

**SANIBEL CITY COUNCIL REGULAR MEETING  
SEPTEMBER 19, 2006**

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

Councilman Jennings gave the Invocation and led in the Pledge of Allegiance.

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

**Public Comments:**

Jodi Brown spoke to the Lighthouse Association being a local society would be having their 10<sup>th</sup> Anniversary, luncheon, touring the museum and Lighthouse Keepers cottage on October 21, 2006.

Karen Storijohann spoke to the agendas for the two scheduled meeting being to long for concentration and suggested the items be removed if possible.

Jeff Molnar spoke to reviewing the generator issue.

Council honored Ms. Judie Zimomra, City Manager for her 5<sup>th</sup> Anniversary.

Council recessed at 9:15 a. m.

Council reconvened at 9:20 a. m

**Planning Commission Report:**

Mike Billheimer gave a report of the September 12, 2006 Planning Commission meeting as follows:

- Approved a resolution to relocate Shorehaven to Bayview east Park

Mr. Cuyler explained that the house could be used for Below Market Rate Housing which would include Workforce Housing. He further explained that since this item would be coming to Council he advised Council not to get involved until that time. He also explained that the code provided a structure process for this type of request.

Discussion ensued regarding the process used for Shorehaven, and Mr. Cuyler stated that the recommendation would come to Council and this was just a report from the Planning Commission, concern that the process had been in the Planning Commission, Mr. Cuyler stated that this was similar to a variance where the request comes to the Planning Commission first and then to Council if there was an appeal, which was designated by the code.

Mr. Billheimer continued:

- Planning Department conducting a review of the FEMA Flood Maps
- Planning Department creating a Planning Department web-site

Council Comments:

Councilman Brown spoke to an e-mail from Jim George regarding separate meetings on water issues or moving all water issues until the next meeting.

Councilman Jennings spoke to Ms. Zimomra's 5<sup>th</sup> anniversary.

**First Reading of an ordinance and scheduling of public hearing.**

**ORDINANCE 06-012 ESTABLISHING A CURFEW PURSUANT TO STATE STATUTE FOR JUVENILES DURING CERTAIN SPECIFIED HOURS OF THE NIGHT AND EARLY MORNING; PROVIDING EXCEPTIONS FOR CURFEW REQUIREMENTS; PROVIDING FOR GEOGRAPHIC APPLICATION; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR AUTHORITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 06-012.

Council schedule the second reading and public hearing for Tuesday, October 03, 2006 at 9:15 a. m.

**CONSENT AGENDA:**

Council pulled the following: item (c), (f), and (g)

- a. **Request from Sanibel Community Association (SCA), 2173 Periwinkle Way for 29 Special Events Permits for CY 2007**
  
- h. **Approval of the West Coast Inland Navigation District (WCIND) grant in the amount of \$50,000 for the Marine Law Enforcement project and authorize the City Manager to sign the grant**

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to approve items (a) and (h).

The motion carried unanimously.

Ms. Zimomra read the following titles:

Resolution 06-138, Resolution 06-140, Resolution 06-143, Resolution 06-136, and Resolution 06-137.

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to adopt Resolutions 06-138. 06-140, 06-143, 06-136, and 06-137.

- b. **RESOLUTION 06-138 PERTAINING TO CHAPTER 14 OF THE SANIBEL CODE ENTITLED "BUILDING AND BUILDING REGULATIONS"; AMENDING ARTICLE IV, PERMITS, SECTION 14.191, FEE SCHEDULE, ADOPTED PURSUANT TO THE AUTHORITY OF CITY OF SANIBEL ORDINANCE NO. 03-011; AMENDING THE BUILDING PERMIT AND BUILDING REGULATION RELATED FEES SET FORTH THEREIN; AND PROVIDING AN EFFECTIVE DATE**
  
- d. **RESOLUTION 06-140 ESTABLISHING RECREATION USER FEES FOR CITY OF SANIBEL RECREATION PROGRAMS FOR FISCAL YEAR 2006-07 PURSUANT TO CITY OF SANIBEL ORDINANCE NO. 03-008; AUTHORIZING CITY MANAGER TO APPROVE NEW RECREATION PROGRAMS DURING THE FISCAL YEAR 2006-07 AND ESTABLISH FEES FOR SUCH PROGRAMS, PROVIDED THE**

**FEES ESTABLISHED DO NOT EXCEED THE COST OF OPERATION OF THE PROGRAM; AND PROVIDING AN EFFECTIVE DATE**

- e. **RESOLUTION 06-143 AUTHORIZING THE CITY MANAGER, ON BEHALF OF THE CITY OF SANIBEL, TO ENTER INTO AN AGREEMENT WITH ASHLEY & BROWN CERTIFIED PUBLIC ACCOUNTANTS, P.A., TO PROVIDE AUDITING SERVICES TO THE CITY OF SANIBEL; AND PROVIDING AN EFFECTIVE DATE**
  
- i. **RESOLUTION 06-136 ESTABLISHING THE CLASSIFICATION PLAN AND PAY SCHEDULE FOR CITY EMPLOYEES FOR FISCAL YEAR 2006-2007; ESTABLISHING PAY GRADES AND PAY RANGES FOR NON-UNION AND UNION POSITIONS; ADOPTING RE-DESCRIBED JOB DESCRIPTIONS; AUTHORIZING THE CITY MANAGER TO AMEND JOB DESCRIPTIONS AS NECESSARY TO KEEP SUCH DESCRIPTIONS CURRENT; AND PROVIDING AN EFFECTIVE DATE**
  
- j. **RESOLUTION 06-137 AUTHORIZING THE CITY MANAGER TO WRITE-OFF CERTAIN ACCOUNTS AS UNCOLLECTIBLE; AND PROVIDING AN EFFECTIVE DATE**

Public Comment:  
None.

The motion carried unanimously.

- c. **RESOLUTION 06-139 PERTAINING TO CHAPTER 90 OF THE SANIBEL CODE ENTITLED "FEES", ARTICLES I AND II, AMENDING THE DEVELOPMENT REVIEW AND ADMINISTRATIVE FEES SET FORTH THEREIN; AMENDING THE SCHEDULE OF FEES FOR APPLICATIONS FOR PERMITS OR APPROVALS REQUIRED BY THE LAND DEVELOPMENT CODE; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-139.

Discussion ensued regarding reviewing the fees for signs.

Mr. Cuyler stated that the fee resolution was on this agenda due to the effective date October 01, 2006. He further stated that Resolution 06-139 could be adopted and for those fees Council wanted to delay discussion another resolution could come back to Council for consideration.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Resolution 06-139 excluding Section 19-16 and bring back to Council for consideration.

The motion carried unanimously.

- f. **Request from B. I. G. Arts, 900 Dunlop Road to serve wine and/or beer on December 06, 2006 at the Rotary Club Christmas Party held at B. I. G. Arts, 900 Dunlop Road**

**g. Request from B. I. G. Arts, 900 Dunlop Road to serve alcoholic beverages with a catered meal at the Realtors Annual Meeting to be held on October 19, 2006**

Councilman Rothman spoke to his concern regarding the use of alcoholic usage on City property due to underage drinking and being in competition of island businesses.

Discussion ensued regarding the function of B. I. G. Arts, the need for a policy, events not in the current lease agreement, make certain the City would be cover by insurance, the need to modify the lease agreement, and B. I. G Arts came before Council in August of dates that would include alcohol service for approval.

Mr. Cuyler stated that there were insurance requirements for \$100,000 personal injury and property damage. He further stated that staff would review the cover and there was no specific hold harmless agreement due to the nature of the event. He related a certain court case with service of to much alcohol.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to delay consideration of items (f) and (g), and bring back for discussion at a future meeting.

Ms. Zimomra noted that staff would be prepared for discussion on October 17<sup>th</sup>.

Councilman Rothman amended the motion to approve item (g) and discuss item (f) at the October 17, 2006 Council meeting. Vice Mayor Denham agreed.

Public Comment:

Dr. Berger spoke to his disagreement of serving alcohol on City property.

Discussion ensued regarding service of liquor.

The motion carried unanimously.

## **OLD BUSINESS**

### **Water Quality Issues**

#### **City of Sanibel and Lee County Health Department Meeting**

Councilman Brown spoke to the above-mentioned meeting as follows:

- Health Department reports on 90 entities
- Health Department does not report on water quality
- Neurotoxins from shellfish
- Monitor e-coli in Lee County waters
- Passive program

Ms. Zimomra spoke to the discussion involving new research, but the Health Department followed certain state and federal mandates, and Dr. Hartner admitting that the Lee County Health Department does not know if there were health problems with water quality.

Discussion ensued regarding asking the state delegation for help, and no health check for water related illnesses.

## **Staff Reports**

### **Report from Natural Resources Department**

James Evans gave the following report:

- Lake Okeechobee level 13.43 feet
- Total inflows to Lake Okeechobee was 2,637 cubic feet per second
- Total outflows approximately 3 cubic feet per second
- No reports for some of the structures due to no releases
- Zero flow from Lake Okeechobee to S-77
- 2,925 cubic feet per second at S-79
- No releases to St. Lucie, but there was basin flow
- Seeing a lot of dark water in the estuary
- A lot of basin run-off, as much as 20,000 cubic feet per second
- Seeing a lot of algae along Wildlife Drive
- Seagrass in refuge stunted
- Experiencing a red tide event
- Mile marker 2 to Blind Pass with cell counts of 2 million over liter
- Dozen dead terns near Blind Pass

### **Meeting Reports:**

Mr. Evans gave the following report.

- Attended the WRAC meeting September 07 in Naples
- Mike Bower, City of Naples gave a presentation on storm-water quality parks where they treat the water before releasing in to the Naples Bay
- Temporary forward pumps installed by January
- Permanent forward pumps still being evaluated by U. S. Fish and Wildlife for a biological opinion
- Dennis Duke gave the TSP presentation

### **Army Corps of Engineers September 14, 2006 meeting**

Discussion ensued regarding the focus of the meeting was the regulation schedule for water quantity for water releases for Lake Okeechobee through 2010, study did list estuary detrement, continual dead fish and algae along the beach, agreement to put in the TSP the use of private lands for water storage, other than Commissioner Tammy Hall and Sanibel Council no other elected officials present, and meeting well attended.

### **Meeting with Carol Wehle, Executive Director of South Florida Water Management District (SFWMD)**

Mayor Johnston spoke to her meeting as follows:

- Requested a letter to Colonel Grosskruger from SFWMD regarding available land and water containment on private lands
- List of parcels from the Army Corps of Engineers (ACOE)

Discussion ensued regarding exact presentation by Benita Whalen made in January, water placement on 450,000 of acre feet for water storage, put untreated water on land, some water going south would be treated, SFWMD would be responsible for containment and conveyance of water, the need for the governor's office facilitating getting the ACOE information from the SFWMD, water going to Holy Land and the Rutenburg property would be partially treated, polluted water coming to the Caloosahatchee River, time needed to review material submitted at this meeting, Mr. Cuyler stated that were 2 items; 1) 2800 ceiling; and 2) the support of the 450,000 acres of storage; he further spoke to 2800cfs wet season and 800 cfs dry season understood that to be what Council was supporting and remained consistent.

Councilman Rothman gave a brief PowerPoint presentation

Councilman Jennings made a motion, seconded by Vice Mayor Denham, that the Army Corps of Engineers 2007-2010 Lake Okeechobee Regulation Schedule (LORS) must meet its stated objective: "Reduce high regulatory releases to the estuaries."

1. In order to do so, the LORS must cap the quantity of water released into the Caloosahatchee from S-79 at the biologists' ceiling of 2800cfs during the wet season and 800cfs during the dry season.
2. LORS must explicitly add into its ordered "Operational Guidance" the flow of water to additional emergency water storage locations, listing specific designated District owned or leased properties as well as Corps owned or leased properties able to store 450,000 acre feet of water or more.

The motion carried with Councilman Brown voting in opposition.

Vice Mayor Denham made a motion, seconded by Councilman Rothman that the SFWMD and the Corps must cooperate in incorporating explicit additional emergency water storage locations into the Army Corps of Engineers 2007-2010 Lake Okeechobee Regulation Schedule (LORS).

SFWMD had indicated that these locations could be available by 2007 and could accommodate at least the 450,000 acre feet of water.

Sanibel call upon the Governor's Office to provide any necessary assistance to ensure that the land necessary for 450,000 acre feet of emergency water storage was available for use by 2007. The SFWMD must assure the Corps, in writing, that adequate work for conveyance and containment for the water to each parcel would be complete in time to include the parcels in the 2007-2010 LORS' Operational Guidance."

The motion carried with Councilman Brown voting in opposition.

Councilman Rothman made a motion, Councilman Brown, to request that the AECO add into the TSP the requirement to equalize water amount releases to the east and west weekly.

Discussion ensued regarding the need to take legal action, the need to receive less water, not friendly to request more water be sent to St. Lucie, and health risk due to exposure to pollutants.

Public Comment:

Mike Valiquette spoke to his disagreement to 50/50 water distribution, the need for shared adversity, sugar needed to maintain and purify their own water, and no water goes into Florida Bay.

Robin Humphrey spoke to Sanibel/Captiva Board of Realtors establish a Lake Okeechobee committee, and able to get an initiative before the Florida Board of Realtors for water quality legislation.

Erick Lindblad, SCCF spoke to the common theme of cooperation. He further stated that land acquisition and zoning would be important factors and the need for additional land for water treatment and flow ways.

Claudia Burns spoke to the amount of time being spent on water quality.

Councilman Brown withdrew his second.

The motion died for the lack of a second.

Council recessed at 11:40 a. m.

Council reconvened at 11:52 a. m.

### **Discussion regarding consideration of new strategies dealing with water quality**

Discussed earlier.

**Reconsideration of equalizing amounts of water sent east and west:**

Discussed earlier.

**Equalize the water East to West**

Discussed earlier.

**Request to direct staff to develop a Request for Proposal (RFP) seeking an Independent Expert (contractor) to conduct a comprehensive Health Study to evaluate historical impacts of water quality on Health and Establish Base-line data to evaluate health impacts to water quality; to conduct Trend Analysis and Develop and Operate a System to Monitor Health Impacts of Water Quality**

Councilman Brown spoke to protect residents and visitors from water pollutants. He further spoke to the need to have experts evaluate water quality for correlation of health hazards.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to direct staff to develop a Request for Proposal to conduct a comprehensive Health Study to evaluate historical impacts of water quality on Health and Establish Base-line data to evaluate health impacts to water quality; to conduct Trend analysis and Develop and operate a system to monitor health impacts if water quality.

Discussion ensued regarding effects of toxic algae already studied, should water from Lake Okeechobee for health hazards be tested, east coast numerous instances of foot lesions, number of dogs on island that play in the water had been taken to the veterinarian, study waters surround Sanibel, organisms already identified in water, animals/mammals dying from exposure to polluted water, proposal would include what was to be studied, and study to include the water surrounding Sanibel Island.

Public Comment:

Christy Anders spoke to skin lesions, begin study with local medical staff to find persons walking in to local clinics affected by being in the water, and the study would be an enormous and expensive research project.

Mike Valiquette spoke to his request 2 years ago to seek an independent expert to evaluate water quality. He further spoke to lobbying Lee County and the state for funding and research.

Discussion ensued regarding requesting the State delegation for support, Ms. Zimomra stated the RFQ would return from staff for Council approval and could request funding from other governmental entities for funding.

The motion carried unanimous.

Mayor Johnston passed a letter out to Council from Attorney General Charlie Crist.

**RESOLUTION 06-141 AMENDING SANIBEL RESOLUTION NO. 06-089 WHICH AUTHORIZED AND SCHEDULED 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; AMENDING THE ELECTION DATE FROM DECEMBER 5, 2006 TO DECEMBER 19, 2006 AND PROVIDING THAT SUCH REFERENDUM SHALL BE CONDUCTED BY MAIL BALLOT; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-141.

Discussion ensued regarding the change of date, Mr. Cuyler stated this was one of two resolutions to that were proposed to schedule proposed ballot questions for December 19; he further stated that Council had already adopted a resolution which scheduled the binding referendum pertaining to the expenditures of City funds for litigation relating to Lake Okeechobee, and in that resolution December 5<sup>th</sup> was the referendum date, but the Supervisor of Elections now explained the earliest date for the mail ballot would be December 19<sup>th</sup> due to a clearing period for the election machines, December 19 would be the actual date the votes would be counted, and ballots would be mailed to the electorate early December.

Councilman Brown made a motion, seconded by Councilman Jennings, to adopt the Resolution 06-141.

The motion carried with Mayor Johnston voting in opposition.

Discussion ensued regarding an educational mailing for the upcoming ballot questions and Ms. Zimomra stated that historical it was Council's practice to send out at least one educational mailing to the electorate.

### **Final Red Tide and Red Drift Algae Report:**

Ms. Zimomra stated that Council had previously seen the report in draft form.

James Evans spoke to the following:

- Showed increase in algae blooms further off shore
- Higher concentration of nutrients
- Consultant hired to refute study

Discussion ensued regarding that depending what outcome one might want different persons could be hired for a study, bringing attention to the nutrient issue of red tide, and Councilman Jennings going with Lee County 2 years ago when a report on red tide was presented to legislators.

Council decided to discuss recreation issues:

### **Recreation Center Issues**

#### **Recreation Center Staff Status Report**

Ms. Zimomra called Council's attention to the status report in the agenda packet.

### **Presentation by Peter Brown and Henry Woodroffe:**

The following report was given:

- Everything going according to schedule
- Foundation would begin in October
- Three months before walls would be seen
- Working on underground utilities

Discussion ensued regarding a camera working on site to see the actual construction, waiting for cable company to install a web camera line, and forms would begin November.

Council decided to discuss the following:

**Reconsideration of RESOLUTION NO. 06-128 SUPPORTING THE POSITION OF SANIBEL RESIDENTS THAT LEE COUNTY SHOULD INCLUDE AN EASTBOUND LEFT TURN LANE AT PUNTA RASSA AS PART OF THE TOLL BOOTH DESIGN AND CONSTRUCTION PROJECT; URGING LEE COUNTY**

## **TO RECONSIDER ITS DECISION TO REMOVE SUCH EASTBOUND LEFT TURN LANE; AND PROVIDING FOR AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-128.

Councilman Rothman made a motion, seconded by Councilman Brown, to adopt Resolution 06-128.

The motion carried unanimously.

Council recessed at 12:46 p.m.

Council reconvened at 1:50 p.m.

### **Discussion regarding staff recommendation for consideration of a Zoning in Progress for generators in residential areas**

Bob Duffy, Planning Director spoke to the following defining potential amendments to the Land Development Code (LDC) to address applications for emergency electrical power generators.

- Growing demand for permanent and portable electrical power generators
- 7 applications since January, 2006 and another 7 applications pending
- LDC does not currently define or set special standards for either permanent or portable generators
- Reviewed as a short-form development permit
- Considered by set backs and related dimensional requirements as related to specific property and zoning district
- Consider manufacturing specifications and sound level information
- Compare noise regulations to sound level information
- Residential zones between 7 a. m. and 10 a. m. noise would be limited to 66 decibels; between 10 p. m. and 7 a. m. noise would be limited to 60 decibels
- Commercial properties would have a slightly higher noise decibel
- Staff would recommend that Council might consider directing the Planning Department working with the City Attorney to develop regulations to address the equipment due to the growing interest and demands as a result of tropical storms
- Agenda packet information defines a zoning ordinance and zoning-in-progress while preparing legislation
- Staff recommending 2 alternatives:
  - Treat applications as a short-term application when complying with City regulations
  - Consider a comprehensive permitting process to coordinate the review in both the Planning and Building Departments

Mr. Duffy continued with alternative approaches:

- No change to current decibel readings
- During zoning-in-progress should current noise decibels be maintained or should the decibels be slightly higher as an emergency situation only during daylight hours
- Long-form application development permit needed if threshold surpassed, then would require Planning Commission review and the need to define a fee schedule under zoning-in-progress
- Include abutting property owner notification as with above-ground pool requirement and applicant could demonstrate
  - There was no other alternative electrical power generator that could operate at a lower decibel rate
  - No other site locations to mitigate noise
  - Alternative sound or attenuation devices

Mr. Duffy spoke to no code language addressing portable electric power generators except in the noise language, which specifically exempts certain types of devices that generate significantly higher noise

decibels. He further spoke to the need to classify portable electric power generators as utilized as a routine non-emergency situation.

Discussion ensued regarding equipment that operates below the current defined decibel readings, generator used only in an emergency situation, generator would have an exercise cycle, which was below the noise requirements, no equipment that meet the current noise decibel regulation, at least 3 generators that meet the noise decibel requirements if new language adopted, criteria needed to be changed to meet industry equipment standards, one application on file, staff knows there would be 5 or 6 additional applications forthcoming, should not delay the submitted application, exercising time during daylight, generator models on the market that operate between 59 and 66 decibels during the exercising process, all applications approved since January, 2006 had consistent compliance to the noise regulations, those already installed would be grandfathered and were consistent with current and proposed language, any way to measure attenuation, and language would include ways to measure attenuation.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to approve granting the application submitted by Mr. Kevin Ruane.

Discussion ensued regarding any discussion of sound attenuation to reduce the noise decibel level, Mr. Duffy stated there were significant dimensional and site issues and the applicant had worked with staff as needed, staff turned the applicant down due to current code language, necessary to come before Council, side yards were identical on both sides of the house, staff looked for alternatives, noise measured at 7 meters (adjoining property owners) and the specification was 71 decibels, distance measurable for noise would be what was set by the manufacture, rely on the specifications provided by manufacturer, current application would meet recommendation B, Mr. Cuyler stated that the zoning-in-progress would say 21 meters, which would be 21 feet off the property line, and staff would work with applicant, the current applicant proposal would not meet the proposed specifications, and staff would work with the current applicant to meet the standards noise attenuations.

Councilman Jennings amended his motion to grant a wavier for the requirement and not come back to Council in 180 days. Vice Mayor Denham agreed to the amendment.

Public Comment:

Dr. Berger spoke to how loud generators were when activated. He further spoke to the fact that when equipment gets older the noise becomes louder.

Jeff Molnar spoke to the need to maintain the flood elevation, which would affect noise. He further spoke that there were 4 or 5 manufactures with sound decimals of 76 or below for generators, fire codes and running electrical wires to the unit. He stated that Lee County had no decimals levels for generators.

Discussion ensued regarding a start-up delay, and Mr. Molnar stated he did not think there was no way to adjust the start-up, but would inquire.

Mr. Cuyler asked if the generator could be place anywhere or did the generator need to be placed beside the house.

Mr. Molnar explained the most desirable place was next to the house, but a wire could be instituted from the house to the generator.

Brady Reese spoke to over 30 proposals for generator stand-by unit.

Kevin Ruane spoke to the location of the proposed generator and the noise.

Mr. Cuyler stated that Council could grant a permanent wavier of the requirement to come back to Council in 180 days.

The motion carried unanimously.

Councilman Brown made a motion, second by Vice Mayor Denham, to direct staff to continue with the Zoning-in-progress.

The motion carried unanimously.

### **Discussion of the new Flood Insurance Map proposed in the Preliminary Flood Insurance Study (FIS) Report by the Federal Emergency Management Agency**

Mr. Robert Duffy, Planning Director gave a brief PowerPoint presentation.

- Notice from FEMA in July, 2006 filing an insurance rate study and flood insurance rate map
- November, 2005 Council authorized a consultant to work on the project
- September, 2006 report to Council
- Recommendations
  - Authorize City Manager to submit report to FEMA
  - Authorize City Manager to request that FEMA conduct a special meeting on Sanibel
  - Authorize City Manager to post information on City's website and linked with Lee County's webpage on the FEMA report

He further stated that Sanibel had been a part of the national flood program since 1979, and important to remain part of the Flood Insurance Program to retain resident eligibility. He further stated that the program was part of the Sanibel Plan and later part of the Land Development Code (LDC). He advised Council that the last update was in 1996 and adopted by Council. He also advised that FEMA would hold a public meeting in Lee County on October 26, 2006 to begin the formal review process.

Mr. Ken Pfalzer, Deputy Planning Director spoke to the following:

- Scale changed to measure elevation
- Current map used NGVD (National Geodetic Vertical Data)
- New maps under NAVD (North American Vertical Data)
- Map color green decrease in base flood elevation
- Map color yellow no change
- Map color grey shading significant changes (Zones 1,2,and 3)
- Impact of V Zone changes particularly on the east end of the island extending back from the lighthouse all the way to Sanibel Estates in some instances would be in the V Zone category (velocity zone)
- Base flood elevation measured to the lowest horizontal member structure rather than the finished floor
- Flood proofing for non-residential structures would not be allowed in the velocity zones
- No flood proof structures moving in to the velocity zone under the proposed maps
- The non-conformity that would be created by the new maps would be homes that were built at an elevation that was lower than the new elevation established by the proposed maps
- Since 1991 gulf front properties built to state standards were above the proposed elevation

Tomasello Consulting Engineers, Inc. spoke to the following: (Dick Tomasello)

- Hired to review technical aspect regarding maps
- Flood elevations were established by the SFWMD at 100 years flood storm surge (still water)
- FEMA decided that the still water elevation was not accurate and the wave set-up needed to be factor into the results and 1.5 wave action was incorporated
- Model calibrated to storm surge
- FEMA had new set of results from still water elevation
- Found some base elevations lower and some higher

Councilman Brown made a motion, seconded by Vice Mayor Denham, to forward the report to FEMA.

The motion carried unanimously.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to institute Sanibel Flood Maps as a link to the Lee County website.

The motion carried unanimously

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to invite FEMA to hold a public hearing on Sanibel after October 26, 2006.

Discussion ensued regarding any idea how many homes would be affected and at this time the number was not known.

Public Comment:

Mike Valiquette spoke to FEMA keeping the same rules across United States.

The motion carried unanimously.

**COMMITTEES, BOARDS COMMISSION  
RESOLUTION 06-134 PERTAINING TO THE SANIBEL BOARD OF TRUSTEES OF THE MUNICIPAL POLICE OFFICERS' RETIREMENT TRUST FUND; ACKNOWLEDGING THE ELECTION OF TWO TRUSTEES BY POLICE OFFICER MEMBERS OF THE PLAN; REAPPOINTING TWO RESIDENT MEMBERS TO THE BOARD; AND REAPPOINTING THE BOARD OF TRUSTEES' SELECTED MEMBER TO SERVE TWO-YEAR TERMS COMMENCING OCTOBER 1, 2006 AND ENDING ON SEPTEMBER 30, 2008; AND PROVIDING AN EFFECTIVE DATE**

Mr. Cuyler read the title of Resolution 06-134.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Resolution 06-134.

The motion carried unanimously.

**RESOLUTION 06-135 CONFIRMING THE ELECTION OF TWO TRUSTEES OF THE GENERAL EMPLOYEES' RETIREMENT PLAN BOARD OF TRUSTEES BY THE MEMBERS; REAPPOINTING TWO MEMBERS OF THE BOARD OF TRUSTEES; AND PROVIDING FOR AN EFFECTIVE DATE**

Mr. Cuyler read the title of Resolution 06-135.

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to adopt Resolution 06-135.

The motion carried unanimously.

**Request from the Historical Preservation Committee to plant a Royal Poincianna Tree at the Historical Village, 950 Dunlop Road in memory of Milbrey Rushworth**

Ms. Zimomra stated that the reason this item was on the agenda was because the Royal Poincianna Tree was not indigenous to the island. She further stated that there was a policy established regarding only native vegetation could be planted.

Discussion ensued regarding the need to allow the planting a Royal Poincianna Tree, policy established by a past Council to plant only native vegetation on City land, Councilman Jennings spoke to allowing the planting of the requested tree and should not have come before Council.

Public Comment:

Patty Sousa spoke to Council only allowing native vegetation.

Councilman Jennings made a motion, seconded by Mayor Johnston, to allow the planting of a Royal Poincianna Tree at the Historical Village.

The motion failed with Vice Mayor Denham, Councilman Rothman and Councilman Brown voted in opposition to the motion.

## **NEW BUSINESS**

**RESOLUTION 06-142 AUTHORIZING AND SCHEDULING A MAIL BALLOT REFERENDUM PURSUANT TO SANIBEL CHARTER SECTION 3.17(b) TO DETERMINE WHETHER THE CITY ELECTORS APPROVE CERTAIN IMPROVEMENTS TO PERIWINKLE WAY BETWEEN APPROXIMATELY 1/8 MILE WEST OF ITS INTERSECTION WITH CASA YBEL ROAD TO A POINT APPROXIMATELY 1/4 MILE EAST OF ITS INTERSECTION WITH DIXIE BEACH ROAD, SAID IMPROVEMENTS PRIMARILY TO PROVIDE FOR SHARED USE PATH SAFETY IMPROVEMENTS SUBSTANTIALLY WITHIN THE EXISTING CITY RIGHT-OF-WAY, BUT INCLUDING ALTERED VEHICULAR TRAVEL LANES AND DRAINAGE IMPROVEMENTS; ESTABLISHING THE DATE OF THE ELECTION; REQUESTING THE LEE COUNTY SUPERVISOR OF ELECTIONS TO 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 06-142.

Councilman Brown made a motion, seconded by Councilman Jennings, to adopt Resolution 06-142.

Mr. Cuyler explained the following:

- Replace Dixie Beach Road to Dixie Beach Boulevard
- Delete “of Periwinkle Way” and add “and drainage improvements but no additional vehicular travel lanes” in the ballot question

Public Comment:

Claudia Burns spoke to the need of the referendum due to the road between Palm Ridge and Tarpon Bay being shifted.

Discussion ensued regarding having the 2 ballot questions on the same referendum date, the need for proper educational material sent to the electorate, Mr. Cuyler stated the December 19 for water litigation was the only available date, but the Periwinkle Way question could be done in April and the construction would be done during the summer months, other municipalities having April elections, Mr. Cuyler stated the charter designates this question had to be a mail ballot and were on the same mail ballot due to funding.

Councilman Brown amended the motion to include the suggested amendments by Mr. Cuyler and the date being April 17, 2007. Councilman Jennings agreed.

The motion carried unanimously.

Discussion ensued regarding Council reviewing issues without having a policy, the need for vegetation policies and a vegetation plan at the Historical Village.

### **Community Housing Resources (CHR) 2007 Budget**

Ms. Zimomra called Council's attention to the agenda packet information. She stated the amounts in the budget reflected the amounts in the City's budget as established in the previous contract.

### **Request from Billy Kirkland, DBA Billy's Bike Rentals for segway use on Sanibel Island**

Ms. Zimomra stated at several Council meetings ago Mr. Kirkland requested to be placed on a Council agenda for discussion the extension of permission to utilize personal segways on Sanibel and material provided by Mr. Kirkland was in the packet.

Mr. Kirkland spoke to the following:

- Request to use personal segways on Sanibel
- Segways safer than bikes
- Segway recall all completed
- Getting ready to go before the Planning Commission for an extension of the segway tours
- Sanibel the only place in Lee County that segways were not allowed
- Sold 50 segways

Discussion ensued regarding Planning Commission hearing the review of 18-month trial use.

Mr. Duffy spoke to the following:

- Council provided correspondence to Mr. Kirkland to amend or extend the limited tour zone
- Planning Commission had authority to address
- Ordinance 05-011 Council adopted regarding use of segways

Discussion ensued regarding a list of communities that allowed segways, safety questions from last year, ask Mr. Duffy look at, Mr. Kirkland spoke to having no licenses to rent or lease segways, and extending the tour area, and Council directed Mr. Kirkland to discuss his questions with Mr. Duffy.

Mayor Johnston stated she knew Council had already discussed and voted on the issue of a Royal Poincianna Tree being planted at the Historical Village in memory of Milbrey Rushworth, but Mr. Bailey had requested to comment.

Council agreed.

Public Comment:

Sam Bailey spoke to a family request to plant a Royal Poincianna Tree at the Historical Village.

Councilman Brown made a motion, seconded by Councilman Jennings, to reconsider the vote on planting a Royal Poincianna Tree.

Ms. Cuyler explained that if this motion carried a new motion could be entertained.

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

Councilman Brown made a motion, seconded by Councilman Jennings, to allow a Royal Poincianna Tree to be planted at the Historical Village in honor of Milbrey Rushworth, and create a vegetation plan for City

property to abide more in keeping with the rules so this type of request does not have to come before Council.

Ms. Zimomra asked for clarity and stated that Council adopted a previous policy that there would be 100% vegetation on all City land or just the Historic Village and makes exceptions for memorials.

Discussion ensued regarding memorial trees near the gazebo, and the trees were approved by Council and were all native.

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

The motion carried with Councilman Rothman voting in opposition.

Mr. Cuyler stated that the comment letter would be submitted to the ACOE on the Lake Management and would like to have a motion to authorize a water specialist to review the regulation schedule.

Council agreed.

Discussion ensued regarding the vote for the Periwinkle Way Shared Use Path improvements should be December 19, 2006.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to hold the Periwinkle Way referendum on December 19, 2006.

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

## **CITY MANAGER'S REPORT**

### **Informational items:**

#### **Planning Department Report**

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

## **CITY ATTORNEY'S REPORT.**

None.

## **COUNCILMEMBERS' REPORT.**

None.

There being no further business the meeting was adjourned at 4:16 p.m.

Respectfully submitted by,

Pamela Smith, CMC  
City Clerk