

SANIBEL CITY COUNCIL MEETING
July 18, 2006

City Council held a reception for Barbara Dunn, Police Department Administrative Assistant honoring the occasion of her retirement and 9 years of service to the citizens of Sanibel

Mayor Johnston called the meeting to order at 9:05 a. m.

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

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

PRESENTATION

Proclamation honoring Barbara Dunn honoring the occasion of her retirement and 9 years serving the citizens of Sanibel

Mayor Johnston presented Ms. Dunn a framed proclamation and etched vase.

Chief Tomlinson spoke to Ms. Dunn's retirement and the loss of a good employee.

Council spoke to Ms. Dunn's service to the citizens of Sanibel.

Recognition of Harold Law, Building Official on his election to President of the Building Officials Association of Florida

Mayor Johnston recognized Ms. Harold Law for being elected Building Official s Association of Florida (BOAF) president. She presented Mr. Law a plaque with a gavel.

Mayor Johnston spoke to a letter she received regarding Pamela Smith, City Clerk being elected as the Southwest Director to the Florida Association of City Clerk (FACC).

Public Comments:

Claudia Burns spoke to Tourism Development Council proposed campaign with seashells on the beach having a barcode and a contest being addressed by the City Manager and dissuading the proposal. She presented a conch shell with a bar code to the City Manager.

Ed Seibert spoke to the June 20, 2006 presentation by Paul Wingard, Deputy Director of Lee County Department of Transportation. He further spoke to sending an e-mail regarding the 2005 accident during Causeway construction.

Mr. Cuyler stated that Mr. Wingard appeared to answer any questions Council had and give comfort that County contractors were performing in a safe manner. He further stated that if Council gave direction to the City Manager or himself he they would come back to Council.

Discussion ensued regarding Jacobs and Sons responsible, Mr. Cuyler stated that Mr. Wingard related that the County did not have a quality control system in place and a number of pilings had been pulled for inspection, Sanibel not owning the Causeway and/or bridges, Sanibel had no say or clout regarding decisions of the bridge construction, OSHA responsible for the safety of employees working on any work site, Mr. Wingard's presentation to Council on June 20, 2006, questions of the accident and increasing safety standards, integrity of bridge construction, and must rely on Lee County.

Ed Seibert spoke a second time to the OSHA report on the 2005 Causeway construction accident.

Andrew Reding spoke to the people of Lee County owning the bridge and the Board of Commissioners entrusted with the responsibility. He further spoke to the public trust Council had to the electorate. He also

spoke to a possible resolution expressing concerns to the bridge construction to the Lee County Board of County Commissioners.

Discussion ensued regarding a resolution expressing concerns of bridge construction, key issue of bridge construction would be compressive strength, recommend the City Attorney draft a resolution for the August 01, 2006 Council meeting.

David Berger spoke to an article in the News Press for Independence Day celebration and Sanibel not having any alcohol restrictions, read Major Murray's report and increased traffic accidents of related minor alcohol consumption.

Ms. Zimomra stated that there were areas were posted for no alcohol consumption, corrected that there was not an increase in accidents. She further stated that the Police Department and the Chief were concerned of underage drinking, and a call had been made to the New Press regarding inaccurate information.

Council recessed for a Council photo at 9:51 a. m.

Council reconvened at 10:02 a. m.

Council Comments:

Councilman Brown spoke of the birth of Lili Brown, granddaughter. He apologized for not returning phone calls due to arriving back in Sanibel around 1:00 a. m., only the past morning.

Vice Mayor Denham spoke to the Mayor represented Sanibel at the Army Corps of Engineers meeting July 12, 2006. He further spoke to being disappointed at the attendance and it being not only a Council problem but also a citizen problem. He also spoke to ten of thousands of dead fish in the wildlife refuge and dead fish on the beach. He further spoke to a comment from Colonel Carpenter that he had blown up for Council and the audience to remember.

Discussion ensued regarding the number of people that attended the July 12, 2006 meeting, and the loss momentum.

Mayor Johnston spoke to July 19, 2006 being the anniversary of the Sanibel Plan.

Councilman Jennings spoke to Mayor Johnston representing the City at the July 12, 2006 meeting, thanked the citizens that attended, the need to renew efforts, citizens ideas should be sent to Council at sancouncil.com, lack of public officials attending the July 12th meeting, and the need to speak to candidates regarding water quality.

Councilman Rothman spoke to the 30th Anniversary of the Vegetation Committee and played a critical role in focusing on native plants, wildlife habitat, and teaching the contractor's vegetation course and test. He further spoke to a June 29th Island Reporter article of a Planning Commission member quote regarding rental property, what was sold in a commercial store, and Council supporting island businesses.

Planning Commission Report:

John Veenschoten gave the following report of the July 11, 2006 Planning Commission meeting:

- Considered a request for conditional use approval to allow an institutional use for the Sanibel Sea School to be established and a development permit to change the use of a building to an educational facility.
- Planning Commission agreed the school was in compliance with the Sanibel Plan, but not all components of a conditional use permit
- Plans would be brought back to the Planning Commission for consideration

First Reading of an ordinance and scheduling of public hearing.

ORDINANCE 06-009 AMENDING THE SANIBEL CODE, PART II LAND DEVELOPMENT CODE, CHAPTER 126 ZONING, ARTICLE XIV SUPPLEMENTARY DISTRICT REGULATIONS, TO ADD A NEW SECTION 126-1029 BONUS OUTDOOR SEATS FOR DINING, TO ESTABLISH PROCEDURES AND STANDARDS FOR PROVIDING BONUS OUTDOOR DINING AT RESTAURANTS; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-009.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to hold the second reading and public hearing for August 01, 2006 at 9:15 a. m.

The motion carried unanimously.

ORDINANCE 06-010 CALLING FOR AN ELECTION TO SUBMIT TO THE SANIBEL ELECTORATE AN AMENDMENT TO THE SANIBEL CHARTER; PROPOSING AN AMENDMENT TO ARTICLE III, "LEGISLATIVE", TO ADD A NEW SECTION 3.18 TO THE SANIBEL CITY CHARTER (AS CODIFIED) ENTITLED "*THE SANIBEL VISION STATEMENT*"; PROVIDING FOR THE CONDUCT OF THE ELECTION BY THE LEE COUNTY SUPERVISOR OF ELECTIONS; PROVIDING BALLOT LANGUAGE; PROVIDING FOR NOTICE OF ELECTION AND CANVASSING OF RESULTS; PROVIDING FOR ELECTION AND EFFECTIVE DATE OF AMENDMENTS UPON REFERENDUM APPROVAL; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-010.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to set the second reading and Public Hearing for August 01, 2006 at 9:45 a. m.

The motion carried unanimously.

ORDINANCE 06-011 AMENDING THE SANIBEL CODE, PART II, SUBPART A, GENERAL ORDINANCES, CHAPTER 10 ANIMALS, ARTICLE 1, BY AMENDING SECTION 10-1 DEFINITIONS, TO INCLUDE A DEFINITION FOR "EXOTIC ANIMAL"; ADDING A NEW SECTION 10-10 ENTITLED "*EXOTIC ANIMAL; RELEASE PROHIBITED*"; PROVIDING FOR THE PROHIBITION OF THE INTENTIONAL OR UNINTENTIONAL RELEASE OF ANY EXOTIC ANIMAL, SPECIFICALLY INCLUDING ANY MAMMAL, BIRD, FISH AND/OR REPTILE, WITHIN THE BOUNDARY OF THE CITY OF SANIBEL, FLORIDA; PROVIDING THAT NOTHING IN THIS ORDINANCE SHOULD BE CONSTRUED TO PERTAIN TO MIGRATORY BIRDS OR FISH THAT MAY TEMPORARILY INHABIT THE ISLAND OR ITS WATERS AS THEY PASS THROUGH SANIBEL ON THEIR WAY TO AND/OR FROM OTHER JURISDICTIONS; PROVIDING FOR PENALTY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-011.

Councilman Rothman made a motion, seconded by Councilman Brown, to set the second reading and Public Hearing for August 01, 2006 at 10:15 a. m.

The motion carried unanimously.

Mayor Johnston asked if Council would move the request from the Gaspirilla Grill for an entertainment licenses.

Councilman Jennings made a motion, seconded by Vice Mayor Denham to move Gaspirilla Grill item under the Consent Agenda.

The motion carried unanimously.

CONSENT AGENDA:

Councilman Jennings commented his approval of the minutes.

Mayor Johnston pulled the May 18, 2006 minutes and requested that a footnote be added that there was a website where a verbatim audio of the discussion between Carol Wehele, SFWMD and Pete Miliam, ACOE CD and City Council.

Councilman Rothman made a motion, seconded by Councilman Jennings, to approve the following Consent Agenda items (a), (e), (f), (q), (r) and (s).

The motion carried with Councilman Brown out of the room.

- a. **Approval of minutes: May 18, 2006 Regular Meeting, June 06, 2006 Regular Meeting, and June 20, 2006 Regular Meeting**
- e. **Reject bid received for construction of a Shared Use Path on Bailey Road. Cougar Contracting submitted the only bid in the amount of \$235,405, while only \$50,000 was budgeted for the project**
- f. **Renewal of an Interagency Agreement for Juvenile Assessment Center between the City of Sanibel and Lee County Sheriff's Department**
- q. **Authorize the Shared Use Path Master Plan consultant, Sprinkle Consulting, Inc., to proceed with the previously deferred tasks and subtask**
- r. **Request from B. I. G. Arts for approval 2006/2007 Special Event Permits to serve wine during intermissions**
- s. **Approval of an Interlocal Agreement between the City of Sanibel and Lee County for the construction of restrooms (outhouse replica) at the Historical Museum and authorize the City Manager to execute agreement**
- b. **RESOLUTION 06-095 AMENDING RESOLUTIONS NO. 03-071 AND 03-087 WHICH LEVIED THE RESPECTIVE PRELIMINARY AND FINAL SPECIAL ASSESSMENTS, AND THE ASSOCIATED PROPERTY LIENS THEREFORE, FOR THE SANIBEL SEWER COLLECTION SYSTEM EXPANSION PHASE 3A; DEFERRING THE INTEREST ACCRUAL**

DATE FROM JULY 1, 2004 TO NOVEMBER 1, 2004; AND DEFERRING THE COLLECTION DATE FROM TAX YEAR 2004 TO 2006, AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-095.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt Resolution 06-095.

The motion carried unanimously.

- c. **RESOLUTION 06-096 ESTABLISHING AN AUDIT COMMITTEE PURSUANT TO FLORIDA STATUTE, SECTION 218.391 FOR THE PRIMARY PURPOSE OF ASSISTING THE CITY OF SANIBEL IN SELECTING AN AUDITOR TO CONDUCT THE ANNUAL FINANCIAL AUDIT; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-096. Ms. Zimomra stated this committee along with City staff would go through the Request For Qualifications (RFQ) process for a City auditor and brought back to Council for an approval.

Councilman Rothman made a motion, seconded by Councilman Brown, to adopt Resolution 06-096.

The motion carried unanimously.

- d. **RESOLUTION NO. 06-097 AUTHORIZING A SEPARATE INVESTMENT ACCOUNT IN THE LOCAL GOVERNMENT TRUST FUND ADMINISTERED BY THE FLORIDA STATE BOARD OF ADMINISTRATION FOR INVESTMENT OF THE \$8.35 MILLION GENERAL OBLIGATION BOND PROCEEDS FOR THE SANIBEL RECREATION CENTER PROJECT, AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-097.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to adopt Resolution 06-097.

The motion carried unanimously.

- g. **RESOLUTION 06-098 APPROVING A LEASE AGREEMENT FOR THE GULFSIDE CITY PARK CARETAKER'S COTTAGE WITH THOMAS F. BAUER; AND PROVIDING AN EFFECTIVE DATE**

- h. **RESOLUTION 06-099 APPROVING A LEASE AGREEMENT FOR THE 2897 ISLAND INN ROAD PROPERTY WITH LANCE A. LUNA; AND PROVIDING AN EFFECTIVE DATE**

- i. **RESOLUTION 06-100 APPROVING A LEASE AGREEMENT FOR THE EAST LIGHTHOUSE CARETAKER'S COTTAGE WITH DENNIS L. ROBERTS; AND PROVIDING AN EFFECTIVE DATE**

- j. **RESOLUTION 06-101 APPROVING A LEASE AGREEMENT FOR THE WEST LIGHTHOUSE CARETAKER'S COTTAGE WITH RANDAL D. WRIGHT; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the titles of Resolutions 06-098, 06-099, 06-100, and 06-101.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt Resolutions 06-098, 06-099, 06-100 and 06-101.

The motion carried unanimously.

- k. **RESOLUTION 06-102 APPROVING BUDGET**
AMENDMENT/TRANSFER NO. 2006-071 AND PROVIDING AN
EFFECTIVE DATE (to roll forward unspent grant and local match funds from FY 2005 to FY 2006 to complete the Clams/Dinkins Bayou Capital Project in the amount of \$287,112)
- l. **RESOLUTION 06-103 APPROVING BUDGET**
AMENDMENT/TRANSFER NO. 2006-072 AND PROVIDING AN
EFFECTIVE DATE (roll forward actual beginning fund balances from FY 2005 to FY 2006. Funds are being appropriated to Ending Fund Balance for re-appropriation in the subsequent fiscal year (FY 07) except for certain Special Revenue and Capital Project Funds, which are being appropriated for the completion of the respective projects in the amount of \$206,637)
- m. **RESOLUTION 06-104 APPROVING BUDGET**
AMENDMENT/TRANSFER NO. 2006-073 AND PROVIDING AN
EFFECTIVE DATE (to roll forward unspent South Florida Water Management District grant funds which were awarded in FY 2005 to FY 2006 to complete the Sanibel River Restoration Project)
- n. **RESOLUTION 06-105 APPROVING BUDGET**
AMENDMENT/TRANSFER NO. 2006-074 AND PROVIDING AN
EFFECTIVE DATE (to reimburse the General Fund Disaster Reserve Fund for \$670,272 of the \$1,345,000 from the Disaster Reserve for the clean-up of Hurricane Wilma and to appropriate the estimated \$908,782 to be received from FEMA. \$804,397 has already been received from FEMA as of June 30, 2006)
- o. **RESOLUTION 06-106 APPROVING BUDGET**
AMENDMENT/TRANSFER NO. 2006-075 AND PROVIDING AN
EFFECTIVE DATE (to appropriate the FY 2006 and final Hurricane Charley recovery expenditures (Fund #113) and transfer of excess bond proceeds of \$1,135,768 to the \$10M FLGFC Debt Service Fund to pay down the principal balance on the Hurricane Charley debt. After this pay down, the projected principal balance remaining at September 30, 2006 will be \$1,707,000)
- p. **RESOLUTION 06-107 APPROVING BUDGET**
AMENDMENT/TRANSFER NO. 2006-076 AND PROVIDING AN
EFFECTIVE DATE (to appropriate a one-time award of \$5,000 from the L. A. T. Foundation to fund the design, construction and installation of interpretive signage for each of the Sanibel Historical Village and Museum's 9 buildings)

Request by Randy Post, Manager Gasparilla's Grill located at 2499 Periwinkle Way (formerly Seafood Factory) for an entertainment license for solo or disc jockey from 10:00 p. m. to midnight, 7 days per week and **RESOLUTION 06-082 APPROVING**

THE APPLICATION FOR AN ENTERTAINMENT LICENSE AT THE GASPARILLA'S GRILL, 2499 PERIWINKLE WAY, SUBJECT TO CONDITIONS; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the titles of Resolutions 06-102, 06-103, 06, 104, 0-104, 06-105, 06-106, 06-107 and 06-082.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to adopt Resolutions 06-102, 06-103, 06-104, 06-104, 06-105, 06-106, 06-107 and 06-082.

The motion carried unanimously.

OLD BUSINESS

Water Quality Issues

Staff Reports

James Evans, Environmental Biologist gave the following report on the current conditions of the estuary:

- Mystery bloom discovered by satellite 2 weeks ago was identified as turbid area of water in Pine Island Sound that biologists found organisms that were a problem, but remains unidentified and had dissipated
- Currently experiencing a red tide event in Pine Island Sound all the way from Red Fish Pass to the mouth of the Caloosahatchee River
- Florida Fish and Wildlife Research Institute (FWRI) reported showing medium to high cell counts of the red tide organism ranging from 100,000 to over 1 million cells per liter
- SCCF biologist would be performing their on cell counts in Tarpon Bay and Blind Pass and finding over 30 million cells per liter of the red tide organism
- Bloom began in San Carlos Bay at the mouth of the Caloosahatchee River
- No direct link between red tide and nutrients, but there may be a secondary connections by biological mediated organisms
- New species (mahogany tides)
- Most samples show low oxygen levels
- Mahogany tide similar to red tide and had an effect on oxygen
- Red drift algae beginning to die, but once it dies off it takes oxygen out of the water
- Fish kills from less oxygen
- SCCF lab report 70% seagrass beds affected and 30% recovery
- Multiple species of red algae in the refuge
- Green algae present
- Lake Okeechobee models and flows

Discussion ensued regarding a red tide outbreak in Bonita Springs and Ft. Myers Beach in the News Press, red tide cell toward nutrients; Mr. Evans stated that staff could not speculate on the development of the outbreak, comments made by Commissioner Ray Judah that the data being available suggested 15% was caused by run-off and Mr. Evans answered he did not know the source of the information, nutrients coming from east of S-79, can not separate run-off from land or nutrients coming from Lake Okeechobee, mahogany tide similar to red tide, Ms. Zimomra spoke to the notification of 11 more people eating shellfish and 6 in the hospital, one in critical condition, Chamber notifying hotels/motels, staff calling health department with additional questions from last report, Council decided in the past that one indicator would be human health, and any way to find information where biologist have found nutrient laden red tide causing medical problems.

Erick Lindblad, Executive Director SCCF spoke to receiving a call from a lady that had dinner with a family where all 4 family members got sick from eating shellfish and was still having continuing problems. He also spoke to a symposium being held at Mote Marine Lab regarding red tide. He also spoke to Dr. Larry Brand and Bryan LaPointe performing a study and biologist trying to tie nutrient levels to red tide.

Discussion ensued regarding FGCU having a summary of the Mote Marine Lab Symposium, FGCU meeting July 29, past attendance at a FCGU meeting and some scientist not accepting there was a correlation of polluted water and shell fish, August 01 Council meeting try to pull together scientific data, Mr. Evans stated that even disregarding red tide there were plenty of toxic algae's that were nutrient laden, thousands of bait fish dead in the refuge and beach, huge mullet kill on a back bay were alligators were feeding on the dead fish, City of Bonita Springs and Ft. Myers Beach having people that had gotten sick, contact the Health Department and the hospitals, Dr. Loflin's wide working for the health Department, public health only kept records of the e.coli count, Ms. Zimomra passed out the recent health department bulletin issuing an upgrade to a local epidemic, declare a state of emergency on the beaches, the need to post signs at all beach entrances not to eat the shellfish, thousands of small bait fish dead within the refuge, dead fish on the beach, huge mullet kill on the bay that brought alligators feeding on the dead fish, report that people sick from eating shellfish on Ft. Myers Beach, contact with health department, health department keeping track of the e-coli count, but do not monitor the current problem, and call the health department to see if notices would be put at beaches.

Council asked how would SFWMD handle the situation since it was a water issue.

Sally MacPherson stated that SFWMD was referring red tide /blue green algae questions to the EPA and Health Department, but did not refer to the ACOE.

Ms. Zimomra stated that staff would be visiting every City location, calling Dr. South and would like the opportunity to confer with staff.

Discussion ensued regarding the News Press being alerted and Ms. Zimomra answered they were notified, advise all restaurants, the need for notices at all beaches, the need of an objective scientist to study the water quality, he need to get evidence that the freshwater releases from Lake Okeechobee nutrients were killing the estuary, Council asked Dr. David Berger of his opinion.

Dr. Berger spoke to restaurants advising patrons not to order shellfish. He further stated that shellfish had problems and people who may not be accustomed to eating shellfish would be susceptible.

Council asked what fields of study

Dr. Berger stated that emergency room physicians had a computer database to consult and infectious disease specialist.

Council asked Erick Lindblad where SCCF would fit in to the discussion.

Erick Lindblad spoke to the need for a discussion with the scientists at the Mote Marine Lab Symposium regarding any indication of a connection between the freshwater releases and the red tide/algae bloom.

Consensus of the results of the symposium and any linkage, medical situation, address the acuteness of the medical situation, report from Councilman Rothman on his attendance of the wrap-up to symposium at FGCU, staff contacting health department regarding the extent of problems to Sanibel beaches, CDC have any data, review regulating taking fish from beach was safe, PBS program showing that different scientist being confused, Mr. Evans stated that the water temperature was to high in warmer months, usually do not see red tide outbreaks in the summer months, and identify the crisis.

Merribeth Farnum stated there was the H2O matters website and be more proactive to convey a message.

Discussion ensued regarding the need for more data on the Lake Okeechobee water releases.

Erick Lindblad spoke to the sick family requesting flyers be passed out at the tollbooth.

Mr. Simmons spoke to previous food poisoning.

Discussion ensued regarding posting bulletins at beaches, marina, and restaurants.

Mr. Evans spoke to the following:

- Lake Okeechobee level 12.22 feet
- Total in-flows at 571 cfs
- Total out-flows –13
- St. Lucie in-flows 120 cfs (S-80)
- Caloosahatchee River 1 cfs (S-77)
- S-79 380 cfs possibly attributed to basin run-off
- Peter Doran reported an average of 812 cfs at S-79 mostly basin run-off
- Salinity in the desired range
- Seen blue green algae in the area of the Caloosahatchee River estuary, upper estuary and Beautiful Island

Meeting Reports

SFWMD Water Resources Advisory Commission Lake Okeechobee Committee, June 28, 2006

Mr. James Evans gave the following report:

- Kissimmee Basin upper Chain of Lakes had capacity and the potential to soak up water
- Susan Grey, SFWMD scientist for Lake Okeechobee reported improved clarity in the lake, no improvement in the submerge aquatic vegetation
- Seeing low fish numbers
- Seeing minor improvements
- Phosphorus levels 150 parts per billion
- U. S. Fish and Wildlife reported microcystis in the rem canals
- Barry Rosen, U. S. Fish and Wildlife reported that blue green algae would be see
- Representative from the Department of Agriculture Consumer Services recommended the State take the lead on regulating phosphorus in fertilizers
-

Discussion ensued regarding e-mail message to the City that Council was thinking of banning fertilizers, but asking people to read the label and use an adequate amount, vegetation committee not proposing a ban of fertilizer, and staff would be attending the University of Florida meeting Thursday, July 27th on fertilizer.

Army Corps of Engineers (ACOE) July 12, 2006 public comment meeting regarding new proposed Lake Okeechobee water release schedule

James Evans, Environmental Biologist spoke to the following:

- Lake Okeechobee water release plan 1BS2-M selected by the ACOE
- 1BS2-M not good for the estuary
- ACOE using health, safety and welfare of people around the lake
- 1S2 plan was better for the estuary
- Current schedule exceeds 34,000 gallons per second for 24 months for a 36 year period
- Proposed schedules calls for exceeding 34,000 gallons per second for 37 months for a 36 year period
- Medium flows prove to perform 3% better

Discussion ensued regarding how much water released and sent to Sanibel would be the difference in the recovery of the estuary, not addressing all the ACOE goals, ACOE had 2 goals 1) public safety; and 2) balancing estuary health, Lake Okeechobee (LORSS) had the ACOE 4 goals; 1) health and safety; 2) reducing the regulatory releases into the estuaries; the ACOE not addressing all their own goals, the ACOE need to address more than health and public safety issue, Palm Beach Post had an expo that spoke to 20

years of the ACOE scheming over warnings of dike failure, letter to the ACOE and SFWMD requesting available land be used for storage, the handout at the above-mentioned meeting, special interest groups not wanting water released to the south, the need for other water release alternatives, not an Issue of Big Sugar, if lands are owned if rented, politicians responsibility to estuary, sick people, governor in charge of the SFWMD, Mayor Johnston passed to Council her statement at the July 12th meeting, critical time between now and November, suspicion that there was no limited water releases to the estuary due to agricultural components and not wanting the lake to get any lower than 12 feet, Mr. Evans stated that the lake tried to manage, formal review and comment period 1BS2-M begins in August for 45 days, the need to send comments, request ACOE to address not using land for water storage, Rob Jess attended the ACOE meeting with excellent comments, the need for re-location of the 20,000 people that live around Lake Okeechobee, invite Dr. Hartner and Dr. South, invite SFWMD, invite SCCF Dr. Steve Bartone, Commissioner Judah did mention there was a possibility that Lee County might litigate.

Correspondence

Letters to the Army Corps of Engineers and the South Florida Water Management District

Discussion ensued regarding a water quality component to the C-43.

Letter of April 28, 2006 from Governor Bush to John Paul Woodley, Principal Deputy Assistant to the Assistant of the Army Civil Works

Discussion ensued regarding only concern of the health and safety for people residing around the dike.

Letter of May 03, 2006 from John Paul Woodley, Principal Deputy Assistant to the Assistant of the Army Civil Works to Governor Bush

Discussion ensued regarding the report on the ACOE website answering the BCI, dike reported to have severe problems, plan to implement a wall in the dike, which had been abandoned, wall would be installed around Lake Okeechobee, west coast opinion being critical to protect the coast, and letter focusing only on Lake Okeechobee.

RESOLUTION 06-094 AMENDING RESOLUTION 06-068 WHICH ESTABLISHED THE CITY OF SANIBEL ENVIRONMENTAL LEGAL DEFENSE FUND; AMENDING SUCH RESOLUTION TO EXPAND THE PURPOSES AND USES FOR SUCH FUND; AND PROVIDING AN EFFECTIVE DATE

Mayor Johnston read the title of Resolution 06-094. She explained that the scope had been broadened as requested by Council.

Councilman Rothman made a motion, seconded by Councilman Brown, to adopt Resolution 06-094.

Public Comment:

None.

The motion carried unanimously.

Council decided to discuss H2O Matters newsletter.

Approval of final draft of Issue 3 of H2O Matters

Ms. Farnum passed out a new newsletter. She stated the following:

- Only have one postcard rather than 2 for property owners to mail
- Incorporate items for the July 12 ACOE meeting
-

Discussion ensued regarding to prominently display Colonel Carpenters comment "People of Sanibel are going to have to get some dirty water," purpose of newsletter was to receive comments on the new ACOE deviation plan, and change ACOE process a sham.

Public Comment:

Karen Storjohan asked why representative address and phone numbers were not within the newsletter.

Mayor Johnston stated that the representatives could not help. She also stated the space of the may be better used with information.

Discussion ensued regarding number and e-mail addresses on the website, assign a list of elected officials see the City's website, takes a letter many days to get to a representative due to anthrax scanning, and include the most recent medical epidemic,

Council recessed at 1:30 p.m.

Council reconvened at 1:37 p. m.

Council continued discussion regarding the H2O Matters Newsletter

Merribeth Farnum spoke to the following:

- Include the photo of the large Goliath Grouper
- Add shellfish headline – Shellfish Epidemic Declared after 6 Sent to Hospital and new article
- July 18, 2006 Lee County Health Department declared a Shellfish Epidemic
- Add Colonel Carpenter's comments

Council agreed with the above-mentioned changes/additions.

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

The motion carried unanimously.

Lee County Visitor & Convention Bureau Water Resources Initiative Accomplishment List (VCB)

Ms. Zimomra stated this was a list of items accomplished regarding water quality.

RESOLUTION 06-089 AUTHORIZING AND SCHEDULING A BINDING REFERENDUM PERTAINING TO THE EXPENDITURE OF CITY FUNDS FOR LITIGATION RELATING TO LAKE OKEECHOBEE AND CALOOSAHATCHEE RIVER FRESHWATER RELEASES WHICH HAVE DEGRADED AND ARE DEGRADING THE WATERS ADJACENT TO SANIBEL, INCLUDING NEARBY BAYS AND ESTUARIES; CALLING FOR AND ORDERING A BINDING REFERENDUM TO BE HELD IN THE CITY OF SANIBEL TO DETERMINE WHETHER A MAJORITY OF ELECTORS PARTICIPATING IN SUCH REFERENDUM APPROVE THE USE OF CITY FUNDS TO INITIATE AND PURSUE LITIGATION WITH THE PURPOSE OF REDUCING, MINIMIZING AND ELIMINATING THE DEGRADED AND DEGRADING WATER QUALITY DIRECTLY RESULTING FROM FRESH WATER RELEASES FROM LAKE OKEECHOBEE AND THE CALOOSAHATCHEE RIVER; ESTABLISHING THE DATE OF THE ELECTION; REQUESTING THE LEE COUNTY SUPERVISOR OF

ELECTIONS CONDUCT THE ELECTION IN ACCORDANCE WITH LAWS AND REGULATIONS AND CERTIFY THE RESULTS TO THE SANIBEL CITY COUNCIL; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-089.

Councilman Rothman made a motion, seconded by Councilman Brown, to adopt Resolution 06-089.

Discussion ensued regarding this resolution came from the meeting where Council could not come to a consensus of what to do, question of the amount of money it would take for litigation, possibility of filing a suit to use other funds, resolution implies that Council would sue, resolution implies City funds would be used, what if another entity want to sue, the need for a unified decision, a concern that Council would be locked in to file suit, received e-mails for litigation, Council privy to more information that the electorate did not have access to, percentage of Causeway referendum, estuary continue worsen condition, at least 9 months to file a law suit, no response to initiatives endorsed by the governor, the need to aggressively pursue partners for litigation, Council asked Mr. Cuyler if there was any history of lawsuits on the east coast, and Mr. Cuyler answered that he did not believe that had been any lawsuit filed on the east coast, but threats of litigation; east coast received special attention due to those threats, Mr. Cuyler stated that there were some decisions that could be made before 9 months, and possibly by the end of 2006, the minute a lawsuit was filed discussion would be cut-off, lawsuit may be regarding recovery the estuary as opposed to saving the estuary, the resolution would not mandate litigation, Mr. Cuyler stated that if a lawsuit were filed the electorate would decide whether or not to pursue litigation, and he further stated that Section 11 speaks to the basis to file a law suit prior to December.

Public Comment:

Claudia Burns spoke to having a survey rather than a referendum.

Karen Stori Johan spoke against the referendum.

Glen Simmons spoke against a referendum. He further spoke to realtors helping to educate the public.

The motion carried 4 to 1 with Mayor Johnston voting in opposition.

Council agreed to direct the City Attorney to speak with other governmental entities regarding if they may be interested in joining together for a lawsuit,

Other

None.

Recreation Center

Monthly Progress Report

Ms. Zimomra stated that every month there would be a Recreation Progress report. She further spoke to the outside/inside color scheme.

Material Selection and Approval

Councilman Jennings made a motion, seconded by Councilman Rothman, to approve color scheme A.

The motion carried by consensus.

Review of Draft version of Redevelopment Work Plan

Ms. Zimomra spoke to due the length of the June 20, 2006 Council meeting the above-mentioned topic was back for discussion. She further stated staff was looking for general direction from Council.

Mr. Duffy spoke to the following:

- Completed a series of work program reports and prepared the final work program
- Received comments for Council
- Submitted a revised version and addresses further clarification

Proposed Work Program:

- Convene Consortium to Define the Beach Carrying Capacity Scope and Objectives
- Prepare a Town Center District Plan
- Update Sanibel's Environmentally Based Market, Economic and Land Use Analysis
- Complete an Analysis of Single Family Residential Land Use and Zoning Regulations

COMMITTEE BOARDS AND COMMISSION

Planning Commission Annual Review of the Capital Improvements Elements of the Sanibel Plan by the Capital Improvements Element Review Sub-committee

Council accepted the report.

Advertisement for General Employees Pension Board Members

Council decided not to advertise for the 2 citizen seats due to the current members wanting to be appointed.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to bring back an resolution of appointment.

The motion carried by consensus.

Status of Sanibel Police Pension Board Members

Councilman Brown made a motion, seconded by Vice Mayor Denham, to direct staff to bring back a resolution of appointment.

The motion carried by consensus.

Council recessed at 3:21 p .m.

Council reconvened at 3:30 p.m.

NEW BUSINESS

Presentation by Hartman Consulting for the annual update of the Sewer Financial Feasibility Study

Tara Hollis, Hartman Consulting and Design spoke to the following:

- Annual review was to make sure that the utility was financially stable and could meet operating capital needs for the next 20 years
- \$66 million anticipated in costs for the program
- Money loaned from the general fund for the re-use system and the need to repay those funds
- Long term rate projections
- Proposed budget for FY 2007 the utility was looking at \$2.9 million O&M costs
- An increased of approximately \$350,000; costs include contractual and gasoline costs
- Utility costs were increasing faster than inflation
- 5-year Capital Improvements Program (CIP) at \$2.7 million
- Update of project costs were \$66.2 million, including adding Phase V at a cost of \$750,000
- Phase 3A not completed until the past year

Ms. Zimomra spoke to Phase 3A and the greatest differential from the revised final cost to the actual; reasons for the cost differential was mobilizing and demobilizing due to several hurricanes, Causeway

weight restrictions were implemented after the project was bid, which meant negotiating with the contractor.

Discussion ensued regarding reimbursement from FEMA, and the sewer project 90% completed

Ms. Hollis continued:

- Project completion dates changed due to hurricane interruptions
- Payment sources were; 1) transmission charges; 2) connection fees; 3) ad valorem taxes; 4) operating revenues
- \$20.4 million of ad valorem taxes could be used for repayment of the sewer expansion

Discussion ensued regarding the total number of customers at the completion of the project, and approximately 4,600 accounts.

Ms. Lynch, Finance Director spoke to the following:

- 1998 referendum passed to reduced the special assessment amount by levying ad valorem taxes
- Due to that levy that tax half of the debt service requirement for each of the State Revolving Loan Funds was repaid by ad valorem tax
- Phase 3B the \$20.4 million cap approved by referendum was exceeded
- Due to the special assessments already set ad valorem taxes could now only pay 14% meaning that rates would need to absorb 57% of the cost of the debt service rather than the 20 to 23% in other phases

Discussion ensued regarding if the initial legislation included a cap of ad valorem tax use for repayment.

Ms. Hollis continued:

- Sewer Plant expansion costs \$14.8 million, and was to be paid through connection fees and ad valorem taxes
- In reviewing the total debt of \$66.2 million 39% would be repaid through the private portion including connection fees, special assessments and transmission fees
- 31% of ad valorem taxes would repay the debt and approximately 30% repaid through operating revenues

M. Lynch explained that the percentages were different due to one State Revolving Loan used to expand the plant and there was no special assessment associated with the plant expansion, and the repayment must come from rates, transmission main charges, and connection fees.

Ms. Hollis continued:

- \$3.5 million outstanding for reuse advances used from the City's pooled cash to help fund the reuse improvement in 2000
- Potential sources of repayment were operating revenues and reuse revenues
- Public Works Department had made an effort to obtain new customers
- As of July there were 38 reuse customers; 28 condominiums, 5 residential, 3 golf courses and 2 City-owned properties
- Income to date was approximately \$40,000 in reuse collections
- Projecting reuse collections of approximately \$8,800 for FY 2007

Discussion ensued regarding reuse capacity, and Gates Castle stated that the need for a study when the program was complete for water capacity so the City would not over sale capacity, Mr. Castle also spoke to the need for storage for the reuse and not over selling, and Ms. Zimomra stated that there may be opportunities for rate adjustments.

Ms. Hollis recommended that staff consider implementing a repayment schedule to get budgeted every year for repayment back to the general fund. She spoke to 2 payment periods; 1) 20-year repayment schedule; and 2) 10-year repayment schedule with rates to accommodate both schedules.

- 20-year repayment would cost approximately \$175,000 per year without interest
- 20-year repayment with a 3% repayment \$235,000 per year
- Increase per month for a residential bill of \$5.94, which was a 15% increase for next year
- Schedule would include a 10% increase for the next 2 years (\$4.56 FY 2008 and \$5.01 FY 2009)
- After FY 2009 rate increases would be 3% per year
- 10-year repayment would cost approximately \$350,000 per year without interest
- Increase for FY 2007 would be \$7.92 (20% increase); \$4.75 FY 2008; \$5.23 FY 2009
- Increase of approximately 10% for FY 2007, 2008 and 2009 then reduce to 3% per rate thereafter

Discussion ensued regarding the percentage difference at 10-year repayment and 10-year repayment, 5-year CIP could be adjusted to consider making 3 level increases rather than 1 major increase, Ms. Zimomra stated that as a system ages there could be capital repairs and careful as not to defer maintenance.

Ms. Hollis continued:

- Reviewing other residential costs
- Most residential customers use 12,000 gallons of water per month
- Sewer usage and sewer bills were based on water consumption
- Sewer bills were based on actual consumption
- Average sewer bill of 12,000 gallons per month in other communities was \$54.17 per month and currently the Sanibel rate was \$39.61 per month
- Alternative A costs \$45.55 per month
- Alternative B costs \$47.53 per month

Discussion ensued regarding the above-mentioned costs could be higher over time, some communities cap their sewer usage, and Island Water the most expensive.

Ms. Hollis recommended the following:

- Continued the practice of setting funds aside for capital improvements and disaster relief, as well as for renewal and replacement
- Consider adopting a schedule to repay reuse advances
- Charge for reuse water
- With the proposed rate increase would be able to provide adequate funding for normal operations, meet the coverage and repay the annual debt service, pay for capital needs and repay the general fund

Ms. Zimomra stated that there would be discussion during the budget meetings, the current working budget contains the \$3.5 million as part of ad valorem, Ms. Zimomra stated funds were there to repay the debt, Ms. Lynch explained that the reserve for fund balance at the end of the current fiscal year means that there would be less beginning fund balance to roll-forward in to next year, and any repayment that Council elected to provide would free up the amount of the repayment for beginning fund balance in the next year, the \$3.5 million was lessens the available resources to appropriate, could make a repayment with interest, 20-year repayment would be a \$6.73 increase with 17% increase, it would not free any money, and would only be a revenue source.

Staff explained that there would be a resolution forthcoming for the increase of sewer rates.

CITY MANAGER'S REPORT

Ms. Zimomra stated the following regarding the health alert put out by Lee County Health Department regarding shellfish.

- PD and Code Enforcement going door-to-door
- Flyers would be distributed at the toll booth
- E-mailed to Community leaders
- Spoke to TDC
- Spoke to Dr. Hartner and Dr. South – already a banned on harvesting shell fish on the gulf coast from the Department of Agricultural
- Notification from ACOE and AFWMD
- Notified the task force regarding algae blooms
- Blood was drawn from sick people and sent for analyzing
- Using the reverse 911

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

The motion carried by consensus.

Informational items:

Distribution of “Working Operating Budget” and list of initiatives to City Council

Ms. Zimomra passed a proposed discussion outline.

Discussion ensued regarding Vice Mayor Denham being absent at the September 09 budget meeting, discussion of capital projects, and discussion regarding initiatives.

Computation of Business Roundtables

Ms. Zimomra spoke to the agenda packet information and that a roundtable work plan would come to Council

Report regarding staff appearance before Lee County Landscaping Grant Committee requesting funding toward Periwinkle Way Restoration Project

Ms. Zimomra spoke to staff obtaining \$163,000 grant.

Schedule of a July 25, 2006 Special Meeting to discuss FY 2006-2007 Budget

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to convene a Special Meeting on July 25, 2006 beginning at 9:00 a.m.

The motion carried by consensus with Councilman Brown excused.

Request from Sanibel Fire Department to conduct traffic study along Periwinkle Way August 8th, 9th and 10th

Discussion ensued regarding the request, request to change the dates to August, 1st, 2nd, and 3rd, which safety issue was more important, removing some of the delineators, emergency vehicles taking the alternative route, moved date forward was due to school being in session, staff to bring back a report August 01, 2006, and hold on the study.

Results of Hazardous Waste Day Collection

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

Summary of Police Department Statistics regarding Illegal Consumption of Alcohol by minors and increase in drinking while under the influence

Ms. Zimomra called Council’s attention to the agenda packet information. She stated that so far there had not been a specific trend and staff was looking at City ordinances.

Monthly Planning Department Update

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

CITY ATTORNEY'S REPORT

None.

PUBLIC COMMENT

None.

COUNCILMEMBERS' REPORT

Discussion of Founder Days 2006 commemorating unique civic development of the City of Sanibel

Mayor and the City Manager would discuss.

Discussion regarding public participation.

Mayor Johnston spoke to the public participation time changing to 3 minutes rather than 5 minutes.

Discussion ensued regarding the problem not holding speakers to 5 minutes, repetitive speakers, and other governmental entities 3 minutes and fill out a card.

Councilman Jennings spoke to forming a new plan of action regarding the water issue, the need for a fact sheet, increase networking, compile a list of governmental representatives own property on Sanibel, state delegation would be holding meetings on local issues, Council asked Councilman Jennings to bring a list of issues back to Council, and advertise the H2O Matters website.

Councilman Rothman spoke to attending CHR meeting, BMRH program proposed expansion at the old airport site and would need no money from the City to develop the project, would need consideration of density increase for development, met with different entities for possible employee housing, and working with Shorehaven.

Vice Mayor Denham spoke to Council's conduct being extremely well.

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

There being no further business the meeting adjourned at 4:35 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk