

**SANIBEL CITY COUNCIL REGULAR MEETING
NOVEMBER 21, 2006**

Mayor Johnston called the meeting to Order at 9:03 a. m.

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

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

PRESENTATION(S):

Proclamation observing November 25, 2006 as the International Day Against Violence Against Women

Vice Mayor Denham read and presented the proclamation to Carolyn Gray of Zonta.

Ms. Gray spoke to violence against women and thanked Council for the proclamation.

Public Comments:

Hazel Schuller requested that the City request funds from the Human Services Council and appoint a person to attend.

Dr. David Berger spoke to the approval of segways for 18 months and the same specification of direction to report any incident with segways. He asked Council to 1) the review the requirements for safety, and 2) City Council's involvement.

Councilman Brown noted that he thought the segway issue would come to Council for an assessment decision and found the decision would be made by the Planning Commission.

Mr. Cuyler stated that the issue of the conditional use would only come to Council on appeal. He stated that Council could review the safety issue.

Council directed staff to gather information necessary for a segway safety issue and add to the December 05 City Council agenda.

Discussion ensued regarding the Planning Commission not discussing safety issues.

Council Comments:

Discussion ensued regarding a representative for the Human Services Council, most 2006 meetings conflicted with City Council meetings, and a resident submitting an application to the Council to represent Sanibel.

Councilman Brown spoke to reading the most recent book written by Anderson Cooper.

Councilman Jennings congratulated Pamela Smith, City Clerk for winning an award for City Clerk of the Year.

Councilman Rothman spoke to the nicest sign on the island being the Island Inn sign.

Planning Commission Report:

Mike Valiquette gave the following report of the November 14, 2006 Planning Commission meeting.

- Major subdivision at the Old Schoolhouse Theater location continued
- Segway approved 4 to 3
- Amendment for LDC commercial land use regulations
- Amendment LDC not permitting Beach Clubs back on December 06, 2006

Mr. Cuyler explained that there was a 3/3 tie and Planning Commission continued and was approved on November 14, 2006.

First Reading of an ordinance and scheduling of public hearing.

ORDINANCE 06-016 SPECIAL EVENTS AMENDING CHAPTER 110 - SPECIAL EVENTS, TO UPDATE THE CITY OF SANIBEL'S CURRENT REGULATORY SYSTEM FOR SPECIAL EVENTS PERMITS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-016.

Council set the second reading and public hearing for December 05, 2006 at 9:15 a. m.

SECOND READING AND PUBLIC HEARING

ORDINANCE 06-017 OF THE CITY OF SANIBEL, FLORIDA, AMENDING SANIBEL CODE CHAPTER 74, WATERWAYS, ARTICLE III, BOAT RAMPS, SECTION 74-98, ENTITLED "USE OF THE CITY PUBLIC BOAT RAMP FACILITY"; AMENDING SUCH SECTION, TO MAKE IT CONSISTENT WITH EXISTING CODE SECTION 74-96, BY PROVIDING THAT NO PERSON SHALL FISH WITHIN 100 FEET RATHER THAN 50 FEET OF THE CITY PUBLIC BOAT RAMP FACILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-017. She explained that staff was increasing their diligence to enforce regulations

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt Ordinance 06-017.

Public Comment:
None.

The motion carried unanimously.

ORDINANCE 06-018 AMENDING THE CODE OF ORDINANCES, PART II SANIBEL CODE, SUBPART A GENERAL ORDINANCES, CHAPTER 30 ENVIRONMENT, ARTICLE III NOISE, SECTION 30-65 EXCEPTIONS, TO MAKE EMERGENCY ELECTRICAL POWER GENERATORS EXEMPT FROM MAXIMUM PERMISSIBLE SOUND LEVELS; AND AMENDING PART II SANIBEL CODE, SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126

ZONING, TO ADD A NEW DIVISION 15 EMERGENCY ELECTRICAL POWER REGULATIONS, TO INCLUDE A NEW SECTION 126-1295 GENERALLY, THAT PROVIDES DEFINITIONS AND APPLICATION REQUIREMENTS AND PROCEDURES FOR OBTAINING A DEVELOPMENT PERMIT FOR AN EMERGENCY ELECTRICAL POWER GENERATOR; AND A NEW SECTION 126-1296 STANDARDS, THAT PROVIDES THE STANDARDS, INCLUDING MAXIMUM PERMISSIBLE SOUND LEVELS, FOR EMERGENCY ELECTRICAL POWER GENERATORS; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-018.

Mr. Bob Duffy gave a brief overview:

- October 24 Planning Commission approve an ordinance to forward to Council
- Background ,material in agenda packet
- September 09, 2006 report to City Council regarding an increase in number of applications for development permits for permanent alternative electrical power
- Current code does not speak to any regulations
- September 09, 2006 a homeowner was given an exemption
- Planning commission came before Council with framework for development of an ordinance.
- The proposed ordinance would do the following:
 - Would amend noise regulations in an emergency situation only for an alternative electrical power that would exceed the current noise ordinance of 66 decibels in daytime and 60 decibels at night to 72 decibels.
 - Testing of equipment in non emergency situations could not exceed the current noise ordinance levels.
 - Permitting procedure established would involve a short-form and long-form applications and the applicant would have to demonstrate that there was no alternative electrical power and a maximum decibel reading of 72, and screening would be done so that noise would be diminished.
 - If 72 decibels were exceeded a long-form application would be necessary and would go before the Planning Commission for approval.

Planning Director Duffy commented on an email sent to Council by a resident on Hibiscus Drive regarding excessive noise from a large generator of 80 kilowatt without a permit, and that Code Enforcement is taking action to ensure compliance with current noise ordinance.

Mayor Johnston spoke on the following:

- Use of generators during emergencies,
- Concern regarding the current City decibel level limits
- Reviewing and reducing the current decibel limits
- Meeting with manufactures to accommodate noise without disturbing the neighbors.

Vice Mayor Denham spoke on the following:

- The current noise limits are lower than landscaping equipment
- Generators should be used in case of an emergency
- Testing should only take place during day
- That a non emergency power blip would make generators come on
- Require a delay switch be added on generator of possibly for thirty to forty minutes before the generator comes on for minor emergencies.

Planning Director Duffy spoke that operating schedule for the day can be timed so the generator does not come on at night, and that landscaping machines are exempt from current ordinance.

Councilman Jennings spoke on the follow:

- Requirements for portable generators on the island
- Noise restrictions limits for portables
- Safety issues
- Use of Gas
- The ability to lock your windows with a permanent generator
- Permanent generators would be quieter than portable ones
- Noise level would be reduced
- Fire safety with noise reducing boxes for generators
- Carbon Monoxide

Planning Director Duffy spoke that there was currently no requirements for portable generators, no noise restrictions on portables, safety issues, sound absorption, generator warranties, and that residents will need a permit to insure safety.

Councilman Rothman spoke on the following:

- The Ordinances' short form application
- If generator was placed 20 feet away from house will the generator exceed current noise levels
- Sound absorption requirements for sound barriers such as vegetation, in
- Industry standards for generator alternatives.
- For future generators with less noise, will people have to buy the latest model before permit would be issued?
- Make sure that Ordinance can be amended if needed

Planning Director Duffy spoke that the placement of generators near buildings should be seven meters that the resident would need to show there were no other alternatives to the generator used in the short form, application standards, and generator cycle decibel levels.

Mayor Johnston made a motion, seconded by Vice Mayor Denham for the Ordinance go back to City Staff to include the following: Councilman Rothman ideas, require a delay switch on generators if the generator comes on at night, Councilman Jennings ideas on portable standards, and bring the revised ordinance back to Council, amended to delete ideas on portable generators standards.

Councilman Brown spoke on the following:

- Generators what is best for Sanibel as a whole
- Property rights and imposing on neighbors.
- Issue was not a major concern on the island, need of an exit strategy if residents can not sleep because the generator keeps turning on each night
- Resident need to justify how they are going to keep noise down

Public Comment:

- Judy Mitchee spoke that if a person was on life support, and there is time delay on generators, would one have to apply for exemption from the time delay because of health issues.

Planning Director Duffy spoke that staff would work on that issue.

The motion passed unanimously.

CONSENT AGENDA:

Ms. Zimomra read the following titles:

- a. **RESOLUTION 06-162 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-006 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$57,489 of FY06 unspent funds for the Henderson Road repaving project, for completion of the project in FY07)
- b. **RESOLUTION 06-164 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-007 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$91,285 of FY06 unspent funds in the Sanibel-Captiva Road Repaving Project, for the Sanibel School to Gulf Pines Dr. section of construction, for completion of the project in FY07)
- c. **RESOLUTION 06-166 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-008 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$67,700 of FY06 unspent funds, for shared-use path repairs in the Transportation Capital Projects Fund, for completion of the repairs in FY07)
- d. **RESOLUTION 06-167 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-009 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$59,070 of FY06 unspent funds, for repairs to the Lindgren Boulevard box culvert in the Transportation Capital Projects Fund, for completion of the repairs in FY07)
- e. **RESOLUTION 06-168 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-010 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$3,860 of FY06 unspent funds in the General Fund, for enclosing the old generator room at Public Works, for completion of the work in FY07)
- f. **RESOLUTION 06-169 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-011 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$4,740 of FY06 unspent funds, for one (1) water level recorder in the Transportation Capital Projects Fund, for purchase in FY07)
- g. **RESOLUTION 06-170 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-012 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$38,690 of FY06 unspent funds in the Transportation Capital Projects Fund and \$568,551 of FY06 unspent funds in the Periwinkle Road and Bikepath Fund, for road improvements from Palm Ridge Road to Tarpon Bay Road, for completion of the improvements in FY07)
- h. **RESOLUTION 06-171 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-013 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$68,542 of the FY06 unspent funds in the General Fund, for the shared-use master plan update, for completion of the update in FY07)
- i. **RESOLUTION 06-172 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-014 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$8,844 of FY06 unspent funds in the General Fund for roof and soffit repair at City Hall, for completion of the repairs in FY07)
- j. **RESOLUTION 06-173 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-015 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$57,500 of FY06 unspent funds in the Sewer Fund for variable speed drives and effluent pumps, for purchase in FY07)
- k. **RESOLUTION 06-174 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-016 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$80,823 of FY06 unspent funds in the Sewer Fund for Phase 3A professional engineering services, for purchase of the services in FY07)
- l. **RESOLUTION 06-175 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-017 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$5,497 of

- FY06 unspent funds in the Sewer Fund for Phase 3B professional engineering services, for purchase of the services in FY07)
- m. **RESOLUTION 06-176 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-018 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$1,950 of FY06 unspent funds in the Sewer Fund for Phase 4 professional engineering services, for purchase of the services in FY07)
 - n. **RESOLUTION 06-177 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-019 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$11,421 of FY06 unspent funds in the Sewer Fund for Phase 3A improvements, for completion in FY07)
 - o. **RESOLUTION 06-178 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-020 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$9,200 of FY06 unspent funds in the Beach Parking Fund for Chamber of Commerce restrooms, for completion in FY07)
 - p. **RESOLUTION 06-179 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-021 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$70,562 of FY06 unspent funds, in the Capital Acquisition Fund for wetland restoration along the Sanibel River, for restoration in FY07)
 - q. **RESOLUTION 06-180 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-023 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$3,950 of FY06 unspent funds, in the Beach Parking Fund for a beach parking meter maintenance contract with Parkeon, Inc., for a maintenance contract in FY07)
 - r. **RESOLUTION 06-181 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-024 AND PROVIDING AN EFFECTIVE DATE** (to roll forward from FY2006 fund balance the appropriation for the City's share of (County contributing 65% of project cost) Positron Power RMS 4 licenses @ \$38,660 each, 5 licenses for mobile dispatch workstations @ \$39,671 each and 2 power radio positions @ \$62,166 each, all of which interface with the new 911 system)
 - s. **RESOLUTION 06-182 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-025 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$6,495 of FY06 unspent funds, in the Capital Acquisition Fund for the purchase of an integrated license plate photo system, for purchase in FY07)
 - t. **RESOLUTION 06-183 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-026 AND PROVIDING AN EFFECTIVE DATE** (to roll forward the unspent funds for a weir water level monitor, rewiring HAM repeater, OSHA safety cable system and regrouping existing cables and installing a cable tray in the Capital Acquisition Fund from FY06 to FY07 in the amount of \$20,635)
 - u. **RESOLUTION 06-184 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-027 AND PROVIDING AN EFFECTIVE DATE** (to roll forward the unspent funds for the Old Schoolhouse restoration project (Project #SCHHSE) from FY2006 to FY2007 in the amount of \$8,417)
 - v. **RESOLUTION 06-185 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-028 AND PROVIDING AN EFFECTIVE DATE** (to roll forward \$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 and to roll forward \$5,000 for a Program Development Consultant for the Sanibel Historical Preservation Committee from the Southwest Community Foundation from FY06 to FY07)
 - w. **RESOLUTION 06-186 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-030 AND PROVIDING AN EFFECTIVE DATE** (to roll forward from FY06 to FY07 \$28,158 from Lee County for the construction of a skate park)

- x. **RESOLUTION 06-187 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-032 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$50,000 of FY07 funds for the sewer reuse project)

Councilman Brown made a motion, seconded by Councilman Rothman, to adopt the above-mentioned resolutions.

The motion carried unanimously.

- y. **RESOLUTION 06-163 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-163.

Councilman Rothman made a motion, seconded by Councilman Brown, to adopt Resolution 06-163.

The motion carried unanimously.

- z. **RESOLUTION 06-165 RE-APPOINTING TWO (2) MEMBERS TO THE CITY OF SANIBEL CONTRACTORS REVIEW BOARD; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-165.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt Resolution 06-165.

The motion carried unanimously.

- aa. **Request from the Historical Preservation Committee to serve wine at the Historical Village December 10, 2006 Christmas Party and February 14, 2007 Love Letters Play at the Schoolhouse**
- bb. **To approve an Agreement with Foster and Foster Consulting Actuaries, Inc., for an actuarial valuation to determine whether the City has potential Other Post-Employment Benefits (OPEB), exclusive of retirement (pension) benefits, and if so, the potential liability therefore, in compliance with Government Accounting Standards Board (GASB) Statement No. 43 and 45 which must be implemented beginning in Fiscal Year 2008**

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Consent Agenda items (aa) and (bb).

The motion carried unanimously.

Council recessed at 10:20 a. m.

Council reconvened at 10:30 a. m.

DISCUSSION OF VEGETATION COMMITTEE RECOMMENDATIONS ON AUSTRALIAN PINE TABLED AT THE FEBRUARY 07, 2006 CITY COUNCIL MEETING

Mayor Johnston suggested discussion to include the following segments:

- Pines on private property
- Reviewing proximately of pines to lift stations, electrical wires and evacuation route

Vice Mayor Denham made a motion, seconded by Councilman Brown, to not remove pines from private property.

Discussion ensued regarding trees that jeopardize health, safety and welfare of the community must be trimmed, any tree causing a safety issue or cause damage to City infrastructure, preventing exiting or entrance to the island in case of an emergency must be kept trimmed, if there was a safety issue that might cause damage to a public facility

Vice Mayor Denham amended his motion as follows: “if a tree regardless of the kind or other vegetation causing a safety issue or likely to cause damage to a lift station of public serving facility or likely to cause a delay in exiting or entering the island in the event of a storm or other catastrophic event the offending trees should be removed or trimmed. Councilman Brown agreed to the amendment.

Discussion ensued regarding LCEC tree trimming, public lands LCEC could remove trees and allow the City to do the same, any time a tree violates the health, safety and welfare of residents it should be removed or trimmed, if private owner does not agree that the offending tree was a danger whom would make the decision, Mr. Cuyler answered that if the motion were adopted his recommendation would be to bring back some form of ordinance/resolution that speaks to the above-mentioned with an appeal process, homes empty during hurricane season and the motion did not cover damage to private property, separate topic safety of individual properties, Mr. Cuyler stated that Council could discuss how to deal with private situations, but home owner should write a letter to neighbor and put them on notice that should damage occur they would be responsible for repairing any damage, the need to mitigate possible problems without tree removal, not singling out pines, but the discussion was for all trees, discussion on another date for private property damage due to falling trees, Mr. Cuyler stated that Council could legally address private property damage and the motion leaves open the issue of topping trees on private property, but does address not going on private property and removing trees except those instances of public safety and necessity, Mr. Cuyler further stated that there was a legitimate issue of neighboring trees causing problems, and direct the City Attorney to prepare an ordinance for Council consideration at a future meeting.

Public Comment:

Larry Schoop spoke to pines in large concentration cause problems. He further spoke to the motion limiting large platted lots to pines on large undeveloped parcels.

Ron Gueswicki spoke to removing all pines.

Bob Mitchell spoke to keeping pines.

Ann Murand spoke in agreement to the motion.

Rob Jess, Executive Director J. N. “Ding” Darling Wildlife Refuge spoke to the issue of public and private property rights. He further spoke to a problem of seed dispersion and private property owners should be responsible for seeding, spent \$1.5 million to remove exotic plants, and trees that eagles nest in could not be removed.

Louise Johnson spoke in agreement to saving pines and the motion.

Hazel Schuller spoke to the Sanibel Plan eliminating scenic preservation.

Phyllis Gresham spoke to the Vegetation Committee recommended pines be added to Sanibel’s list of invasive species and should be removed from areas that would impact evacuation routes.

Brad Smith, SCCF spoke to removing Australian pines from property.

Paul Andrews spoke to Australian pines not a native, but an exotic. He spoke to the need to provide native vegetation.

Sandy McCartney Ahlers spoke to Council giving serious consideration to global warming.

Sam Bailey spoke to keeping the pines.

Discussion ensued regarding not mitigating the problems that trees cause and incorporate in an ordinance, Australian pines should be added to the City's list of invasive plants, property owners could keep on private property, but not plant more, and modify the motion to add the pines to the invasive plant list.

The motion carried unanimously.

Council decided to discuss seed dispersal and topping.

Robert Banister spoke to an additional motion concerning making the pines an invasive species and urged Council not to do so.

Mary Jane McKenzie spoke to her concern of pines on private property and neighbors not responsive.

Mr. Cuyler spoke to the ordinance being limited to what the motion indicated, as well as who would make the determination of what was a public health, safety, welfare danger would be and that decision would be made by the City, and an appellate process in the event that someone feels aggrieved by the City Manager's decision. He further stated unless direction came from Council the ordinance would not address the issue of topping trees on private property.

Discussion ensued regarding a number of issues that property owners might have a dispute, reasonable to put out educational material, Mr. Cuyler answered it would be appropriate for an educational mailing because taxpayer was affected even when private property was damaged, responsibility of all property owners not to cause damage to a neighbors property, possible mailing of how trees could be topped and trees being a hazard during storms, recourse for property owners through the courts.

Bernie Lubetkin spoke to owning property in Palm Coast and the City having an ordinance where the City inspects the lots and found overgrown, then the City could go onto private property to clean and charge the property owner.

Claudia Burns spoke to a strong need to educate property owners and suggested having an advisory body with a specific oversight of pines and development of a policy to controlling vegetation rather than total removal.

Councilman Rothman made a motion to add Australian pines to the list of invasive plants.

Discussion ensued regarding reviewing the Sanibel Plan for the inclusion of Australian pines on the invasive plant list, inclusion on the invasive plant list would keep property owners from planting Australian pines, could direct staff to review the Sanibel plan, and Council directed staff to review the Sanibel Plan.

Rob Jess spoke a second time regarding global warming and a tree list that give credits to global warming.

Discussion ensued regarding the Sanibel Plan and under "Protection of Resources" states "prohibited exotic plants Australian pines," and staff directed to review the Sanibel Plan.

John Mannix spoke to keeping Australian pines.

Council recessed at 12:00 p. m.

Council reconvened at 1:03 p.m.

OLD BUSINESS

Water Quality Issues

Staff Reports

Beach Status

Dr. Loflin gave the following report:

- Most beaches in good condition and relatively free from algae, changing day to day and including Lighthouse, Tarpon Bay, all west end beaches and Gulfside Park
- Donax Beach had significant algae

Staff Report on status of Pilot Project for Beach Clean-Up

Ms. Zimomra spoke to a memo sent to Council explaining the largest issue was a disposal site for the red drift algae. She further spoke to Council receiving the results in the supplemental packet.

Gates Castle, Public Works Director spoke to the following:

- Contractor in place to do the beach clean-up
- Off-island disposal site a problem
- Lee County incinerator, Hendry County, Gulf Coast landfill would not accept
- Okeechobee landfill would accept

Dr. Loflin spoke to the following:

- Showed photos of the red drift algae
- Specimen of algae on the beach and then in the water
- 1 foot transect wide and experiment on the 1-foot swath
- Algae disappeared due to a combination of wind, current and tide
- Donax Beach the worst on the island 90 foot wide approximately .5 inches thick
- Meet with County and doing a study with Bryan LaPointe and Larry Brandt of Harbor Branch Institute
- Lee County dive team taking samples from the artificial reef off the island and found red drift algae
- Samples from 50 feet off-shore and found in the outer areas of deeper waters algae improving, closer to the island algae improving, mid-depths 30 to 35 feet algae remained
- Trying to get a signature on the nitrogen by sampling the algae
- Sanibel sampling showed the algae was due to run-off
- Material found on beach were 2 main species

Discussion ensued regarding off-shore algae, Dr. Loflin stated that there were subjective comparisons to past dives, and algae showed up after the 2004 hurricanes season.

Dr. Loflin continued:

- Artificial reef severely impacted
- Pilot program could be performed

Discussion ensued regarding being ready for clean-up, Dr. Loflin stated there was a verbal go ahead from DEP with the permit in the mail, mobilization cost would be \$6,000, if there was work then there would be no mobilization fee, paid per the contract, Mr. Castle stated the mobilization was useful in that the

contractor was able to determine to man power and equipment needed, would take a 4 to 5 day process to mobilize, Ms. Zimomra stated that at Council's direction the contractor mobilized and if work was performed there would be no mobilization fee and if not there would be a mobilization fee, can not have a contractor standing by for free, algae under shells and sand, tests showing different entities, Dr. Loflin answered the test showed presence absence, but previous charts showed data from Florida State Department of Health sampling and the only Sanibel sample was of the algae and was tested for the indicator species and showed there was indicator organism in the algae, Dr. Loflin further stated that the local labs could not sample human pathogens, but had found a lab that could test for human pathogens in Louisiana.

Dr. Loflin explained the lab results as follows:

- Total chloroform found
- E-coli found
- Did not find fecal chloroform
- Recommended the proposal from the doctors group, which was daily sampling over 3 weeks of the beach water
- Would have quantitative and qualitative results
- Able to determine by number of colonies if there was an infectious organism and the level

Discussion ensued regarding the doctors hypothesis that the algae along the edge of the water could be a contributor of pathogens in the water, could perform a more quantitative tests, state pre-empted the City from issuing beach advisories, Natural Resources already written a 3-week protocol for testing, the need to make the doctors group under sunshine, Mr. Cuyler stated that due to doctors group making recommendations to Council it was a good idea to formalize the appointments and starting complying with those requirements that would be applicable to a City advisory committee, sampling done now rather than waiting, the need to do the quantitative testing, appoint the doctors committee, clean-up an area of beach and see the results, Dr. Loflin stated Donax beach was the worse and hard to clean-up, the criteria was not for 1 inch draft standards, City had a triggering mechanism for opening the weirs, was there a mechanism for beach clean-up, Dr. Loflin explained there was a triggering mechanism in the proposed policy, give resorts and hotels permission to clean the beaches in front of their businesses, Ms. Zimomra stated that in her tenure there had been 3 or 4 occasions of large fish kills that triggered clean-up, but the challenge would be the disposal problem and looking to the City for disposal, Ms. Zimomra further stated that a reason for testing was to ascertain that the material was safe to handle, and defer to the health and medical personnel to make certain it was safe.

Councilman Brown made a motion, seconded by Councilman Jennings, to do a 3-week quantitative daily sampling at Lighthouse Beach, Tarpon Bay Beach, Bowman's Beach, Blind Pass and the end of Dixie Beach Road on the bay side.

Discussion ensued regarding no algae on the beach in the areas mentioned in the motion, Dr. Loflin stated there was some algae at most locations, draft policy speaks to a certain criteria for beach clean-up, sampling would be done daily for 3 weeks at multiple sites, sampling would show problems if there was a certain number of colonies, which would indicate the presence of infectious disease, Councilman Brown asked Dr. Berger if there should be additional testing, and he also asked to continue to be involved. Council agreed.

Dr. Berger stated that once collecting the samples use whatever criteria would give the most results.

Rob Jess spoke to partnering with the City, and the refuge had funds to perform soil testing for mercury.

Louise Johnson spoke to her concern of dead mammals being buried on the beach and the possible source of pollution.

Mr. Gates Castle spoke to there being a certain zone that dead mammals could be buried within.

Judy Minchie spoke to her concern of delaying beach clean-up.

The motion carried unanimously.

Discussion ensued regarding \$6,000 for the contractor mobilizing, Dr. Loflin stated the current level at the beaches would not match the proposed criteria, and the only beach impacted at this time would be Donax Beach and not recommending a clean-up, and do not want to give the community the impression that 1-inch of algae would be cleaned.

Jim Lavelle spoke to the effects of tourism and quality of life; the newspaper article spoke to something different than Council's discussion; City of Naples an on-going program to clean their beaches with a specialized piece of equipment and recommend purchasing specialized equipment for clean-up; turtles nesting above the high-water mark.

Discussion ensued regarding no need to clean-up 1-inch of algae, mobilize the contractor and pay a stand-by fee for 2 weeks, the need to see if the proposed practice would work, between 4 and 2 marker the beach feels like it had padding, the need to use the contractor, direct the Natural Resources staff to check and see if the algae was covered with sand.

Councilman Jennings made a motion, seconded by Councilman Brown, to take a section of beach remove the red drift algae, haul off and report back to Council.

Discussion ensued regarding looking at areas that were barely under the sand, and giving staff the best direction possible.

Public Comment:

Evelyn Nim spoke to removing the algae if dangerous and removing because it is stinky, and possibility of harvesting the algae.

Discussion ensued regarding a pilot project at Donax Beach, covered by sand and not noticeable, and possibly having a special meeting.

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

Councilman Brown made a motion, seconded by Vice Mayor Denham, to put the doctors group under sunshine.

Discussion ensued regarding the doctors agreeing to being appointed, Mr. Cuyler stated he had spoken to each member and seem comfortable and understood the legal requirements. Mr. Cuyler further stated he would bring back a resolution formally appointing the committee at the next Council meeting. He also stated that in the interim that committee would operate under sunshine.

The motion carried unanimously.

Council recessed at 2:07 p. m.

Council reconvened at 2:17 p.m.

Public Hearing regarding Evaluation Appraisal Report (EAR) plan amendments

Mr. Bob Duffy, Planning Director spoke to the following:

- Council adopted an ordinance for EAR plan amendments to the Sanibel Plan
- Process completed 3 previous times

- Transmittal hearing under Florida statutes and transmit recommendation to the Department of Community Affairs (DCA)
- Citizens that would like to receive notice from the DCA should sign in on the sheet at the back of the room

Mr. Ken Pfalzer spoke to the following:

- Preamble reflects the plan based on the 2004/05 EAR rather than 1995
- Page 2 Shared Use Path replaced bicycle path term
- Page 2 density discussion indicated the minor increases due to Below Market Rate Housing (BMRH) program and was not in City inventory
- Page 3 insertion of “parks and Recreation Master Plan
- Vision statement inclusion of the introductory phrase that discussed the EAR of 1995
- Page 7 Consistency and Feasibility of the Sanibel Plan; updated federal law, such as the Charlotte Harbor Management Plan as the 2000 plan instead of the 1981 plan
- Page 9 Economic Assumptions – putting out a RFP to update this section
- Page 10 bottom added a statement and update the economic assumptions

Discussion ensued regarding the economic base analysis must include of real estate and components that contribute to the tax base on the island due to the retail and service components go mostly to Lee County and not a community that was dependent on employment and jobs because most employees live off-island, Mr. Duffy suggested using commercial rather than retail service, island economy dependent on real estate tax base, and update paragraph that concentrates on the island economy.

- Page 11 no changes with coordination of surrounding areas
- Page 12 timeframe of plan would indicate short-range 2016 and long-range 2026
- Implication of plan changed to reflect current state statute
- Section 1.7 Monitoring the Evaluation; Identify the successes and challenges that reflect achievement and reflects the current formatting of the plan
- Page 15 introduces Article 2 relating to the 2004/05 EAR
- Increased verbiage, included the executive summary and listed of the major issues

Discussion ensued regarding page 17 and adding, “After conducting hearings each section of the plan the Planning Commission presented each section, does not document the 20 odd hearing conducted by the Planning Commission, and page 11 center of paragraph 3 speaks to 3 municipalities, (Ft. Myers, Ft. Myers Beach, Cape Coral) and Bonita Springs should be added.

- Page 18 Article 3 Goals, Objectives and Policies – new emphasis – in the 1976 plan rather than goals, objectives and policies had a plan element for each section, and those policies remain in the current plan

Discussion ensued regarding no human support systems, police and City Hall plan, page 19 old section had capital improvements and future land use item, and staff would review those sections.

- Page 20 Part3.1 Safety no changes and did introduce Part 3.1.1 Hurricane Safety
- Proposed adoption date of April 19, 2007
- Reflects the impact of Hurricane Charley and Wilma
- Page 24 Data and Analysis incorporated 2001evacuationstudy by the Regional Planning Council
- Hurricane Shelter – statement deleted “that Lee County Schools were the main provider of hurricane shelters”
- Page 25 reflecting the modification of the City’s Emergency Management Plan as it relates to refuges of last resort and urges it’s citizens to evacuation the island when the order was given and trying to identify places that could be used during recovery efforts

- Page 26 reflects the construction of the Sanibel Causeway and the possible 2-lane off component for evacuation purposes

Discussion ensued regarding Lee County never allowing 2-lanes off for evacuation, should work with Lee County and the need for 2-lanes off at the tolls, no permanent re-striping for 2-lanes off, and Lee County not preparing for 2-lanes off.

- Page 28 reflects 130 mph building code under the Florida Building Code

Discussion ensued regarding the Dade County wind speed, which was the same as the Florida Building Code.

- Page 29 reflects changes in the flood maps by changing the A Zone to AE Zone
- Page 29 and Page 30 removed some of the redundancies
- The need to change inaccurate numbering
- Page 32 no change in gulf statement Objective 1 through 3; Policy 3.8 changed speaking to a consideration in the EAR process saying “to secure improvement to the Lee County bridges and since the project was near completion the statement was changed to, “to ensure adequate operation and maintenance of Lee County bridges

Discussion ensued regarding page 32 using the past tense when speaking to bridge elevations and should reflect the present tense, and statement on page 32 “be of sufficient width to permit motor vehicle traffic to bypass disable vehicles,” had already been incorporated in the construction and should reflect the change.

- Page 34 policy deleted, “new structures that are a type which have common spaces will be developed in a manner amenable for uses emergency refuges of last resort”
- Page 35 Policy 3.6 deleted the phrase, “the Land Development Code needs to be monitored to ensure it is responsive to the threats posed by tropical storms”
- Included a graphic of Sanibel’s hurricane evacuation routes

Public Comment:

Hazel Schuller spoke to beach paraphernalia.

Council decided to discuss the following:

Draft Request for Proposals (RFP) to secure professional services for Periwinkle Way West – Town Center District

Mr. Duffy spoke to the following:

- Draft memo explaining the proposed RFP for professional services to undertake a commercial district plan in a defined area
- Area includes the western portion of Periwinkle Way west of Dunlop Road, Tarpon Bay Road and Palm Ridge Road
- The original draft proposal included the word town center, but the revised proposal would be for a comprehensive commercial district plan
- RFP structured to incorporate 7 key objectives
 - Consistency with the Sanibel Plan
 - Stems from the joint City Council/Planning Commission meetings
 - Redevelopment work program would be brought to City Council in 2 parts
 - City Council key goal for 2006/07

Discussion ensued regarding the map including Periwinkle Place, concern of redevelopment and where the redevelopment was headed, was the plan like Celebration, and why should the City pay a consultant.

Mr. Duffy answered:

- There was a series of joint City Council/Planning Commission meetings that resulted in a work plan
- Planning Department issued several detailed reports and how the redevelopment would be accomplished
- The project stemmed from the Sanibel Plan particularly in the area of Palm Ridge and Tarpon Bay Road that would translate the policies, goals and objectives of the plan that would enable if additional amendments to the Sanibel Plan
- The skill set, level of citizen involvement, level of design, economic and planning expertise would require outside services
- Consultants would work in partnership with staff
- A public process would be important to reflect the values, the Vision Statement and the goals and objectives of the Sanibel Plan
- Consistent with the City Charter as it applies to density

Discussion ensued regarding if Council wanted to be proactive or reactive, force people to develop in the way the City wants, town center a misnomer, Mr. Duffy spoke to the City taking control of the future in the above-mentioned areas as land was developed over time to ensure the Vision Statement remains intact, depends on businesses in the area to initiate redevelopment, last large parcel privately owned that might one day be developed and this plan would provide a framework, the City would not fund the redevelopment, but use as a template for redevelopment, would work as the Periwinkle Corridor plan, identified the commercial area as far as Tahitian Gardens what about the remainder, Mr. Duffy spoke to previous identification of 3 target areas; 1) Causeway Boulevard, Lindgren Boulevard and Periwinkle Way intersection defined as gateway east, 2) Jerry's at Casa Ybel Road and Dixie Beach Boulevard the second largest commercial concentration, 3) Periwinkle Place, Forever Green and Tahitian Gardens was a linkage between the commercial centers due to floor area and consumer activity, linkage between the commercial areas, governmental, cultural, civic, historical and civic corridor, change the focus to incorporate Council comments, began the focus due to small business failure after 9/11 and Hurricane Charley, to look at ways that business owners paying rent and ownership of property, Mr. Duffy stated that the plan would try to provide incentives to ensure the appropriate retention of island serving businesses unique to Sanibel, the need for an economic component for small business tenants, and City Council to weigh in on the public process.

Public Comment:

David Berger spoke to language leading to a different understanding of a town center.

Mr. Duffy stated the language was an attempt to have a clearer understanding of the plan and over an extensive amount of time would allow the community input.

Discussion ensued regarding a town center being included in the Sanibel Plan and the need to remove town center from the Sanibel Plan, impacts of potential real estate deals with the proposed plan, the need for a medical center on the island, value of properties would increase with possible adoption of proposed plan, build in to the plan the ability of Council to discontinue at any time, consultants not knowing Sanibel, Mr. Duffy explained that the consultant would be given a copy of the Sanibel Plan and demonstrate an understanding of the community, the Sanibel Plan and listening, responding to citizens, and purporting ideas from another community.

Miriam Kaplan spoke to having a town center that would have retail space, senior living quarters, residential clusters and multi-family dwellings for families and workforce housing.

Sidney Picker agreed with the prior speaker's comment.

Mr. Duffy stated that on page 3 were objectives that were defined to introduce opportunities for mixed uses.

Hazel Schuller spoke to mitigation in the proposal. She further spoke to a past mitigation when Sedgemoor was built off West Gulf Drive. She also spoke to eminent domain possibilities.

Jane Picker asked for an explanation of how things would work together.

Mr. Cuyler stated that when the RFP was returned Council would need to discuss a zoning-in-progress would be put in place as Council reviews new regulations.

Bernie Lubetkin spoke to consultant following Council ideas and the need for Council to consolidate those ideas.

Mr. Cuyler stated that consultants would give Council the opportunity for expertise and options.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to incorporate Council discussion and bring back to Council at the December 19, 2006.

The motion carried unanimously.

Council decided to discuss the following:

NEW BUSINESS

Requesting Council direction on the upcoming funding cycle for State grants for Workforce Housing:

Mr. Mike Cuscaden, President of CHR spoke to Council regarding to opportunities as follows:

- November 01 memo for possible developments on Court Street and Airport Way
- Not requesting approval of the concepts
- Would like to have Council's approval to apply for grants
- If funds were awarded, funds could be returned

Discussion ensued regarding allowing CHR to proceed to see if funding could be achieved, City owns the airport land, 1466 Court Place was owned by CHR, airport land part of the interior wetlands zone, City needs to move forward to allow CHR to see if they could qualify for funds for workforce housing, Horizon Council created a work plan for workforce housing, Mr. Marcelias stated the map could be change not to call wetlands as they were, wetlands, Mr. Cuscaden stated that a piece of interior wetlands was included and then removed to build the Woodhaven project, Mr. Cuyler stated that if Council was interested in pursuing Airport Road then those items could be discussed, draw up application in 2 ways for Council consideration and work on paperwork to transfer properties that CHR was currently leasing.

Council asked that Mr. Marcelias prepare the grant application with and without the Airport Road property.

Mr. Marcelias spoke to the disposition for purchase and rehabilitation of Island Inn Road and Algiers for workforce housing.

Ms. Zimomra stated that Council discussed the question of the City being a landlord when the employee leases come up for renewal.

Mayor Johnston stated it was clear that Council wanted to review the grant application at the December 05 Council meeting and clear that Council suggests CHR go ahead and begin the procedure to lease the properties as described above for workforce housing.

Council continued their previous discussion of water issues as follows:

Letter of November 09, 2006 to the South Florida Water Management District

Mayor Johnston spoke to the following:

- Opportunity to speak to the regulation schedule
- ACOE managing the lower level of Lake Okeechobee more carefully
- Reconsidering the top level of Lake Okeechobee from Colonel Carpenter to something Colonel Grosskruger would review
- ACOE balances the releases and not release in to the estuary during the wet season anything above 2800 cfs
- Dr. Loflin had considerable success in making progress
- Lake Okeechobee needs to be within the ceiling
- SFWMD to accommodate at least 1-foot of water
- Could realistically implement by 2007 hurricane season
- Carol Wehele advised the SFWMD could store approximately 450,000 acre feet of water
- Submitted a letter to the SFWMD regarding the 450,000 acre feet of water storage
- ACOE not able to get a response from SFWMD on the water storage issue

Discussion ensued regarding PURRE fighting the same battle and approaching the issue differently, review all alternatives, Dr. Loflin spoke to a priority list of long term project would be coming before Council, Council should decide what Sanibel's priority would be for the future, a non-profit organization could do things that a municipality could not accomplish, and water storage would vary due to rainfall.

Meeting Reports

Vice Mayor Denham spoke to the Regional Planning Council staff evaluating impact studies for roads, schools and low cost housing, but no evaluation for the impact that a development may have on rivers, streams, canals and other waterways. He further stated that he recommended that all impact studies include waterways, such as fertilizer run-off and storm water run-off. He also stated that the Caloosahatchee River Basin Committee was reinstated with Vice Mayor Denham as the Chairman.

Discussion ensued regarding a Lee County preparing a fertilizer ordinance, Commissioner Janes speaking with Vice Mayor Denham and stating he was waiting for state fertilizer regulations before bringing forward a fertilizer ordinance, and Sarasota County very concerned over rules putting in place by the state superseding municipal rules.

Councilman Brown spoke to the Southwest Florida League of Cities director not aware of the Florida League of Cities supporting any water lawsuit.

Mayor Johnston spoke to the League of Mayor's meeting and a survey on the most important issues in the state and water did not rank. She stated that the Coastal communities might be interested in working with the City on water issues.

Councilman Brown report of physician meeting Wednesday, November 08, 2006

Spoke to earlier.

Follow up to meeting with Colonel Grosskruger, Commander of Jacksonville District Office of Army Corps of Engineers (ACOE) visit and Special Meeting, November 20, 2006

Discussion ensued regarding disappointment that Colonel Grosskruger not sending water south, turned to Pete Milam for specifics during the discussion, sending water down the Caloosahatchee River, Colonel Grosskruger seemed to be honest with Council, the most important thing Governor elect Crist could do would be to appoint someone familiar with water problems, east coast initiate a lawsuit, and important that Councilman Jennings had contact with newly elected officials..

Public Comment:

Barbara Cooley suggested speaking with Commissioner Ray Judah for a short list of people.

COMMITTEES BOARDS COMMISSION

Request from the Historical Preservation Committee for approval of expenditure in the amount of \$300 for the development of an independent website.

Ms. Zimomra spoke to the proposal for a web-site and staff would approve the content, but the committee would maintain and fund themselves. She further stated the funds used would be from a fund raising event last year, and the number of the item for MIS was 172. She also stated that it would take approximately another year for MIS to perform the work.

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to approve the \$300 expenditure for an independent website only.

Discussion ensued regarding the funds would be for a site domain name, donation for design of website, and in the past Council had directed staff not to have a link to the City's website due to past problems

The motion carried unanimously.

RESOLUTION 06-188 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-033 AND PROVIDING AN EFFECTIVE DATE (to appropriate FY07 funds in the amount of \$300 for Historical Committee development of independent website)

Ms. Zimomra read the title of Resolution 06-188.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to adopt Resolution 06-188.

The motion carried unanimously.

Ms Zimomra explained that 149 people attended the open house and Councilman Rothman stayed during the entire meeting and answered questions regarding the December 19 mail ballot on Periwinkle Way.

Discussion ensued regarding there being a lot of questions of the December 19 mail ballot, educational mailing going out to the electorate, cost of the project, and where the money was coming from to fund the project.

CITY MANAGER'S REPORT

Informational items:

Permit Applications and Code Enforcement Activity Reports for October, 2006

Ms. Zimomra stated that the report was in the Council packet.

Discussion ensued regarding code enforcement reviewing beach paraphernalia on the beach, and Ms. Zimomra stated that staff was going after the owner and the contractor.

Council Recreation Tour Monday, November 27 at 3:00 p. m., and Parks and Recreation Tour Monday, November 27 at 4:00 p. m.

Ms. Zimomra reminded Council of the Recreation construction tour.

City responsibilities during the appeal/protest period for FEMA's new Flood Insurance Rate Map

Ms. Zimomra called Council attention to the agenda packet information,

Ms. Zimomra passed out Council's adopted goals for 2006/07 as requested by a Councilmember.

CITY ATTORNEY'S REPORT

Mr. Cuyler advised that he would provide a memo on the east coast lawsuit, which was a money based lawsuit, an inverse condemnation lawsuit. He answered a question from Councilman Rothman that the east

coast lawsuit was not unique, but probably in its use against the ACOE may be unique. He further stated that interim goals and targets, which were benchmarks against the successful implementation of the CERPA measure. He also stated that interim goals or restoration goals were used for the purpose of evaluating the restoration success of CERP interim targets were used for evaluating progress toward other water related needs of the region. He explained that this was used to decide how CERP was doing, but the Caloosahatchee River was not mentioned and working with Beveridge and Diamond to produce comments.

Mr. Cuyler stated he had the Lee County ordinance, contacted Sarasota County and Holly Downing was working as well. He stated the formular retail ordinance would come before Council December 19, 2006. he explained that there would be 2 hearings, December 19th and January 02.

Council asked that the audience be reminded to cut-off their cell phones.

Discussion ensued regarding a new road in the Dunes on land owned by Mr. and Mrs. Gresham.

COUNCILMEMBERS' REPORT

Report on Florida League of Cities Legislative Conference November 15, 2006 through November 17, 2006

Councilman Jennings mentioned a lot of discussion regarding insurance and he forwarded a proclamation on insurance to the City Manager.

There being no further business the meeting was adjourned 4:42 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk