

- Treatment capacity for 2006 was zero acre feet
- Water could not pass to water conservation area due to phosphorus level
- Not federal government responsibility to treat water, but a state responsibility to treat water

Discussion ensued regarding the need to focus on the short term, private sector particularly south of Lake Okeechobee was not taking the share of water, was the irrigation water sent south paid for or was it free, Ms. Wehele answered that there was a drainage district that pays taxes, water belongs to State and no charge for water, but a charge for the movement of water, pay for treatment and distribution of water, hundreds of acres south and not being utilized at this time, begin to move water to land south and store water there, land south on the SFWMD board that had influence on water releases, stated by agriculture owners that land was available, Ms. Wehele spoke to conversation centered on agricultural south of Okeechobee not north of Lake Okeechobee, restoration of Kissimmee River and a true partnership, no release of water if no water in the lake, water comes from the Kissimmee Basin and if held without discharging, tax south of Lake Okeechobee, phosphorus come from Kissimmee Valley at 200 parts per billion and all lands hold and treated water at 50 parts per billion and part of the solution and a tax was paid to purchase land, 2006 more water south with share diversity, Ms. Wehele stated that 99% of the land purchased for the Kissimmee Restoration Project were willing sellers, SFWMD had very specific granted condemnation authority, south all active agricultural and proposal was a multi-year crop and crop damage cost was too much, a money issue, 2006 even though agricultural south of lake would lose a great deal if a break in levy and not willing to provide water storage, and Ms. Wehele stated absolutely not, working on purchase of lands for water storage, emergency situation last year due to dumping of water, agricultural land available for emergency purposes, only reason water does not go south was due to legal actions taken in the past, Ms. Wehele stated 1 person on board from agricultural area, she pledged that landowners had been contacted to sit down and actively negotiate for the purpose to provide land for storage and aggressively pursue to reach out to every private property owner, she stated that there was only limited condemnation authority, letter from Senator of Martinez stating under federal law state water authorities must discharge water before it undermines the integrity of the levy system, why water had to come down the Caloosahatchee River, 6 coastal Mayors met with Governor Bush, economy being destroyed, and the need for an emergency plan in place in case of another storm.

Pete Milam spoke to the following:

- CNSF project authorized and constructed – major outlets federally was to move as much water south to the water conservation areas and the Everglades National Park
- Only other options for Lake Okeechobee was to store the water within the dike or release with tide
- Original authority established in 1948 as well as subsequent authority
- Regulation authority developed was to manage the full range
- Flood control, navigation, salt intrusion
- Find best option to balance within the schedule
- Hubert Hoover Dike analysis in the 1980' and critique industry standard at the time
- Piping issues for public health and safety of residence around the lake
- Provide additional storage to reduce release frequencies
- Reality of federal authority SERP changes that an asked for additional storage components
- No other option available due to storage capacity
- Move excess water with the tide

Discussion ensued regarding ACOE changing nothing and putting lives and livelihoods at risk, jobs in danger connected to the water, who could make decisions, Mr. Milam stated all officials were aware of the condition of the dike, and could only do what Congress allows and funds, requests funding and Congress authorizes funding, SFWMD identified acreage for water storage, Mr. Milam stated that ACOE would work with SFWMD, the ACOE was responsible for the regulation schedule and the operation and maintenance of the Herbert Hoover Dike, and all structures that feed in and out of the dike through the Caloosahatchee River and the St. Lucie River, Mr. Milam further stated that the SFWMD was responsible for lands and interest in lands that were needed for improvement the need to move more water south, Mr.

Milam stated that if the SFWMD lands were made available for regulatory releases from Lake Okeechobee the ACOE would utilize those lands in partnership with the SFWMD, Council asked Mr. Milam how much water could be stored in the WCA's, Andrew Geller answered that Conservation area #1 was 15,000 acre feet; Conservation Area #2 was 130,000 acre feet; and Conservation Area #3 was 600,000 acre feet, do not have exact number , SFWMD says that private/public lands there was 450,000 acre feet, which was calculated to be approximately 1 foot of water not including WCA property, Ms. Wehele stated the SFWMD calculation was over and above the WCA property, Mr. Geller stated the land was available for use, but it was the state's responsibility for water quality and the water must be treated before releasing in to the conservation areas, Mr. Milam stated no water could go in to the conservation areas because of the lawsuit that the water must be treated, Council asked if conservation area including the J. N. "Ding" Darling Wildlife area, Mr. Milam stated not only the conservation areas, Council asked why not include the wildlife refuge and the answer was because of the lawsuit, Mr. Milam stated because water wasn't seen in the refuge, and it was an impoundment with water diked in and/or physically pumped in, he further stated that there had never been a season that also provided going in to the rainy season float protection for the east coast and that was part of the regional configuration of the SFWMD, due to a lawsuit no untreated water could not go in to any conservation areas, ding darling was not an area of land to store water, phosphorus laden water could go down the Caloosahatchee River, but not south. Mr. Geller stated that the primary function of SFWMD was for flood protection, every landowner had to be offered flood protection, SFWMD does not ship water down the Caloosahatchee River, Mr. Geller stated that funds were needed to clean the water, he stated that Lake Okeechobee acted as a dam and could take more water than could be released, and Mr. Geller stated that the ACOE releases water from Lake Okeechobee not the SFWMD, Ms. Wehele stated that years ago water was able to go untreated to the conservation area thus a federal lawsuit and now can not release untreated water into the water conservation areas and because of that lawsuit there was a difference in the operation of Lake Okeechobee today and the inability to store water during extreme events higher due to the dike, responsibility of water quality, ACOE could make a decisions to release water from Lake Okeechobee regardless of water quality , but not the conservation areas, SFWMD chose to ship whatever water to the west and not use the same consideration as was use to release water to the south due to private land ownership, west land owners should be given the same consideration, different rules for releasing water to the south and west, had a statement on the record that lawsuits bring results, Pete Milam stated that he identified the constraints of moving water south, showed that the constraint of moving water was to 63,000 acre feet, and showed a graphic that even with Lake Okeechobee at 12 feet and that an ordinary could show the lake increase, and felt he had not misled Council.

Mr. Cuyler asked the following:

- Referring to the graph mentioned that showed the increase of Lake Okeechobee to 17 feet and the ACOE began the massive water releases, and in light of the discussion of the dike and integrity of the dike had there been discussion or a decision or contemplating a deviation to make massive water releases at less than 17 feet for 2006?

Andrew Geller answered that the 2004 and 2005 years were extremely wet.

Council requested that Mr. Geller speak to 2006.

Mr. Cuyler again asked was there a deviation plan or had there been discussion to have a lower threshold at which water releases would be made at 17 feet?

Mr. Geller answered that currently the ACOE had authorized up to a level one temporary deviation schedule water release in Zone D, which was Lake Okeechobee level between 13.5 and 15.5 feet. He stated that the temporary deviation schedule did not call for releases in 2006.

Mr. Milam stated that in 2006 if the ACOE decide there was a need to make revisions to the WSE to make releases earlier than WSE would call for the ACOE would seek a deviation and coordinate with the need to be made other than WFC was called for and make deviation with SFWMD and an Environmental Assessment would be required to ensure the ACOE was in the NEPA authority to make that kind of release. He further stated the ACOE was not anticipating the need to do a deviation plan because 2006 was starting

out in better condition than in 2004 and 2005. He also stated that the Kissimmee Basin was below regulation schedule and Lake Okeechobee was below the level of 2004 and 2005, thus beginning with better storage conditions.

Mr. Cuyler asked that the discussions of the integrity of the dike and the ACOE should know.

Mr. Milam stated that the ACOE were reviewing trying to look at reducing the possibility of Lake Okeechobee reaching above 17.25 feet and once the analysis complete there was the possibility of seeking a deviation to do something different than what WSC would call for.

Mr. Cuyler asked if that was what was done in past years keeping Lake Okeechobee at 17.25 feet?

Mr. Geller answered that if the ACOE saw a situation that had not presented itself before with an active hurricane season that would be addressed at that time, and there was no need to address that supposed situation now.

Mr. Cuyler stated he wanted to know if the integrity of the dike at this time had affected the ACOE decision to change the deviation requests or the way that Lake Okeechobee had been managed. He further stated that he understood the answer to be no. Mr. Cuyler stated he had never heard the ACOE say that they were trying to get Lake Okeechobee at a certain level before the rainy season starts, whatever that may be, and where was the ACOE trying to manage the lake level at in terms of a specific foot for 2006?

Mr. Geller answered that the ACOE had no set targets and had followed the regulation schedule that was an approved regulation schedule developed under the NEPA process

Mr. Cuyler stated that if the ACOE had no set target then the ACOE was not trying to lower the level of Lake Okeechobee as much as possible and therefore there was more chance that the additional water would cause massive water releases during the rainy season.

Mr. Milam stated that the ACOE know that the optimal Lake Okeechobee elevation on May 01 in advance of the rainy season was 13.25 feet.

Mr. Cuyler stated that his understanding that there was no water releases in to the Caloosahatchee River in the last 3 weeks.

Mr. Geller answered that the only reason for water releases was for environmental purposes to the St Lucie and Caloosahatchee Rivers. He further stated that currently there was a half level pulse water release.

Mr. Cuyler asked if the ACOE was trying to get Lake Okeechobee to 12 feet or would the ACOE stop if the lake level was 13.5 feet, and was there a plan to get Lake Okeechobee at what lower level?

Mr. Geller answered that the ACOE follow the regulation schedule, and in Zone D Lake Okeechobee was scheduled for 13.5 feet.

Mr. Cuyler stated then the ACOE was not trying to lower Lake Okeechobee as much as possible before the rainy season.

Ms. Wehele stated that when the report was released Governor Bush did formally request of the ACOE to perform an analysis to see if they would recommend Lake Okeechobee should be lower and the SFWMD had not received a response from that request.

Mr. Cuyler commented that the SFWMD passed a resolution encouraging the ACOE to lower for Lake Okeechobee to 12.5 feet.

Ms. Wehele answered there would be a SFWMD workshop in June and there would be a formal vote at that time.

Discussion ensued regarding the need to protect Sanibel, the large volumes of water releases were a problem, if Lake Okeechobee could be lowered more past 12 feet then it should be lowered, standard flow 850 cubic feet per second in the wet season and 2,500 cubic feet during the dry season, Ms. Wehele stated that the flows were established were the minimum flows for the Caloosahatchee River and the other was due to salinity levels and health, she offered a presentation by Dr. Peter Doran, SFWMD monitors water quality and salinity levels on weekly basis and gives that report to the ACOE as well, all entities around the Lake Okeechobee were sharing information, Sanibel participating, Sanibel and SFWMD agree with new regulations, ACOE could operate the Lake level lower now, Mr. Milam stated the ACOE had the current WSE schedule, and requested deviation to drop Lake Okeechobee down to Zone E, which was about 13.5 feet; he further stated the SFWMD using their authority had requested the ACOE to discharge the base flow out of the Caloosahatchee River and St. Lucie when those estuaries could receive or needed help at levels that were acceptable and helpful to the estuaries, the need to release the water wisely, C-43 needs a component to monitoring water quality, Ms. Wehele stated she would like to create a standard report weekly and could COE promise not to releases more than 2800 cubic feet, and Mr. Milam stated no.

Public Comment:

Erick Lindblad spoke to the need to being up front of the impediments to creating a water management structure to share adversity. He further spoke to discussions on storage was giving false security and the need to solve problems over time.

Mr. Cuyler noted that Bond Counsel needed to get before Council for five minutes.

Council recessed at 12:07 a. m.

Council reconvened at 12:15 p. m.

Council decided to discuss the following:

RESOLUTION 06-072 AUTHORIZING AND APPROVING THE ISSUANCE AND NEGOTIATED SALE OF NOT TO EXCEED \$8,350,000 CITY OF SANIBEL, FLORIDA GENERAL OBLIGATION BONDS, SERIES 2006 WHICH WILL BE PAYABLE FROM AD VALOREM TAXATION, TO FINANCE OR REFINANCE THE ACQUISITION, EQUIPPING AND CONSTRUCTION OF A COMMUNITY-WIDE RECREATION/ACTIVITY CENTER AND RELATED EQUIPMENT AND INFRASTRUCTURE PURSUANT TO THE CITY'S PARKS AND RECREATION FACILITY MASTER PLAN; PROVIDING FOR THE LEVY OF NECESSARY AD VALOREM TAXES; PROVIDING FOR OTHER COVENANTS WITH RESPECT TO THE BONDHOLDERS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A BOND PURCHASE CONTRACT, A DISCLOSURE DISSEMINATION AGENT AGREEMENT, AND A BOND REGISTRAR AND PAYING AGENT AGREEMENT SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS HEREIN CONTAINED; APPOINTING THE BOND REGISTRAR AND PAYING AGENT; APPOINTING THE BOND INSURER; APPROVING THE FORM OF A PRELIMINARY OFFICIAL STATEMENT AND THE EXECUTION AND DELIVERY OF A FINAL OFFICIAL STATEMENT; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF IF DECLARED INVALID; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-072.

Ms. Lynch, Finance Director introduced Duane Draper the City's Bond Counsel and Ms. Julie Turner the City's underwriter. She handed out page 24 of Resolution 06-072 and explained that there was a typo on the initial page.

Duane Draper, Attorney with Bryant, Miller Olive Bond Counsel spoke to the change. He stated the change was 0.775% to 99.225%; it was a parameter that governs the delegated sale of the bonds. He further stated that the parameter would be authorized as long as the underwriting discount does not exceed a certain amount.

- Page 24 Section A (c) previously reads:

“(C) the purchase price of the Series 2006 Bonds (i.e., original principal amount of the Series 2006 Bonds less underwriting discount) is not less than 0.775% of the original principal amount of the Series 2006 Bonds”

Change to:

“(C) the purchase price of the Series 2006 Bonds (i.e., original principal amount of the Series 2006 Bonds less underwriting discount is not less than 99.225% of the original principal amount of the Series 2006 Bonds”.

Mr. Cuyler stated that bond counsel had been working toward this point on the \$8.35 million dollar bond issue.

Councilman Jennings made a motion, seconded by Councilman Brown, to adopt Resolution 06-072.

The motion carried 4 to 1 due to Mayor Johnston being out of the room.

Council continued the discussion on Water Quality.

Erick Lindblad continued his comments as follows: In terms of cubic feet per second the bench mark flow needed to mention the bench mark reference points, and flow discussion needs to be identified in accordance of time period in relationship to the wet and dry season cycles.

Discussion ensued regarding reference points and time frames, the need for Council to have a sheet with of information and key talking points, war room having a map showing water releases, and Council asked the City Manager to provide a sheet of talking points of reference.

Vern Frankwich spoke to the SFWMD meeting at Florida Gulf Coast University and taking water off the top and the answer was if water were taken off the top it would reduce the quality of water in the Lake.

Council answered that a letter from Governor Bush was sent to the ACOE and the response from the ACOE was that they were doing a feasibility study.

Gopal Pati spoke to an article in the News Press regarding water quality, fish not biting, sea grass dead, and the need for a lawsuit.

Barbara Cooley spoke to things being managed by lawsuits. She further stated the in July, 2004 Lake Okeechobee 12.1 feet and October, 2004 over 18 feet.

Council asked Dr. Paul Gray for his presentation:

Presentation by Paul Gray, PhD, Audubon of Florida, on issues relating to the Everglades, Lake Okeechobee and the Kissimmee areas

Dr. Gray spoke to the following presentation:

- Presentation to Lee County
- System over drained
- 2 feet of water stored
- Possible acquire farm lands
- Last 2 years the EAA WCA sent 2-lane acre feet of water and how would Lake Okeechobee work

Ms. Wehele spoke to the challenge, the area being flat and 40,000 of treatment facilities constructed with others under construction, but no water was released in the EAA without being treated.

Discussion ensued regarding Council dilemma not having anymore time due to destruction of Sanibel waters, estuaries, wildlife and the wildlife refuge, Mr. Horn suggested that having a higher lake level and more money for the ACOE and how does the ACOE reconcile the concern, Mr. Milam spoke to the level of authorization needed to repair the dike, once Lake Okeechobee increased to 17.5 feet water releases would be made, due to the volume of water to be released was critical and can not release if there was the possibility of the dike failing, best management practices were not used to cleanse the water when creating the C-43, Ms. Wehele stated the limiting factor identified when proposing the Everglades Restoration Plan was nitrogen, CERP (C-43 basin) one of the projects that would be eventually built and feel that there needs to be a storm water treatment in the basin and in the coming years identify property to purchase, she further stated that the project would take a 12,000 acre piece of property, depth and length of time for nitrogen treatment, nitrogen harder to remove than phosphorus, most important thing to do as source reduction for nitrogen, best management practices to remove nitrogen from water , when discussion take place considerations were always spoken to, Ms. Wehele stated that if SFWMD was true to the real partnership with the ACOE and the responsibility was to buy the land and the ACOE would restore, SFWMD public not benefiting from just buying land and SFWMD seceded to go after funding to build the projects.

Louise Johnson spoke to Pete Milam's presentation and stated she realized that nothing would be done for 2006 or 2007, the need for an emergency plan for 2006 and 2007, and the only decisions to authorize the Army Corps of Engineer was by Congress. She spoke to the need to file an injunction.

A resident spoke to the need of a lawsuit and why can't Lake Okeechobee be used to help with water supply.

Ms. Wehele stated that water supply decision was a local decision and a long time ago municipalities made the decision to use Lake Okeechobee as a source of water, She further stated that in a drought period water coming from Lake Okeechobee water comes through gravity (10 feet) and the district had ordered pumps to put in place to have the ability to pump water from Lake Okeechobee. She stated that when there were floods storing water underground during floods.

Mike Valiquette spoke to the first dike built in the late 1800's to increase agricultural land and not until the 1920's was the dike increased in height. He further stated that Commissioner Judah mentioned the need not the plant the fields after storm devastation due to the possibility to release water south and have the ability to use during the wet season. He also spoke to the need to move the water south to the WCA's and where does the rain water go, and why was the sugar industry allowed to flood the WCA.

Andrew Greeley spoke to there being many secondary systems putting water in to the ACOE system. He also spoke to the canals in the agricultural areas constructed with a pump system and the water goes in to the conservation areas. He further spoke to the canals were made to provide protection by becoming storage impoundments. He stated that land to the south was a flood control-taxing district that pays to have the agricultural fields irrigated.

Discussion ensued regarding the agricultural fields move the water south, the only time the ACOE went in to Lake Okeechobee was after Hurricane Wilma, Mike Valiquette stated he understood that the agricultural area put water in the WCA's and STA's, large rainfall event water puts water in to Lake Okeechobee, agricultural area pay an agricultural privilege tax.

Mr. Cuyler stated that the WCA was not a storage area for excess Lake Okeechobee water because when it's empty the ACOE would allow water and when full not water would go there.

Discussion ensued regarding the C-43 that would be built, and water was stored, Everglades National Park had a storage design and water goes to conservation areas and could not move any more water once capacity was reached due to the lawsuit.

Sue Carter spoke to the letter sent to SFWMD and the Corps regarding emergency plan for a possible wet season and her concern that things are moving so slow; and she asked if there was no emergency plan for the security of Sanibel estuary.

ACOE answered had a plan that had public in-put and were dedicating from the approved plan which allows up to 2,800 cubic feet and if there was another year with 6 hurricanes there would be another plan deviation.

Sue Carter ask if Council had a remedy and would Sanibel be suing with Lee County or separately and was there an injunction

Mr. Cuyler stated yes there was outside Counsel out of Washington, D. C., and documentation was being prepared. He further stated that Council had requested individual briefings. He also stated that he would not get in to claims and injunctions, but would brief Council.

Council thanked Ms. Wehele, her staff and Pete Milam and his staff for coming before Council, and asked for a list of projects from the SFWMD, and Ms. Wehele stated she would send the list.

Council recessed at 1:38 p. m.

Council reconvened at 2:36 p. m.

Planning Commission Report:

Dr. Phillip Marks gave the Tuesday, May 09, 2006 Planning Commission meeting report as follows:

- Council adopted commercial land use regulations to Planning Commission May 23, 2006
- Shore Haven hearing – Sears kit home (owner wanting to donate to City & CHR wants to use for the BMRH)

Discussion ensued regarding having the home as a workforce housing unit and Ms. Zimomra stated it depended on money.

- Possible parking fees for the Causeway Islands
- No plan to have a left turn coming off of Punta Rassa

Discussion ensued regarding no left hand turn coming from Punta Rassa.

- Request for development permit to establish a day school (Marine based study) must be approved with a conditional use – resubmitted by applicant
- Review Section 3.6.1 BMRH
- 92% build out
- CHR formed a community land trust to construct higher density homes
- Section 3.10.2 allows Council to relax density restrictions for BMRH homes

Ms. Zimomra stated that the CHR board had a strong mission to review workforce housing. She further stated that the Shore Haven house was on the historic registry for Sanibel.

First Reading of an ordinance and scheduling of public hearing.

ORDINANCE 06-005 PROVIDING FOR A PROHIBITION FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES FROM LIVING WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY; PROVIDING THAT OWNERS OF REAL PROPERTY ARE PROHIBITED FROM RENTING OR LEASING ANY PLACE, STRUCTURE, OR PART THEREOF, TRAILER OR OTHER CONVEYANCE WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY TO SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES; PROVIDING PENALTIES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-005.

Council set the second reading and public hearing for Tuesday, June 06, 2006 at 9:30 a. m.

ORDINANCE 06-006 AMENDING SECTION 10-8 OF THE CITY OF SANIBEL TO INCREASE THE PENALTY FROM \$50.00 TO \$500.00 FOR INTENTIONAL FEEDING OF RACCOONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-006.

Council set the second reading and public hearing for Tuesday, June 06, 2006 at 9:30 a. m.

ORDINANCE 06-007 AMENDING THE SANIBEL CODE, PART II, SUBPART A GENERAL ORDINANCES, CHAPTER 10 ANIMALS, ARTICLE I IN GENERAL, BY AMENDING SECTION 10-1 DEFINITIONS, TO REVISE THE DEFINITION OF AT LARGE AND BY ADDING A NEW SECTION 10-10 HORSEBACK RIDING AND HORSES AT LARGE, TO PROHIBIT HORSEBACK RIDING OR HORSES AT LARGE ON ANY PUBLIC BEACH, ROAD, SHARED USE PATH, RIGHTS-OF-WAY, OR OTHER PUBLIC PROPERTY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-007.

Council set the second reading and public hearing for Tuesday, June 06, 2006.

SECOND READING AND PUBLIC HEARING

ORDINANCE 06-003 AMENDING THE SANIBEL CODE, PART II, SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126 ZONING, ARTICLE XIV SUPPLEMENTARY DISTRICT REGULATIONS, BY ADDING A NEW DIVISION ENTITLED ELEVATED SWIMMING POOLS, THAT CONTAINS A NEW SECTION 126-1301 GENERALLY AND A NEW SECTION 126-1302 REQUIREMENTS AND PROCEDURES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-003.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt Ordinance 06-003.

The motion carried 4 to 1 with Councilman Jennings voting in opposition.

CONSENT AGENDA:

Council removed Consent Agenda items ((a) and (g). Mr. Cuyler requested that Consent Agenda item (k) be removed for discussion.

Ms. Zimomra read Resolutions 06-067, 06-074, 06-069, 06-075, 06-076, 06-077 and 06-081.

Councilman Rothman made a motion, seconded by Councilman Jennings to adopt Resolutions 06, 067, 06-074, 06-069, 06-075, 06-076, 06-076, 06-077, 06-081, and approve Consent Agenda items (b), and (d).

- b. **Approval of purchase and installation of two variable frequency drives for effluent pumps at Donax Water Reclamation Plant from Technical Management Associates in the amount of \$57,500**
- c. **RESOLUTION 06-067 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-059 AND PROVIDING AN EFFECTIVE DATE** (to reverse budget amendment 06-006 in the amount of \$11,865 which was intended to fund the first year of a 3-year Study on the Ecology and Management of Alligators on Sanibel Island to be contracted to the University of Florida (UF). Later Council action reversed the decision to participate in this study)
- d. **Approval of Change Order No. 1 to San Cap Road improvements contract in the amount of \$57,489 to pave Henderson Road and authorize the City Manager to execute the Change Order per residents petition**
- e. **RESOLUTION 06-074 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-061 AND PROVIDING AN EFFECTIVE DATE** (to accept from Henderson Road residents as a 2/3 contribution toward the \$57,489 cost of paving Henderson Road and to authorize a change order of \$57,489 to Ajax Paving Industries on the San-Cap Improvement contract awarded by Council on April 18, 2006. The City's share of \$19,163 from the road resurfacing project)
- f. **RESOLUTION 06-069 DETERMINING AND IDENTIFYING THE RECREATIONAL CENTER COMPLEX TO BE CONSTRUCTED ADJACENT TO THE SANIBEL SCHOOL AS A "CITY EXEMPTED" PROJECT; INITIATING DEVELOPMENT NECESSARY TO CONSTRUCT SUCH RECREATIONAL CENTER COMPLEX; AND PROVIDING AN EFFECTIVE DATE**
- i. **Award contract for Public Works Building Improvements contract to Norstar Construction, Inc., in the amount of \$186,500 and authorize the City Manager to execute the contract**
- j. **RESOLUTION 06-075 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-062 AND PROVIDING AN EFFECTIVE DATE** (to roll-forward \$27,025 unspent funds from FY 04 of the Firesafe grant from the U. S. Fish & Wildlife Service #401813J038)

- l. **RESOLUTION 06-076 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE**
- m. **RESOLUTION 06-077 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE**
- n. **RESOLUTION 06-081 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-063 AND PROVIDING AN EFFECTIVE DATE** (to move \$50,000 from the Reserve for Contingency expense line to the Machinery and Equipment expense line in the Police Department budget for the emergency purchase of six in-car recording systems to replace broken systems; and to waive purchasing policy requirements for a competitive bidding process due to the immediate danger to persons and property that exists because four of the current five video recorders are broken)
- g. **RESOLUTION 06-078 DETERMINING AND IDENTIFYING THE PROPOSED POLICE DEPARTMENT AND FIRE AND RESCUE DISTRICT DOCK ABUTTING SEXTANT DRIVE AS A “CITY EXEMPTED” PROJECT; AUTHORIZING THE INITIATION OF DEVELOPMENT OF THE PROPOSED POLICE AND FIRE AND RESCUE DISTRICT DOCK; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-078.

Discussion ensued regarding who was paying for the dock and who would use the dock.

Chief Tomlinson answered that staff had requested a WCIND grant for partial funding and spoke to the need to move forward with the project. He further stated that he hoped to reduce the cost by receiving the grant.

Mr. Cuyler stated that an attorney called to request the item be pulled for a later discussion.

Discussion ensued regarding if the public would have the opportunity for discussion at a later time, and Ms. Zimomra stated that the goal was to have public participation, putting the details in an e-mail for homeowners associations.

Councilman Brown made a motion, seconded by Councilman Jennings, to adopt Resolution 06-078.

The motion carried unanimously.

- a. **Award Casa Ybel Road Shared Use Path widening contract to Driveway Maintenance, Inc., in the amount of \$139,240 from the Beach Parking Fund and authorize the City Manager to execute the contract**

Councilman Rothman spoke to the following:

- He noticed between Sanibel River and Sabal Sands the path was close to the road
- Will the path be close or away from the road

Gates Castle, Public Works Director spoke for the most part the path would be away from the road, but there were a few places that would be 5 feet as recommended by the Uniform Traffic Control Manual. He also stated that the drainage was between the road and the bike path and staff would maintain a grass

swale. Councilman Jennings asked if the crosswalk on Middle Gulf Drive from the middle of the curve to further down the road, and Mr. Castle stated that had been looked at before, and it is in the best place.

Councilman Rothman made a motion, seconded by Councilman Brown, to approve the above.

The motion carried unanimously.

k. Renewal of a contract between the City of Sanibel and Lee County Supervisor of Elections to hold municipal elections

Mr. Cuyler stated that there was a provision in the contract that would indemnify and hold harmless other entities. He recommended contacting the Lee County Supervisor of Elections attorney regarding the provision.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to direct the City Attorney to contact the Lee County Supervisor of Elections attorney regarding the indemnify and hold harmless phrase.

The motion carried unanimously.

OLD BUSINESS

Water Quality Issues

Memorandum from Dr. Rob Loflin, Natural Resources Director, concerning Red Algae Drift

Dr. Loflin stated that the red algae was island-wide in the surf zone. He further stated that there had been numerous calls from residents and visitors requesting that the algae be cleaned-up.

Letter dated April 21, 2006 from Senator Mel Martinez

Mayor Johnston noted that Senator Martinez stated the water would be coming to Caloosahatchee River.

Mayor Johnston spoke to a letter that Council may want to send to federal officials.

Discussion ensued regarding not sending the letter, Council should focus on what would impact the surrounding waters of Sanibel and estuary issues, Dr. Loflin stated there was agreement between the ACOE and SFWMD to raise the capacity of what Lake Okeechobee would hold. He also stated that there was a type of marsh thus losing the natural state of the lake, and possible larger releases of water and destroy the lakes ability to deplete the water naturally. He further stated that if the dike breached at S-77 it would directly affect the island.

Reports on Meetings

Upcoming Meetings and Events

Status of Pending Water Quality Legislation

RESOLUTION 06-068 ESTABLISHING AND APPROVING AN ENVIRONMENTAL DEFENSE FUND TO PROVIDE A MECHANISM FOR CITIZENS AND OTHER INTERESTED PERSONS TO CONTRIBUTE TO THE ENVIRONMENTAL PROTECTION OF SANIBEL'S CRITICAL NATURAL RESOURCES CURRENTLY THREATENED BY LAKE OKEECHOBEE FRESH WATER RELEASES; AND PROVIDING FOR AN EFFECTIVE DATE

Vice Mayor Denham made a motion, seconded by Councilman Brown, to adopt Resolution 06-068.

Discussion ensued regarding

Councilman Brown withdrew his motion and Vice Mayor Denham agreed to withdraw his second.

Public Comment:

Louise Johnson spoke in support.

Claudia Burns spoke in support.

Council decided to bring Resolution 06-068 at the June 06, 2006 Council meeting.

The revise letter was provided to Council and the last paragraph was deleted and put an "s" behind "need" in the now last paragraph.

Karen Stori Johan suggested making a stronger statement that the Army Corps of Engineers direction be changed to include language to protect the estuaries.

RESOLUTION 06-070 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-060 AND PROVIDING AN EFFECTIVE DATE (to appropriate \$300,000 for outside legal counsel and expert costs in preparation for Lake Okeechobee legal matters, involving potential litigation. Funds are available from beginning fund balance since \$9,120,883 was rolled-forward of the actual \$9,752,261 unreserved FY 2005 ending fund balance)

Ms. Zimomra read the title of Resolution 06-070.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to adopt resolution 06-070.

Discussion ensued regarding Councilman Jennings wanting to decrease the amount to \$150,000 rather than \$300,000, Mr. Cuyler noted that this requested funds would not come close to paying for legal fees for outside counsel through the end of the year, these funds were needed pay for outside Counsel, the funds would not be used for a lawsuit, Mr. Cuyler stated he had received 3 separate bills, 1) \$24,000; 2) \$52,00; and 3) \$75,000, and decreasing the amount would not allow the payment of the existing bills, the need to move toward litigation, the need to have the best Counsel, and Lee County should led litigation.

The motion carried 4 to 1 with Councilman Jennings voting in opposition.

Discussion ensued regarding Council not voting to go forward with a lawsuit, the need to have Council briefings with D. C. attorneys, ACOE releasing freshwater as they saw fit, and the direction of a 3 to 1 vote was to proceed toward litigation.

Approval of draft of Issue 3 of H2O Matters

Merribeth Farnum, Farnum and Associates gave the following report:

- The need for the most current information
- Adding an article of red drift algae
- Holding the Environmental Defense Fund for 2 weeks thereby no article for the newsletter
- Who and what the content of the postcard should be

Discussion ensued regarding no article for the Environmental Defense Fund, if there was to be litigation Council should have everything possible, three pronged approach 1) public education; 2) political; and 3) litigation, newsletter was education, reaching out to different governmental entities would be political and an article on the other part.

Mr. Cuyler stated that his understanding that the D C. attorneys were directed to prepare a complaint for Council's review and hold individual Council briefings, and give Council enough information to make a decision.

Ms. Zimomra stated that if Council approved the content of the newsletter then an outline it come back to Council on June 06, 2006

Council agreed for the newsletter to be brought back at the June 06, 2006.

Other:

Vice Mayor Denham stated that the letter from the SFWMD spoke to the SFWMD taking credit for Clam/Dinkins Bayou project, and he asked for a history of the Clam Bayou Project.

Dr. Loflin stated the City had received \$470,000 worth of grants and \$125,000 was from the SFWMD. He further stated that it was a City project and permitted by the Department of Environmental Protection (DEP).

Councilman Rothman spoke to a report from B. C .I. regarding the Herbert Hoover dike and was written in a form that an average person could understand..

Discussion ensued regarding the report not going far enough with the dike situation, Dr Loflin cautioned the report was from Florida engineers and took things out of context and strung them together that made the point stronger, urge people involved to deal with the report, ACOE does recognize the dike needs repair, and were in the process of repairing, engineering repairs needs to be done, SFWMD disagrees with the work being done by the ACOE, support keeping Lake Okeechobee at a lower level, dike around the lake and land between the dike and the lake, need a range of freshwater discharges, Councilman Jennings spoke to a newspaper article regarding a draft Lake Okeechobee report and Dr. Loflin stated he was working with the ACOE, and the report should come out later in May.

Vice Mayor Denham spoke to the 2006/07 debt payment would be \$2 million dollars higher than the last physical year. He spoke to prioritizing City programs and the following was a list of projects he noted.

- Recreation Center
- Community Park
- Shared Use Path
- Roadside City Park
- Periwinkle Way Restoration Project

Renee Lynch, Finance Director spoke to there being a debt schedule for all outstanding debt, and there had been no debt issued in 2006 unless the general obligation center was issued for the construction of the recreation center. She stated the observation of \$2 million was correct because of the obligation of the Hurricane Charley debt repayment. She further stated that there would be an additional \$2 million debt repayment in the subsequent fiscal year.

Recreation and Parks Issues

Community Park, 2221 Periwinkle Way

Approval of Final Design

Ms. Zimomra stated that Council provided input and the revised drawing was included in the Council packet.

Helene stated the following changes were made:

- Quiet pocket park was added

RESOLUTION 06-079 DETERMINING AND IDENTIFYING THE SANIBEL COMMUNITY PARK PROJECT AS A “CITY EXEMPTED” PROJECT; AUTHORIZING THE INITIATION OF DEVELOPMENT NECESSARY TO IMPROVE THE SANIBEL COMMUNITY PARK; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-079.

Councilman Jennings made a motion, seconded by Councilman Rothman, to adopt Resolution 06-079

Public Comment:

Sue Carter spoke to the need to see City projects prioritized.

The motion carried unanimously.

**Roadside City Park, 1442 Periwinkle Way 1540
Approval of Final Design and Authorization to Bid
Memorandum from Parks and Recreation Advisory Committee**

Ms. Zimomra stated that Council had significant comments and the plan was modified.

Helene Phillips, Recreation Director spoke to the following revisions:

- Eliminate the large shelter
- Use and restore concrete slab to use as a multi-purpose court area
- State mandated the following elements must be retained
 - Playground
 - Basketball court
 - Picnic area
 - Gazebo
 - Bike trail
 - Landscaping and parking renovations
 - Support facilities (i.e., fencing and trail activities)

Discussion ensued regarding cutting off the road, having hike and nature trails and more vegetation, bathroom placement, look still within the plan, Armand Ball stated that the bathroom was placed to be near where children who would be playing and move ahead with construction costs per item, no public playground for children on the island, was in goals for a past Council, the need for small play areas near or toward the east end of the island, the need to have substantive figures for park elements, the need for a vegetation buffer as part of the Periwinkle Way Restoration, the need for 10 parking spaces, the park must be completed by January 31, 2007, the need to have the flexibility to remove from the budget, continue to have the rolled-back rate each year, capital improvements delayed, park came to conception due to children playing in unsafe condition on Bailey land, could Council receive bids before accepting funds, and Mr. Cuyler stated staff could receive bids.

Councilman Brown made a motion, seconded by Councilman Jennings, to identify the costs of the components of Roadside City Park.

Public Comment:

Karen Stori Johan spoke to the biggest alligators being in the water at Roadside City Park and the need for the elevated observation tower.

The motion carried unanimously.

RESOLUTION 05-056 APPROVING A BUDGET AMENDMENT/TRANSFER NO. 2006-055 AND PROVIDING AN EFFECTIVE DATE (to appropriate the \$200,000 grant #F4143 from the State Department of Environmental Protection, Florida Recreation Development Assistance Program (FRDAP) and the City's \$200,000 Reserve for Grant Match for the Roadside City Park Development project)

Council decided to bring Resolution 05-056 when the bids came to Council.

Council recessed at 6:15 p. m.

Council reconvened at 6:20 p.m.

RESOLUTION 06-080 DETERMINING AND IDENTIFYING THE ROADSIDE CITY PARK PROJECT AS A “CITY EXEMPTED” PROJECT; AUTHORIZING THE INITIATION OF DEVELOPMENT NECESSARY TO CONSTRUCT THE ROADSIDE SIDE CITY PARK; AND PROVIDING AN EFFECTIVE DATE

Council asked this be brought back for discussion after the bids were submitted.

Prioritization of City Council Goals

Council asked that this be brought back for discussion June 06, 2006.

NEW BUSINESS

RESOLUTION 06-073 DIRECTING THE PLANNING DEPARTMENT TO PREPARE REVISIONS TO LAND USE REGULATIONS CLARIFYING THAT BEACH CLUBS ARE NOT PERMITTED AS CONDITIONAL USE RECREATION FACILITIES AND TO SCHEDULE PUBLIC HEARINGS ON THE PROPOSED REGULATIONS WITH THE PLANNING COMMISSION AND CITY COUNCIL IN ACCORDANCE WITH PROCEDURES FOR AMENDING THE LAND DEVELOPMENT CODE; AND PROVIDING AN EFFECTIVE DATE

Ms. Cuyler read the title of Resolution 06-073.

Mr. Cuyler stated the following:

- Beach Club very generic term
- Never been a permitted or conditional use
- Recommendation that Beach Clubs were not a permitted use

Discussion ensued regarding the resolution being a zoning-in-progress

Councilman Jennings made a motion, seconded by Councilman Rothman, to adopt Resolution 06-073.

The motion carried unanimously.

RESOLUTION 06-071 AUTHORIZING THE CITY OF SANIBEL’S ACQUISITION, BY GIFT, PURCHASE OR EMINENT DOMAIN, OF PERPETUAL EASEMENT INTERESTS OF PROPERTY DESCRIBED HEREIN FOR A SHARED USE PATH (FORMERLY BIKE PATH); AUTHORIZING THE EXERCISE OF THE CITY OF SANIBEL’S POWER OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY FOR PUBLIC USE OR PURPOSE; DETERMINING THAT IT IS NECESSARY TO PERFORM A PUBLIC PROJECT BY ADDING AN ADDITIONAL SEGMENT TO THE CITY’S SHARED USE PATH (FORMERLY BIKE PATH) SYSTEM; SETTING FORTH THE PUBLIC PURPOSE AND PUBLIC NECESSITY OF SUCH PROJECT; DESCRIBING BOUNDARIES OF THE PROJECT; DETERMINING THAT THE ACQUISITION OF SUCH PROPERTY IS FOR A PUBLIC PURPOSE AND IS NECESSARY TO ACCOMPLISH THAT PURPOSE; AUTHORIZING AND DIRECTING APPROPRIATE STAFF TO COMMENCE GOOD FAITH PRE-LITIGATION NEGOTIATION PROCESSES; AUTHORIZING LEGAL COUNSEL TO INSTITUTE CONDEMNATION PROCEEDINGS FOR PROPERTIES THAT CANNOT BE PURCHASED THROUGH PRE-LITIGATION NEGOTIATIONS; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-071.

Discussion ensued regarding wording for safety reasons, strengthens the past resolution was adopted and put in the title of resolution.

Mr. Cuyler stated the following would be included the resolution:

- Specific finding that Council felt it was critically to ensure public safety
- Supersedes Res. 05-116 and inference of the prior activity
- Add in the title that that a past Council adopted the resolution; Council agreed to put in the text
- Attachment of owners and update 1) Traders Store and Café Shopping Center to Traders Periwinkle LLC 1551 Periwinkle Way; and 2) Island Tower Plaza Island Pizza to Island Tower LLC 1019 Periwinkle Way

Councilman Brown made a motion, seconded by Councilman Jennings, to adopt Resolution 06-071 including the amendments made by the City Attorney.

Discussion ensued regarding not agreeing to remove the bike path and concerned moving the Shared Use Path would not solve the problem, the need to remove the path for safety issues, brings substantial difficulties for Periwinkle Way, separating out due to the Shared Use Master Plan, the need to redevelop the area from the Sanibel Steakhouse and Casa Ybel Road and combine driveways, Council would not discuss studying moving the path 8 feet back, Mr. Castle stated that from an engineering point of view that the path could not be moved back on certain properties, Old Schoolhouse Theater moved power lines to accommodate the Shared Use Path, property owners would like to get the problem resolved, could have additional parking behind businesses, and consider redeveloping the area.

Mr. Cuyler stated the resolution leaves the decision of keeping the Shared Use Path adjacent to Periwinkle Way at a later time.

Public Comment:

Doug Dietrich spoke to his agreement of the resolution. He further spoke to concerns with moving the path 8 feet back and if a vehicle pulled off the road onto the path it would impede the use of the path.

Gates Castle spoke to the following:

- Direction from Council staff would come back to Council regarding improvements to front area as a short term solution
- Staff had not considered the possibility of moving the path back 8 feet, but worth studying

Discussion ensued regarding directing staff to take a look at a short-term solution, proceed with resolution and ask for a study of the Shared Use Path along Periwinkle Way, Mr. Cuyler stated eminent domain would take time and would expend money if the resolution was adopted, direction from Council was to study the path along Periwinkle Way, Mr. Gates stated that he was not convinced that the Periwinkle Way path could be totally eliminated, and money was appropriated to look at the Shared Use master Plan.

Patty Sousa spoke to discussing the same thing for 2 hours on May 02, 2006 and reviewed for many years.

Billy Kirkland spoke to reviewing the path and also reviewing the path in other locations for safety.

Mr. Cuyler stated that budget information would be brought back to Council.

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

Clarification of suggested approach when asked to meet with island citizens:

Council decided to discuss this item at the June 06, 2006 City Council meeting.

Council decided to discuss the following:

Council designation of temporary appointment of Acting Mayor and Vice Mayor through Tuesday, May 23 to Tuesday, May 30, 2006 to be extended only in the event there is a delay in the return of Vice Mayor Denham

Mr. Cuyler stated there was no charter direction.

Vice Mayor Denham made a motion, seconded by Mayor Johnston, to appoint Councilman Brown as Acting Mayor and Councilman Jennings as Acting Vice Mayor.

The motion carried unanimously.

Presentation: FY 2005-2006 Audit and Financial Condition Assessment by Marty Redovan, CPA, Schultz, Chaipel and Company

Renee Lynch, Finance Director introduced Marty Redovan, Schultz, Taipal, Redovan and Baker spoke to the completion of the audit of the City's financial statements for the period ending September, 30, 2005. She further stated that in addition to the audit opinion a financial indicator and trends report was issued, which was required by the auditor general. She also stated that the City Manager had been provided management comments to which the City has responded all of which was included in the agenda packet.

Discussion ensued regarding a briefing with Council members of the trend analysis, auditor satisfied with the City's response, Mr. Redovan spoke to compliance with the purchasing policy, staff following the purchasing policy, compared communities need to be more like Sanibel, Mr. Redovan stated that he and City staff do try to look at the communities.

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

The motion carried by consensus.

Report from Chief Tomlinson on "Community Safety"

Chief Tomlinson stated that he would be reviewing trends when preparing the budget, he stated the most recent incident was not a stranger crime, but Sanibel was as safe as ever. He further stated that staff was requesting proposals for cameras at the Lighthouse Park.

Discussion ensued regarding to combine cameras for traffic on Periwinkle Way that could be accessed through the Internet.

Discussion ensued regarding the recent suicide, the safety of the island, the great job performed by Police Department personnel, and address possible shortfalls in equipment and training, should be addressed in the upcoming budget, and booking a suspect take time.

Chief Tomlinson stated that he would be reviewing and circumstances where that was not enough staff the handle everything, no conclusion report at this time, bring forward a report and assessment during budget discussions.

Ms. Zimomra e-mailed the results of the Shared Use Path survey.

She called Council's attention to the agenda packet information

CITY MANAGER'S REPORT

Informational items:

Final disposition on design on telecommunication tower at 2222 Wulfert Road

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

Annual Deposit and Investment Report September 2005

Ms. Zimomra noted that the information was in the agenda packet.

City Work Force Challenges

Ms. Zimomra noted that more incentives were being offered as signing bonuses.

Discussion ensued regarding the City paying for equipment.

Community Housing and Resources Quarterly Financial Statement

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

CITY ATTORNEY'S REPORT

None.

PUBLIC COMMENT

None.

COUNCILMEMBERS' REPORT

Councilman Rothman asked for permission to participate by phone.

Discussion ensued regarding Councilmembers participating by phone, and reschedule the June 06 meeting.

There being no further business the meeting was adjourned at 7:35 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk