

**SANIBEL CITY COUNCIL REGULAR MEETING
DECEMBER 05, 2006**

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

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

Mayor Johnston gave the Invocation and led the Pledge of Allegiance.

PRESENTATION(S):

Proclamation endorsing the Florida League of Cities proclamation to expedite action to be taken to resolve the Florida insurance crisis (Councilman Jennings)
Council decided to delay the reading of the proclamation until December 19, 2006 Council meeting due to Representative Gary Aubuchon being present.

Public Comments:

Hazel Schuller presented a frame article on Australian pines that appeared in the Island Reporter

Jerry Muench spoke to officers leaving the Sanibel Police Department.

Discussion ensued regarding the difficulty of keeping officers even though the City had upgraded benefits, and Ms. Zimomra spoke to the biggest issue was housing.

Patty Sousa reminded Council and the audience of the December 19th mail ballot.

Council Comments:

Mayor Johnston thanked the Chamber, businesses and City employees for the luminary Friday, December 01, 2006. She asked if a member of Council would attend the Employee Appreciation Luncheon.

Vice Mayor Denham spoke to going on a Recreation Center tour. He also thanked Gates Castle and his staff for the road improvements.

Councilman Brown spoke to Council working together and working out issues as a team.

Councilman Rothman spoke to getting the mail ballots to the Lee County Elections office on December 19, 2006.

Councilman Jennings spoke to Council working closely together, families attending the luminary, Gasparilla Grill donating funds to PURRE, and his participation in a Heart Walk.

Planning Commission Report:

Jack Samler gave a report of the November 28, 2006 as follows:

- Presentation on the annual report of the BMRH subcommittee
- Discussion of a statue ordinance on how transportation issue would be addressed

First Reading of an ordinance and scheduling of public hearing.

ORDINANCE 06-019 AMENDING CHAPTER 18 - BUSINESSES, ARTICLE II. REGULATORY LICENSES GENERALLY, ARTICLE III. ALARM BUSINESS,

ARTICLE IV. VEHICLES FOR HIRE, AND CHAPTER 62 - TAXATION, ARTICLE II. LOCAL OCCUPATIONAL LICENSE TAXES, TO RENAME SUCH ARTICLE “LOCAL BUSINESS TAXES” AS REQUIRED BY SECTION 205.053, FLORIDA STATUTES; TO PROVIDE THAT THE CITY WILL ISSUE “BUSINESS TAX RECEIPTS” RATHER THAN “OCCUPATIONAL LICENSES” AS REQUIRED BY STATUTE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-019.

Council set the second reading and public hearing for December 19, 2006 at 9:15 a. m.

Mr. Cuyler explained that Ordinance 06-019 was brought forward by staff due to meeting a new state requirement.

ORDINANCE 06-021 ESTABLISHING A PROCEDURE FOR REMOVAL OF AUSTRALIAN PINES AND OTHER TREES DETERMINED BY THE CITY MANAGER TO BE A THREAT AND NUISANCE TO CITY PUBLIC INFRASTRUCTURE; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REMOVAL OF ANY AUSTRALIAN PINE OR OTHER TREE DETERMINED BY THE CITY MANAGER TO BE A THREAT AND NUISANCE TO CITY PUBLIC INFRASTRUCTURE; PROVIDING A PROCEDURE FOR DETERMINATION THAT AN AUSTRALIAN PINE OR OTHER TREE IS A THREAT AND NUISANCE TO CITY PUBLIC INFRASTRUCTURE; PROVIDING FOR APPEAL; PROVIDING THAT SUCH PROCEDURE SHALL BE EXCLUSIVE WITH RESPECT TO REMOVAL OF AUSTRALIAN PINES FROM PRIVATE PROPERTY PROVIDED, HOWEVER, THAT CURRENTLY EXISTING ORDINANCES SHALL NOT BE AFFECTED; PROVIDING FOR CODIFICATION; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 06-021

Council set the second reading and public hearing at December 19, 2006 at 10:00 a. m.

He explained that Ordinance 06-021 was brought forward at Council direction that would set up a procedure of Australian pines and other trees that were a threat to City infrastructure.

ORDINANCE 06-020 CALLING AN ELECTION TO SUBMIT TO THE SANIBEL ELECTORATE AN AMENDMENT TO THE SANIBEL CHARTER; PROPOSING AN AMENDMENT TO ARTICLE III, “LEGISLATIVE”, SECTION 3.17 ENTITLED “CITY-AUTHORIZED MAJOR CHANGES TO HIGHWAY 867 (CAUSEWAY BLVD., PERIWINKLE WAY, PALM RIDGE ROAD AND SANIBEL-CAPTIVA ROAD)” IN ORDER TO CLARIFY THAT THE “NEW VEHICULAR TRAVEL LANES” REFERRED TO IN SECTION 3.17 (B), WHICH REQUIRE A SEPARATE VOTE OF CITY ELECTORS, REFERS TO ADDITIONAL VEHICULAR TRAVEL LANES AND IS NOT MEANT TO INCLUDE THE RELOCATION OR REDESIGN OF EXISTING TRAVEL LANES TO NEW AREAS WITHIN EXISTING OR ACQUIRED CITY RIGHT-

OF-WAY; PRESCRIBING THE FORM OF THE BALLOT AND GENERALLY SETTING FORTH THE PROCEDURES FOR SAID ELECTION; PROVIDING AN EFFECTIVE DATE FOR THE ORDINANCE; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING FOR AN EFFECTIVE DATE OF THE PROPOSED AMENDMENT UPON VOTER APPROVAL

Ms. Zimomra read the title of Ordinance 06-020.

Council set the second reading and public hearing for December 19, 2006 at 10:15 a. m.

Mr. Cuyler explained that Ordinance 06-020 was brought forward by staff to further clarify through a charter amendment that changes to Periwinkle Way, such as lane alignment would not require a vote of the electorate.

SECOND READING AND 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. Ms. Zimomra stated that Council had a previous presentation and recommendations for an employee task force.

Discussion ensued regarding reviewing the possibility of partial refunds, Ms. Mansell answered that the fundable deposit would be for using City property and basically initiated to ensure compliance, Mr. Cuyler stated that these funds would be non-refundable if the City incurred costs and that staff had attempted to identify actual City costs, how do schools get around n alcohol on their grounds, Mr. Cuyler stated that schools could set their own policy, the need for a list of tent companies that have safe tents, Ms. Mansell stated that the inspection include ascertained that the tent meets all fire codes, Ms. Zimomra stated there were 2 kinds of tent fees; 1) use of City equipment; and 2) tent inspection, and concern of the \$25.00 overnight parking fee needing to be refundable.

Councilman Rothman made a motion to make the overnight parking fee refundable.

Councilman Rothman withdrew the motion.

Council continued discussion on the definition of a Special Event, Ms. Zimomra stated the standard that if it was above and beyond the use of City facility or a disruption to facilities, Mr. Cuyler stated the problem was the delineated a special event other than it disrupts the public, what a tent permit was and size of tent, Ms. Mansell stated that a tent permit was required for a tent that exceed 120 square feet, cost to City for overnight parking. Ms. Zimomra stated public restrooms and electricity were used by overnight parkers, no fee for tents under 120 square feet, a portion of the overnight parking fee should be refundable, but not all, Ms. Zimomra stated that the goal was to recoup some of the City's costs, fees help encourage compliance, club members putting on an event were responsible for clean-up, overnight parking was paid to the club, Ms. Zimomra stated that staff had worked closely with service organizations putting on the event.

Public Comment:

Chet Sadler spoke against Special Event fees.

Doug Dietrich spoke his concern of triggering a Special Event and mentioned the Community Church function during the luminary.

Ms. Zimomra stated the church had a Special Events Permit as part of the luminary and if a public street were to be blocked that would require a Special Event.

Mr. Cuyler explained there was no way to completely define a Special Event, but encouraged residents to call City Hall to inquire with questions.

Paula Ruocco spoke about Special Events.

Discussion ensued regarding parking fees for overnight parking defining an impact of use of facilities, if there was no City costs the parking fees would be refunded, service clubs, such as the Loins that put on the Arts Show already charge for overnight parking, parkers use City restrooms and some hook-up to City electricity, and the need to better define tent fees.

Councilman Rothman made a motion, seconded Councilman Jennings, to make the overnight fee refundable.

Ms. Zimomra cautioned not to create an administrative process that could not be managed.

Discussion ensued regarding the necessity of City costs being recovered and covered

The motion carried unanimously.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to direct staff to make the following amendments to Ordinance 06-016:

- Refundable parking fee
- Changing of language with list of examples that have a impact on facilities
- Clarification of tent fee only for tents larger than 10 x 120.

Mr. Cuyler stated that the changes could be made after adoption.

Discussion ensued regarding a refundable clean-up deposit to include in Resolution 06-193.

Councilman Brown amended his motion, seconded by Vice Mayor, to adopt Ordinance 06-016, Resolution 06-193 and Resolution 06-194 with amendments.

The motion carried unanimously.

RESOLUTION 06-193 ADOPTING AND ESTABLISHING SPECIAL EVENTS SCHEDULE OF FEES FOR THE CITY OF SANIBEL PURSUANT TO CITY OF SANIBEL ORDINANCE NO. 06-016; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-193.

RESOLUTION 06-194 AMENDING RESOLUTION 06-138 RELATING TO BUILDING PERMIT AND BUILDING REGULATION RELATED FEES; PROVIDING FOR AN INCREASE IN THE TEMPORARY TENT PERMIT FEE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-194.

**CONTINUATION OF PUBLIC HEARING FROM NOVEMBER 21, 2006
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.

Discussion ensued regarding amendments incorporated in the new version as noted at the November 21, 2006 Council meeting, make every application a long form, should not be able to put a generator by the neighbors bedroom window, generator should be at the back of the house away from the affected neighbor, keep generator at the lowest possible decibel (72 decibels would be the maximum), if generator could meet the 66 decibel then that one should be used, Mr. Duffy stated that the ordinance has a that does ascertain the applicant must demonstrate that the neighbor would not be affected, if applicant wanted to exceed 72 decibels the applicant must demonstrate there were no alternatives, change 72 decibels to 66 decibels at number 12, requiring a long form would be an incentive to find alternatives, cost of a long form was a more significant cost (\$2,700), short form 1% of the estimated value of the total project and not less than \$200, and take no more than 4 weeks for a long form application.

Public Comment:

Jeff Molnar spoke to against the long form application.

Discussion ensued regarding the length of time a propane generator would last, Mr. Molnar stated the tank size and how many appliances were hooked-up would make a difference, Kohler had a generator that would go to 66 decibels, significant cost for Kohler, ordinance mandates that the generator system would not come on during a brown out unless the electricity was out for 4 hours, and at night the decibels must be below 60 decibels.

Mary Basinger spoke to putting in a 42kw generator and the noise does not interfere with daily activity.

Discussion ensued regarding the long-form may be to expensive, Mr. Duffy stated the alternatives of exceeding 66 dba during the day and 72 dba in the evening at the property line would be a short form process and everything in excess of those numbers would trigger a long form application, Mr. Duffy stated the short form specifications could be modified short form for noise not to exceed 66 dba during the day and 72 dba during the evening.

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to adopt Ordinance 06-018 with the above-mentioned amendments.

Discussion ensued regarding noise invasion.

The motion carried unanimously.

Council recessed at 11:07 a. m.

Council reconvened at 11:16 a. m.

Mr. Duffy gave the following report:

- Site evaluation completed at the Historical Village locates for potential sites for the Shorehaven building and could serve to guide other future structures to the village
- Additional and historical information provided

Mr. Roy Gibson gave the following report:

- Additional notice prepared and sent to property owners within 300 feet or less from proposed site

Mr. Cuyler cautioned reading every document in to the record because a resident could not be in attendance, but could summarize the written comments.

Discussion ensued regarding written material would be put in the record, Mr. Cuyler advised for those persons wanting to speak would be sworn in before speaking, Council could separate issues, 3 items to discuss; 1) location, how the structure could be used; and 3) who would pay for the relocation, Mr. Cuyler stated that Planning Commission would offer the certificate of demolition,

Ex Parte Communications:

Ms. Cuyler explained that Ex Parte communications were required before a quasi-judicial hearing and were those conversations, discussions or visits that might influence a vote.

Mayor Johnston	None
Vice Mayor Denham	None
Councilman Brown	None
Councilman Jennings	Liaison to Historical Preservation Committee, listened to comments from citizens, and visited the site
Councilman Rothman	Discussion with residents for possible outcome, visited boat ramp location and Shorehaven site

The City Clerk swore in the following persons:

- Bob Duffy
- Roy Gibson
- Sam Bailey
- Larry Thompson
- Jerry Stern
- Jack Samler
- Jodi Brown
- Alex Werner
- Muriel Veenschoten
- Ann Murand
- Robert Wigley

**Quasi-judicial Hearing(s)
Continued from October 17, 2006 - Consideration of a Certificate of Appropriateness to relocate Shore Haven, a single-family residence listed on the local register of Historic Sites and Structures, located at 1111 Bird Lane, to the City owned property adjoining the City's public boat ramp commonly referred to as Bayview Park East pursuant to the Planning Commission's Relocation Plan and Site Evaluation Report**

Discussion ensued regarding Shorehaven would be a possible candidate for BMRH, Mr. Duffy answered that his understanding that depending on the action Council might take CHR would be willing to use the structure for workforce housing, nothing in writing of the BMRH intention, Shorehaven was on the historic register, Planning Commission resolution speaks to a site, not the structure, Mr. Cuyler stated the difference of house versus site in the Planning Commission resolution was not an issue, need to proceed with Mr. Thompson's request, Mr. Cuyler stated that there was a recommendation of a relocation plan that takes the structure from the current site to the boat ramp and give a certificate of appropriateness, oppose to Shorehaven going to the Bayview site, should be in the historic village, no room at the Historical Village, the need to have the Schoolhouse for Black Children at the Historic Village, cost estimates begin at \$130,000 or more for relocation, City should not fund the relocation of Shorehaven, could a lawsuit be won if Council decided that the structure needed to stay on the original site, Mr. Cuyler stated that the City could win a lawsuit because Mr. Thompson bought the property knowing the City code, would there be a cost associated with losing a lawsuit, Mr. Cuyler stated that damages could be covered by the City's insurance, cost to move would be in excess of \$100,000, Mr. Duffy stated that part of the estimate would provide a foundation required by the new building codes, Mr. Cuyler stated that since it was a quasi-judicial hearing, he recommend that Mr. Thomson and/or his attorney speak.

Public Comment:

Jack Samler spoke to the Planning Commission have application for demolition and the Planning Commission decided against it. He further spoke to the Code not requiring a property owner to pay for relocation, and at time of making the building historic the code did not require maintaining on property, Planning Commission assignment was to decide what to do with the structure, which was modified many times over the years. He also stated the best recommendation was made by the Planning Commission, and that Sam Bailey had requested to keep the structure on the bay, and the other recommendation was to move to the Historic Village or place beside the Sanibel Community Association (SCA), the problem was the location and the funding. He stated that private property right should not be trampled on and the code did require keeping the structure on the property.

Mr. Cuyler stated the historical condition of the structure would be another issue.

Sam Bailey spoke to his understanding that if a building was put on the historical register then the building could not be touched. He stated that if the building was not preserved it would set precedence and destroy the preservation system. He also spoke to the importance of the location, offered funds for the relocation if it was moved to the boat ramp, and the Historical Preservation Committee had enough money for relocation by using the Harriett Spoth Trust.

Ann Murand spoke to being opposed the proposed location of Shorehaven at the Sanibel boat ramp.

Jodi Brown spoke to a number of private homes being historic.

Alex Werner spoke to the Historical Preservation Committee hearing the request from Larry Thompson and wanted to keep Shorehaven at the current location. He stated that all the rehab of the house could be completed by grants, but if moved to the Historical Village it must reflect the exterior time period.

Mr. Cuyler stated that Council needed to hear from Mr. Thompson and his attorney, and with that conclusion the table would be open for discussion and a motion.

Council recessed at 12:15 p.m.

Council reconvened at 1:33 p. m.

Mr. Larry Thompson addressed Council as follows:

- Knew when he purchased Shorehaven that he could remodel the structure and/or replace with new structure
- Followed the code to remodel, did not work therefore willing to donate house to City

- Staff agreed that it was a possibility to relocate Shorehaven to the Historical Village
- Had to file a demolition permit, would rather not demolish
- No request for donations to relocate
- Should not have to bear the expense to relocate Shorehaven
- Harriett Spoth Trust could be used to relocate Shorehaven
- Last Sears and Roebuck house relocated to Historical Village
- Filed for a building permit on April 06, 2006 and Planning Department could issue the permit subject to relocation of Shorehaven
- Do not want to file a lawsuit and if he were to win he and the City would lose

Jerry Stern, Attorney addressed Council as follows:

- Reviewed the requirements before purchasing the property
- Apply for a demolition permit to get the procedure started
- Planning Commission sought the advice of other agencies and the Historical Preservation Committee
- No discussion in the code that the City could refuse to issue a permit for demolition or relocation
- Nothing in the code that an owner must contribute to the relocation of a structure
- Reviewed the Resolution 92-116 that place Shorehaven on the historic register and applied to the residence on the property
- Mr. Thompson always felt the structure should be preserved
- Planning Commission adopted a preservation and relocation plan considering the costs and different locations
- Application was the Planning Commission application and issues a development order including the conditions of the plan
- If the structure were relocated the historic would not be diminished
- Section 98-132 cites that final action must be made by Council

Discussion ensued regarding value of property, Mr. Thompson paid \$2.8 million for the property and do not know the value of the house, Ms. Zimomra stated the cost to move was provided to Council, what would cost to demolish and haul away, Mr. Thompson stated that he understood the City only wants to move the original portion of the house not the additions, tax advantage in making a donation, Mr. Thompson stated he understood that there could be a write-off according to annual salary, generous offer from Sam Bailey for matching funds, what amount was Mr. Thompson willing to donate, Mr. Thompson stated that he had not given it much costs, Mr. Thompson stated that the bank had not given the amount of funds to build a house, Mr. Stern stated the IRS benefits for donations and there was no requirement of other residents donating a historical structure, Mr. Thompson stated he would donate at least \$10,000, the need for the value of the property, cost to demolish the building, tax benefit to Mr. Thompson, Mr. Duffy stated Mr. Thompson had filed for a building permit on April 05, 2006 for a single-family dwelling, staff had reviewed the application and the disposition of the application was pending upon Council's decision, Mr. Cuyler stated Mr. Thompson needed a development permit to go to the Building Department to get the permit review started, could the process move forward without the relocation of the building or how the funding would occur for the building relocation, Mr. Cuyler answered yes that Council could put conditions on the permit and the record would show that Mr. Thompson would concede that Mr. Thompson does not acquire any rights through processing of the building permit, but only when the building permit was issued, Mr. Cuyler further stated that there would also be conditions on the development permit, what if Council were to allow 3 months and decide to relocate within 120 days given the opportunity to raise the money, should save the structure, keep the building and move to the Historic Village, and suggestion that Mr. Thompson donate funds to relocate.

Councilman Rothman made a motion, seconded by Councilman Brown, to approve a certificate of appropriateness and move Shorehaven to the Historical Village.

Discussion ensued regarding during Planning Commission discussion they passed on the money issue, there was no requirement, but a suggestion that Mr. Thompson donate funds toward the relocation of the

building, Mr. Thompson stated that the Planning Commission did require fund, but changed to a donation, modify the motion to relocate Shorehaven to the Historic Village and/or beside Sanibel Community Association (SCA), if moved to the Community Center how would it be used, placing it at the community center was to get people interested in the Historical Village, do not need to save another Sears building, costs to keep up and maintain a structure if not at the village, Mr. Zimomra stated that if you kept it open by staff or volunteers and Council could direct staff to study, she further stated there would be City expenses, such as insurance, more expense at SCA versus the historical village, Ms. Zimomra stated the expenses would be similar, but there would be a possibility of reevaluating the Community Park, and beginning a program for workforce housing.

Public Comment:

Jodi Brown spoke to moving Shorehaven and being too large for the proposed site at the Historical Village. She also spoke to ADA requirements. She further stated that if it were on the bay there would be no ADA requirements and would not have to redo the interior.

Sam Bailey spoke to the importance of keeping Shorehaven on the bay. He further stated that 5 buildings at the Historical Village were donated.

Bob Wigley spoke to weekend partying at the boat ramp, and how would an employee living in Shorehaven be protected from the boat ramp partying.

Discussion ensued regarding using the historic village to place Shorehaven, the historic village was for historic structures on the historic registry, vandalism at the boat ramp regardless if Shorehaven was placed at the boat ramp, less vandalism if someone were living in Shorehaven, Ms Zimomra stated that the Police Department responds when receiving a call and the disruptions seem to be from off island visitors, police monitor all day and evening, and she further stated that she would discuss with the Chief for more monitoring.

Mayor Johnston asked to amend the motion, seconded by Councilman Jennings, to keep the original section of the structure, move, give the certificate of appropriateness, and allow 60 days to determine the exact location and the exact funds to relocate.

Sam Bailey spoke to putting a police officer in Shorehaven if located at the boat ramp.

Councilman Jennings asked if the question was called would that cut off the debate.

Mr. Cuyler stated it was at Council's discretion to allow more public comment and public comment would only be made to the amendment to the motion.

Ms. Smith swore in Louise Johnson.

Louise Johnson spoke to her agreement of the amendment to the motion.

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

The original motion carried with Mayor Johnston and Councilman Jennings voting in opposition.

Mr. Cuyler stated that Council would need to give a time frame for raising the funds and based on the action taken Mr. Thompson would be issued the certificate of appropriateness.

Vice Mayor Denham made a motion, seconded by Councilman Brown, to allow 60 days to raise funds in the amount of approximately \$100,000 without using taxpayers monies, to relocate Shorehaven to the Historical Village, including using volunteer efforts to repair the structure, and if funds were not raised the structure would be demolished.

Discussion ensued regarding the proposed amount to relocate being \$265,000, who would raise money the City or by private, looking for \$100,000 to relocate to the village, and ask staff to find out how much it would cost to relocate.

Mr. Thompson asked if he would have a date that he could begin the project.

Mr. Cuyler stated Council could consider another location if money were donated for suggested location.

The motion carried unanimously.

Council recessed at 2:55 p. m.

Council reconvened at 3:06 p. m.

CONSENT AGENDA:

Ms. Zimomra read the titles of Resolution 06-191 and 06-192.

a. **RESOLUTION 06-191 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-034 AND PROVIDING AN EFFECTIVE** (to roll-forward to FY 2007 \$120,000 of money budgeted but unspent in FY 06 for road resurfacing)

b. **RESOLUTION 06-192 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2007-035 AND PROVIDING AN EFFECTIVE** (to roll-forward to FY 07 \$10,000 of money budgeted but unspent in FY 06 for Rabbit Road improvements)

Councilman Brown made a motion, seconded by Vice Mayor Denham, to adopt Resolutions 06-191 and 06-192.

The motion carried unanimously.

c. **RESOLUTION 06-189 AUTHORIZING THE CITY MANAGER TO RENEW DENTAL INSURANCE, LIFE INSURANCE, ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE, AND LONG-TERM DISABILITY INSURANCE FOR CITY OF SANIBEL EMPLOYEES WITH JEFFERSON PILOT FINANCIAL FOR PLAN YEAR 2006-2007 WITH THE OPTION FOR EXTENSION OF THE AGREEMENT AT THE DISCRETION OF THE CITY MANAGER; AND PROVIDING FOR AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 06-189.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Resolution 06-189.

The motion carried unanimously.

d. **Approval of minutes – July 26, 2006 Budget Workshop, July 28 Continuation of the July 26 Budget Workshop**

Vice Mayor Denham made a motion, seconded by Councilman Brown, to adopt the above-mentioned minutes.

The motion carried unanimously.

Council decided to discuss the following:

OLD BUSINESS

Request for Council approval to apply for upcoming Workforce Housing State grants

Mr. Cuscaden spoke to the following:

- Met with staff and Dr. Loflin and requested that Airport Road be removed from consideration

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to support Community Housing Resources (CHR) efforts to apply for the requested grant.

The motion carried unanimously.

Planning Department Update

Mr. Duffy spoke to the following:

- Bi-weekly basis provide an update of project and programs that stem from Council goals and priorities as well as the planning department work program
- December 19 begin series of the commercial district zoning amendments;
- By the end of the year a report tracking milestones dealing with Council's goals and priorities

Discussion ensued regarding the ability of having ample opportunity for residents to review the maps that were transferred from hand maps to the computer, mailing to businesses for low hanging fruit, Ms. Zimomra stated that the business data base was being updated and a letter would be completed for Council's signature, beach club regulation ordinance on December 19th, survey of current conditions of the gulf dune locations, and November 15 update an item regarding the weigh station, Ms. Zimomra stated that there were no designs, but had requested 4 engineering and planning firms to give a cost estimate of different locations both on and off island, as well as looking at new technology.

Water Quality Issues

Staff Reports

Beach Status

Current Beach conditions

Dr. Loflin gave the following report:

- Algae from Donax to Gulfside City Park the worst area and 3 inches deep to 15 feet wide
- Does not appear to be interfering with beach goers
- Fluctuates from day-to-day

Status of report of red drift algae clean-up pilot program

Ms. Gates Castle, Public Works Director gave the following report:

- Conducted pilot study the day after Thanksgiving
- Tried a farm tractor pulling a rake that did not work beside the rake rode over the piles of algae
- Tried a root rake that worked in a large pile; the method was to go parallel to the beach for approximately 50 feet
- Large rake worked well and could be used for beach clean-up
- Restored the area
- Issue was how to remove from beach and do have a method
- Followed-up with DEP and agreed that if tire pressure on the front end loader was decreased to 12 to 14 psi they would approve
- After removal a tractor with a piece of chain link fence would be used to repair the beach
- Used the emergency contract with Crowder Gulf

- Would haul to Port Charlotte and pursuing closer locations, because the travel time take 1.5 hours each way and would cost \$30 per foot
- Entire cost for the minimal recommended amount removed would be \$30 per foot or \$30,000 for 1,000 feet
- 1 truck holds 18 yards of material

Discussion ensued regarding cost \$30,000 for 1,000 foot section, no way to tell how often red drift algae would come on to the beaches, minimal amount to trigger under the proposed policy was 1 foot deep by 30 foot wide, no way to tell when the red drift algae would be back on the beach, Mr. Cuyler asked if weight wise the 18 cubic yards could be taken off the island, Mr. Castle stated there had not been a full analysis, but it may be partial truck loads crossing the Causeway due to the weight factor, and Ms. Zimomra stated that the draft policy was in Council's packet.

Council recessed at 3:34 p. m due to computer problems

Council reconvened at 3:41 p.m.

Discussion of proposed draft beach clean-up policy:

Discussion ensued regarding there should be no raking of the beach, destroys the natural, processed used was not benign, as part of the contract workers would leave no trash on the beach, machinery can not leak fuel or oil on the beach, no refueling of equipment on the beach, no replacement of fluids on the beach, letter from San-Cap Audubon referencing shore birds, Dr. Loflin stated that the impact would be very negative for the tidal zone, only 200 pairs of snowy plover in existence, 20 pair of Snowy Plover nest on Sanibel, and concern of collateral damage by raking the beach.

Public Comment:

Paul Andrews spoke against raking of the beach.

Louise Johnson spoke against raking the beach.

Brad Smith, SCCF spoke against raking the beach.

Mary Basinger spoke to water quality problems.

Dr. Kurt Peters spoke to water quality problems in New Jersey in the 80's and the need to approach the problem scientifically. He also spoke against raking to beach.

Barbara Cooley spoke to a meeting with Dr. Bryan LaPointe and red drift algae was natural, but the red drift algae that Sanibel was experiencing was not natural and was sewage.

Dr. Loflin stated the problem was the overload of nutrients, basin and Lake Okeechobee run-off, do know if it would end or if this was the beginning of continued red drift algae. He also spoke to

Dr. Brown spoke to water quality deteriorating steadily over the past few years, reviewed the possibility of an agreement with Sherry Laboratories, and medical committee spoke to testing for human pathogens.

Ms. Zimomra stated that staff brought a proposed draft policy from the last Council meeting that would give an objective standard to use if it became necessary to clean the beach. She stated the option was to maintain the current policy, and come back to Council

Discussion ensued regarding a third option and medical Committee wanted to do a study on the beach and have the option to work with Dr. Loflin, if the studies came back and there was a need for review, depending of the results of what the medical committee finds, Council could continue to give staff guidelines and not adopt a policy, Council agreed to allow the medical committee a test plot on the beach, and Mr. Castle stated that the sample pilot project did help staff gather information.

Councilman Brown made a motion, seconded Vice Mayor Denham, to not adopt a policy to clean the beach and direct staff to continue to monitor conditions and bring back to Council, but in the process the medical Committee was authorized to perform a small testing area.

Public Comment:

Sonia Smith, CASI spoke to the need for a beach clean-up policy under extraordinary circumstances.

Sam Bailey spoke to the need to clean the beach.

Judie Minchie asked if funding for beach clean-up would be coming from TDC. She further spoke to the money collected by tourists.

Ms. Zimomra stated that TDC was funding the beach clean-up pilot program and may fund more in the future.

The motion carried unanimously.

Report from Natural Resources Department Update of LORSS

Dr. Loflin spoke to the following:

Dr. Loflin spoke to a new plan was selected and would like to see some further inclusions. He also stated that the final schedule would go through another environment impact process, which would be announced in February.

Discussion ensued regarding Dr. Loflin arguing the points made by Council, Dr. Loflin to get Council the tentative selected plan, operational guidance would be between anytime within the next 2 weeks, modeling had also been completed, Dr. Loflin stated the tentative plan had benefits for the river where they measure the water flow from S-79 (Franklin Lock) and included the basin run-off, the model shows a significant benefit, no infrastructure changed, need to make weekly decisions on how the water would be treated, weekly technical updates on the estuary needed, raise the Lake level to 17.25 and reduces another flow to the Calooshatchee called a T-3 ,which was a balance and works from a technical standpoint.

Meeting Reports

Vice Mayor handed out a set of objectives for the Calooshatchee Basin Council that would be handed out at the next meeting, he stated that when a DRI was presented to the Regional Planning Council the review was concerning issues for roads, schools and low cost housing and requesting the review include water pollution, Mr. Cuyler stated the studies that come out of the committee would be invaluable, would like to bring back the new review guidelines at the May Regional Planning Council meeting, Vice Mayor requested an input on the water pollution analysis at the December 19 Council meeting.

Mayor Johnston spoke to a letter completed by Beveridge and Diamond the City's response to the Army Corps of Engineers (ACOE) interim goals and targets.

Status Report on Recreation Center Construction Project (3840 Sanibel-Captiva Road)

Staff Status Report

The report was in the agenda packet.

Presentation by Construction Manager Peter Brown and Architect Henry Woodroffe

Mr. Woodroffe spoke to the following:

- Walls almost complete
- Tie beams were next
- By the end of the year bar joists would be delivered
- By the end of January, 2007 the structure would begin to form itself
- Running retaining walls for the 4 foot elevation to be above flood plain
- All footings were poured
- Roof trost hopefully up by the end of the year
- Poured 350 plus yards of cement

Discussion ensued regarding a 3 foot retaining wall, options at December 19 or January 02, 2007, concrete used coming from off island between 1 and 4 a. m., walls separating the pool area, Ms. Zimomra stated that there would be a 3-foot retention wall, a fence and options would come to Council within 2 Council meetings, and staff working with school staff to ensure as much safety as possible, concrete for school project coming from off-island between 1:00 a. m. and 4:00 a. m.

Request from B. I. G. Arts Board of Directors rental policy between the City and B. I. G. Arts

Delayed to December 19, 2006.

Public Hearing regarding Evaluation Appraisal Report (EAR) plan amendments Article 3, Part 3.2 Protection of Natural, Environmental, Economic and Scenic Resources

Discussion ensued regarding an Australian Pine ordinance on the December 19th agenda, re-advertising for the public hearing, the possibility of having a Special Meeting for December 20th, a Special Meeting in January, and advertising the EAR hearing on December 19th, complete Australian Pine ordinance and then hear the EAR, Mr. Duffy stated that Human Services discussion was advertised for December 19.

Mr. Cuyler stated that Council could continue the hearing, but the next hearing was already advertised for December 19, 2006 and nothing prohibiting Council from continuing and re-advertising. He further stated that the Australian pine discussion would dictate Council’s policy.

Council decided to advertise and hold the hearing for the above-mentioned portion of the EAR at the January 02, 2007 Council meeting.

Public Comment:

Claudia Burns spoke to basing the ordinance based on the Sanibel Plan.

Mr. Cuyler stated the public hearing was scheduled for today, but there needs to be a motion to continue the hearing on December 19 or re-advertise for another meeting.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to hear the portion of the EAR from today’s meeting until January 02, 2007.

The motion carried unanimously.

**COMMITTEES BOARDS COMMISSION
2006 Annual Report of the Land Development Code Review Subcommittee of the Planning Commission**

Council delayed discussion until December 19, 2006.

Investment Reports

Report by Mr. Burgess Chambers for the September 30, 2006 Sanibel Police Pension Plan

Mr. Chambers gave the following report:

- Changes employed to improve the performance
- Earned 12.8% actuarial objective 8%
- 2 year period the plan earned 12%
- 3-year period
- Reduced the reallocation and return of 30% to date
- 5% taken out and put in bond portfolio
- 40% in bonds

Discussion ensued regarding what does value added, Council appoints the board members, and the board makes the decision to take the advisor's advice.

Report by Mr. Greg McNeely, Dahab and Associates for the September 30, 2006 General Employees Pension Plan

Greg McNeely gave the following report:

- 4th year in a row of a 7.5% assumption rate
- Year end return 9.4%
- Target 40% bonds, currently 36%
- Small cap manager
- Investment policy cap 12% and trim back to 10%
- Next 6 months to pay attention to the international manager and epa developed markets

RESOLUTION 06-190 ESTABLISHING A WATER QUALITY MEDICAL ADVISORY COMMITTEE; SETTING FORTH THE PURPOSE AND OBJECTIVES OF SUCH COMMITTEE; APPOINTING THREE (3) SANIBEL RESIDENTS TO SERVE ON SUCH COMMITTEE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 06-190,

Councilman Brown made a motion, seconded by Vice Mayor Denham, to adopt resolution 06-190.

Discussion ensued regarding the need to have the physicians fill out an application to serve on the medical committee.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to delay action until December 19, 2006.

The motion carried unanimously.

Appointment to the Lee County Human Services Council

Councilman Jennings made a motion, seconded by Councilman Brown, to endorse Janice Caron as the Sanibel representative to the Lee County Human Services Council.

The motion carried unanimously.

CITY MANAGER LITEND 1549

Informational Items

Important dates

Ms. Zimomra passed out a flyer with a special e-mail address so that the public could send their comments on the Shared Use Path, the Employee Appreciation Luncheon on Thursday, December 06, 2006.

Status of Weigh Station (RFQ responses due December 8, 2006)

Ms. Zimomra stated that the RFQ responses were due back December from 4 consultant firms.

Status of Planning Commission vacancies

Ms. Zimomra stated a letter went to all Planning Commission applicants that the orientation had been scheduled for Wednesday, December 20 at 10:30 a. m. She further stated that in the past that Council had appointed members of the Planning Commission by accepting the vote for the top 2 vote getters as the new members and/or voting for each seat separately. She asked Council how that would like to vote to fill the 3 seats.

Discussion ensued regarding the way to vote for Planning Commission applicants.

Councilman Brown made a motion, seconded by Mayor Johnston, to vote for three people, the top voter getter would receive one 3-year term, the second vote getter would receive the next top getter to a 3-year term and the third vote getter would receive the remainder of John Veenschoten's term of 2 years.

The motion carried unanimously.

CITY ATTORNEY'S REPORT

None.

COUNCILMEMBERS' REPORT

None.

PUBLIC COMMENT

None.

There being further business the meeting was adjourned at 5:53 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk