

**SANIBEL CITY COUNCIL MEETING  
FEBRUARY 01, 2005**

**The reception for retired Planning Director Bruce Rogers took place between 8:00 a. m. and 9:00 a. m.**

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

Members present: Mayor Harrity, Vice Mayor Walsh, Councilman Brown, Councilman Jennings and Councilmember Workman.

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

**PRESENTATION:**

**Proclamation proclaiming January 30 to February 05, 2005 as Safe Boating Week.**

Mayor Harrity read and presented the proclamation to the Marine Advisory Committee.

Mr. Jim Strothers accepted the proclamation for the Marine Advisory Committee and the Sanibel Captiva

**Proclamation recognizing the retirement of Planning Director Bruce Rogers for 26 years 11 months of outstanding public service.**

Mayor Harrity spoke to the retirement of Bruce Rogers, former Planning Director. He read and presented a City proclamation to Mr. Rogers. He also presented a vase etched by Luke Century and a shadow box frame containing a copy of the first Comprehensive Land Use Plan.

Mr. Rogers spoke to be overwhelmed at the presentation and appreciating the opportunity to serve the City of Sanibel.

Council recessed at 9:25 a. m.

Council recessed at 9:35 a. m.

**Public Comments:**

Armand Ball asked Council to direct the City Attorney to draft something explaining the different referendums on the upcoming election ballot and it be mailed to all registered voters.

Claudia Burns spoke to a request she made at the last City Council meeting that all candidates concentrate on qualifications.

Ken Isham spoke to keeping the election clean and not slander other candidates. He further spoke to the recent complaint brought against Councilman Jennings to the Florida Ethic Commission and the complaint was unfounded.

Marie Gargano spoke to the Florida Election Commission finding Councilman Jennings guilty of 56 violations of Florida Election law and resulting in a fine of \$9,300.

Councilman Jennings stated that the findings were not final and would not be complete until February.

Steve Smith spoke to the allegations against Councilman Jennings to the Ethics Commission and the flurry of unnecessary comments.

Louise Johnson spoke to having an election that is congenial and non-partisan.

Councilman Jennings spoke to not using a partisan advertisement on any political advertisements in the past election.

Council decided to continue with public comment.

John Carney spoke to public comment being for the public to speak. He also spoke to Councilman Jennings using the Republican Party name in advertising.

Herb Rubin spoke to credibility, civility, and non-partisanship.

Barbara Cooley spoke to wanting to see campaign treasurer reports and who contributes money.

### **Council Comments.**

Councilman Jennings spoke to the Iraqi election and churches and island groups raising money for victims of the tsunami.

Vice Mayor Walsh spoke to the 60<sup>th</sup> anniversary of the closing of one of the worst concentration camps. He further spoke to the request by Armand Ball for Council to direct the City Attorney to write up an explanation of all the referendum on the upcoming election ballot. He further spoke to the former adoption and repeal of the Earth Charter.

Councilman Brown spoke to everyone having the well being of the island at heart. He also spoke to Armand Ball's request and the City continuing to remain non-biased on the up-coming ballot questions.

Discussion ensued regarding the Charter Amendments of one City Council members having the ability to call a special meeting and the other Charter Amendment giving the City Manager authority of designating a City Clerk.

Mayor Harrity spoke to the referenda on the upcoming ballot.

Discussion ensued regarding buildback, Mayor cutting off discussion, that current City Council by super majority could change the density of the island, density Charter amendment states that if any building or group of buildings were destroyed could re-build to the same density, confusion on referenda, follow Armand Balls' request to direct the City Attorney to write an explanation of the ballot questions for March 01, 2005 election.

Councilmember Workman made a motion, seconded by Vice Mayor Walsh, to direct the City Attorney to write a letter clarifying the Charter Amendments on the upcoming election and mail the letter to all registered voters.

Discussion ensued regarding sending the letter to registered voters, if a letter was sent out to registered voters would it appear the City is biased, Mr. Cuyler stated he would do whatever directed by Council, and Ms. Zimomra stated that Council had previously sent out a mailing of explanation of past referenda.

#### **Public Comment:**

Barbara Cooley spoke to debate cut off when Council voted not to put the Charter Amendments on the ballot.

Discussion ensued regarding rather that the referenda being sent to the Planning Commission it went to an initiative petition process, the letter would not be an interpretation,

Ken Isham spoke against Council mailing out an opinion the registered voters.

Sonia Smith, CASI spoke to sending a factual letter to registered voters.

David Berger spoke to understanding the referenda.

Wayne Ponader spoke in agreement of voters having as much information as possible to make a decision.

Ulmer Azar spoke to confusion of attorneys writing.

Steve Smith spoke to a letter being sent to registered voters should not be an opinion from the City.

Kurt Stendahl spoke in agreement of a letter to registered voters.

Marie Gargano spoke to the need of an interpretation/explanation of the referenda.

Jack Samler spoke in agreement to a letter to registered voters.

Discussion ensued regarding to debate being cut off, all amendments being different for potential futuristic problems, State of Florida not publishing an opinion and there were not public hearings and explanation of 5 of the Charter amendments.

The motion passed 4 to 1 with Councilman Jennings voting in opposition, and Mayor Harrity, Vice Mayor Walsh, Councilman Brown and Councilmember Workman voting in favor the motion.

Mayor Harrity asked that item 11 (a) be brought forward for discussion.

**Request from Sanibel Captiva Conservation Foundation (SCCF) to serve alcoholic beverages including beer, wine and liquor at their Volunteer Recognition Party February 16, 2005 at B. I. G. Arts 900 Dunlop Road.**

Ms. Zimomra noted that Council was required to approve alcoholic beverages at this event because it is being held on City land. She further noted that Council did require a specific insurance policy last year for the same event.

Mr. Cuyler explained that last year the organization obtained the liability insurance and writer for the same function.

Discussion ensued regarding the liability writer being adequate for dram shop for B. I. G. Arts and the City, an incident of a DUI given after a recent SCCF party and how would monitoring of alcoholic beverages.

Public Comment:

Marty Bryant spoke to the incident and white wine being served at an event held from 12:00 Noon to 2:00 p.m. and the incident happened at 10:00 p.m., which was unrelated. She further stated that there would be a professional responsible bartender at the function that would monitor alcohol intake by attendees.

Vice Mayor Walsh made a motion, seconded by Mayor Harrity, subject to the limitations to have the appropriate liability insurance and a professional bartender.

The motion passed unanimously.

**Planning Commission Report**

Mr. Jack Samler gave a brief report of the January 24, 2005 Planning Commission meeting.

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

**ORDINANCE 05-001 AN ORDINANCE OF THE CITY OF SANIBEL, FLORIDA, AMENDING ORDINANCE NO. 04-016, ARTICLE 1, DEFINITIONS, CREDITED SERVICE, OF THE CITY OF SANIBEL GENERAL EMPLOYEES'**

**RETIREMENT PLAN.**

Ms. Zimomra read the title of Ordinance 05-001.

Council scheduled the second reading and public hearing for February 15, 2005 at 9:30 a. m.

**ORDINANCE 05-002 AMENDING THE SANIBEL CODE, PART II, SUBPART B. LAND DEVELOPMENT CODE, BY AMENDING CHAPTER 126 ZONING, ARTICLE XIV SUPPLEMENTAL DISTRICT REGULATIONS, DIVISION 3 BUILDING AND AREA REQUIREMENTS, BY ADDING A NEW SECTION 126-940 ENTITLED BUILDING ACCESS FOR PEOPLE WITH DISABILITIES, TO ALLOW OPPORTUNITIES TO PROVIDE ACCESS TO BUILDINGS FOR PEOPLE WHO ARE ELDERLY OR WHO HAVE DISABILITIES; ESTABLISHING STANDARDS TO BE APPLIED BY THE CITY MANAGER FOR THE APPROVAL OF A DEVIATION FROM LIMITS ON HEIGHT, COVERAGE WITH IMPERMEABLE SURFACES, VEGETATION CLEARANCE, DEVELOPED AREA, AND COMMERCIAL FLOOR AREA AND FROM SETBACK REQUIREMENTS, TO FACILITATE THE ISSUANCE OF A DEVELOPMENT PERMIT FOR SUCH BUILDING ACCESS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.** (Application No. 05-2596 submitted by the City of Sanibel)

Ms. Zimomra read the title of Ordinance 05-002.

Council scheduled the second reading and public hearing for February 15, 2005 at 9:30 a. m.

**CONSENT AGENDA:**

Council pulled all items on the Consent Agenda.

- a. **RESOLUTION 05-018 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-020 AND PROVIDING AN EFFECTIVE DATE.** (grant in the amount of \$200,000 from South Florida Water Management District for Sanibel River Wetland Restoration)

Ms. Zimomra read the title of Resolution 05-018.

Vice Mayor Walsh made a motion, seconded by Councilman Jennings, to adopt Resolution 05-018.

Public Comment:

None.

The motion passed unanimously.

- b. **Approval of a staff recommendation of a proposal by T & S Concrete Systems, Inc. to pour a concrete slab for a skate area at the Sanibel School site.**

Discussion ensued regarding if the skatepark cement pad was not used after a period of time could it be converted to a tennis court or utilized for some other use.

Ms. Helene Phillips, Recreation Director stated that a modular was being purchased, funds would be requested from Lee County Parks and Recreation impact fees and if the funding was approved then the contract and budget amendment would be brought back to Council for approval.

Public Comment:

Joe Small spoke to a skate park in Louisville, Kentucky and the liability issues.

Ms. Zimomra advised Council that the liability issue was investigated in the original discussion and Mr. Cuyler stated that in the statutes of Florida there was insulation set out that addressed the liability issue.

Mayor Harrity made a motion, seconded by Councilman Brown, to approve the staff recommendation of a proposal by T&S Concrete Systems, Inc., to pour a concrete slab for a skate park.

The motion passed unanimously.

**RESOLUTION 05-030 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-030.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 05-030.

Public Comment:

None.

The motion passed unanimously

**BOARDS, COMMITTEES, COMMISSIONS**

**Designation of Council liaison for the 5-Year Budget Committee.**

Ms. Zimomra advised Council that the 5-year Budget Committee had met and chosen their chair and vice-chair. She noted the need for a Council liaison.

Vice Mayor Walsh made a motion, seconded by Mayor Harrity, to nominate Councilman Brown as the liaison to the 5-Year Budget Committee.

Public Comment:

None.

The motion passed unanimously.

**OLD BUSINESS**

**RESOLUTION 05-025 ASKING CITY COUNCIL MEMBERS TO EXPRESS THEIR SUPPORT FOR FAIR ELECTIONS AND THAT ALL CANDIDATES ACT TO OBEY ALL ELECTION LAWS OF THE STATE OF FLORIDA AND THAT FAILURE TO DO SO WILL RESULT IN CENSURE BY THE SITTING CITY COUNCIL; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-025.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 05-025.

Discussion ensued regarding City Council being able to remove a Council member, Election Commission violation fall under the guise and control of the Election Commission, no specific regulations abling Council to censure a member of Council, Council not having the ability to reprimand one of it's Council members, Mr. Cuyler advised Council could pass the resolution to censure one of it's members, Councilman Jennings stated that statements were not factual and action should be delayed due to a final finding coming at the end of February, 2005, Councilman Jennings refused to acknowledge that he was wrong in filing campaign reports incorrectly and hiding contributors, City had not received a final order on

Councilman Jennings, censure would be a public statement of a reprimand, which the resolution would constitute and Council has no rules and regulations censuring members.

Mayor Harrity made a motion, seconded by Councilman Brown, to table discussion on Resolution 05-024 and bring back in 1 month

Mr. Cuyler explained that the motion to table took precedence over the original motion to adopt the resolution

The motion passed 3 to 2 with Vice Mayor Walsh and Councilmember Workman voting in opposition, and Mayor Harrity, Councilman Brown and Councilman Jennings voting in favor of the motion.

Mayor Harrity announced that Council would be going in to the Attorney/Client Session, which would last until 1:15 p. m. He also stated the following persons would be included in the session.

Council convened in to the Attorney/Client Session at 11:50 a. m.

**11:45. M. to ATTORNEY/CLIENT SESSION  
1:15 P. M.**

**The City Attorney desires advice and consultation with the City Council pursuant to Section 286.011 (8), Florida Statutes, regarding City of Sanibel v. Lee County and the Board of Lee County Commissioners, its governing body, Case #04-134 CA-H. The Attorney-Client Session shall not be open to the public. The Attorney-Client Session shall be held on Tuesday, February 01, 2005 at 11:45 A. M. upon temporary adjournment of the regular City Council meeting that day, such meeting and the Attorney-Client Session to be held at MacKenzie Hall, 800 Dunlop Road, Sanibel, Florida. In attendance at the Attorney-Client Session shall be only the following persons:**

**Marty Harrity, Mayor  
Dick Walsh, Vice Mayor  
Steve Brown, Councilman  
Jim Jennings, Councilman  
Judy Workman, Councilmember  
Kenneth B. Cuyler, City Attorney  
Judie Zimomra, City Manager  
Fort Myers Court Reporting Representative**

Council convened in to open session at 1:32 p. m.

Council recessed at 1:32 p.m.

Council reconvened at 1:40 p.m.

Ms. Zimomra called Council's attention to the memo being passed out regarding to early and absentee voting.

Ms. Smith explained the following:

- Absentee paper ballots could be requested now through February 25
- Early voting available February 19 through February 26, 2005 at the Elections Office in Fort Myers

Discussion ensued regarding the letter that Council earlier directed the City Attorney complete on the Charter Amendments and Referendum on the March 01 ballot, disclaimer at the bottom of each page that this was not an endorsement of the amendments or referendum, if Special Meeting was required the City Attorney would speak with the City Manager.

#### **CAUSEWAY ISSUES:**

#### **Report of the monthly Lee County Causeway Reconstruction and Replacement Progress meeting January 18, 2005 and January 25, 2005.**

Ms. Zimomra called Council's attention to the agenda packet material and noted that Mr. Isom was currently attending another causeway reconstruction and replacement meeting.

**RESOLUTION 05-026 APPROVING, AUTHORIZING AND DIRECTING A SETTLEMENT IN THE CASE OF CITY OF SANIBEL, A MUNICIPAL CORPORATION V. LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, ITS GOVERNING BODY, CASE NO. 04-134 CA-H; DIRECTING THE CITY MANAGER TO CONTINUE FINAL NEGOTIATIONS REGARDING THE EXTENT OF POTENTIAL TOLL REDUCTIONS, THE TIMING OF SUCH REDUCTIONS AND THE FINANCING RELATED TO SUCH REDUCTIONS; SETTING FORTH THE GENERAL TERMS OF SETTLEMENT AND DIRECTING THAT THE CITY ATTORNEY PREPARE A PROPOSED STIPULATED SETTLEMENT AGREEMENT FOR FINAL CONSIDERATION AND APPROVAL BY CITY COUNCIL; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-026.

Mayor Harrity made a motion, to adopt Resolution 05-026 subject to any changes.

Motion was withdrawn

Mr. Cuyler explained that discussions on matters of negotiations were always evolving and the premise of the resolution provided that basis upon which the City Council would consider settlement of the pending litigation. He further explained that Section 2 directs the City Manager to continue negotiations and Section 3 directs the City Attorney to prepare and return to Council a stipulated settlement agreement for consideration, which would be placed on the March 15 City Council meeting.

Discussion ensued regarding the following amendments:

- Page 1 3<sup>rd</sup> whereas clause 4<sup>th</sup> line after the words "Interlocal Agreement" add "solely"
- Page 2, 1<sup>st</sup> whereas clause 4<sup>th</sup> line after the words "titled under the Interlocal Agreement" add "solely"
- Page 3 Section 1 (e) after the words "all of its" and add the word "future"

Vice Mayor Walsh made a motion, seconded by Councilman Brown to accept the amendments to Resolution 05-036.

The motion and seconded withdrew there motion.

Discussion ensued regarding if the 3<sup>rd</sup> amendment would affect future toll revenue, that Mr. Cuyler advised any stipulated settlement agreement would indicate that the use of one would be contingent on the other, Page 2 4<sup>th</sup> whereas clause after the words "transponder fess" add "for so long as Lee County contributes and restricts its 79% of surplus toll revenue solely for the reduction of Sanibel Causeway toll fees" and

when a settlement agreement was agreed upon there should be a settlement whereby both parties received something as a compromise.

- Section 1 (d) 1<sup>st</sup> line strike “all of”
- Section 1 (d) 3<sup>rd</sup> line after the words “Discount Program” add “transponder fees and toll rates for the Sanibel Causeway”
- Section 1 (e) strike “all of” and add “future”
- Section 1 (e) after the words “transponder fees” add “for so long as Lee County contributes its future 79% share to toll and transponder fees reduction
- Page 3 Section 2 6<sup>th</sup> line strike “ toll reductions” and add “such program and fees,”
- Page 3 Section 2 last line after the word “City” add “for purposes not prohibited by State Statute”

Discussion ensued regarding that no where in the resolution does the settlement speak to 3<sup>rd</sup> party claims against the City, a 3<sup>rd</sup> party claim would be if an entity sues Lee County and Lee County bring the City in to the suit to seek damages and can not control 3<sup>rd</sup> party claims against another entity.

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to adopt Resolution 05-026 as amended.

**Public Comment:**

Claudia Burns spoke to the possibility of Council holding a special meeting so residents could speak to the Causeway settlement.

Discussion ensued regarding that Council did not specifically call for an evening or Saturday meeting and today’s meeting was advertised, Council not at a settlement.

Karen Storjohannan asked how much taxes would increase to make up the lost toll revenue.

Bernie Lubetkin spoke to there being no reduction in toll surplus.

Kurt Stendahl spoke to giving up Sanibel’s 21% of toll revenue and damage to roads for overweight vehicles.

Marie Gargano spoke to the ability of knowing the impact of no toll revenues as it applies to possible tax increase.

Tom Rothman spoke to the impact of no toll revenue and the possible increase in taxes. He also asked if the agreement would allow the County to use toll money to build other transportation operations.

Barbara Cooley spoke to the reduction of revenue and increase in ad valorem to pay for items that day-trippers and tourists should be bearing the cost.

Bernie Lubetkin spoke a second time regarding the \$3 million the County would be given up would be passed through by taxes for the loss of the County share.

Jack Samler urged Council to drop the lawsuit and consider an independent bridge authority.

Discussion ensued regarding a independent bridge authority, but Lee County would have to be willing to give up the bridge and form an independent bridge authority, toll money currently withheld would be paid and all future revenue would be pledged, toll monies that were previously pledged for payment of the CHR debt would need to be revised, possibility of Lee County provided monies for the construction of a new recreation facility, could use the bridge authority as a form of settlement, Lee County not predicting a toll revenue surplus for 2005, 2006, 2007, 2008 and 2009, Lee County hoping the pay back bridge debt by 2009 or 2010 and when bridge construction was completed weight fees would revert back to payment to the City.

Mr. Cuyler explained that the counter claim brought by Lee County claiming that the Interlocal Agreement was invalid and the City was not entitled to the 21% of the toll revenue.

Public Comment:

Claudia Burns spoke to the settlement agreement allowing that all toll surplus revenue would be given up and used to reduce tolls.

Mr. Cuyler noted that Lee County had certain financial projections in regards to the current proposal and the final resolution might have a final reduction of tolls.

Discussion ensued regarding timeline of negotiations, preparation of a document for Council consideration and Lee County Board of Commissioners consideration and if document not adopted by March 01 the new council would take the issue up for discussion

Carla Johnston asked what happened to the appellate brief and Mr. Cuyler stated the brief (SOB) would stand on its on merit. She mentioned that the City would be entitled to recover the money spent for up keep of roads, etc. for daytrippers and tourist. Mr. Cuyler stated there was no automatic recovery of a City for use of roads and etc., and revenues provided by Lee County through different avenues.

Bernie Lubetkin asked Ms. Zimomra the amount of dwelling units and gave an approximate increase of tax per property owner if there were 80,000 dwelling units.

Peter Pappas spoke against settling with Lee County.

Tom Rothman stated that surplus toll were equal to toll income minus Causeway operating expenses, Causeway maintenance and what Lee County decides to spend on other road projects within the County,

Council answered that the bond agreements should limit what Lee County could do with their portion of the toll surplus revenues.

Marie Gargano spoke to summary of expenditures the City had incurred due to the implementation of Lee County's weight restrictions. She also spoke to the revenue percentage the Cape Coral receives through their Interlocal Agreement from toll revenues.

Discussion ensued regarding what Cape Coral receives in toll revenues and how the money could be used.

Bob Carter spoke to the total cost when settling with Lee County.

Discussion ensued regarding the amount of money included by the City in the previous claim for expenses incurred by the City due to Lee County weight restrictions.

Mr. Cuyler spoke to there being different elements included in the City's lawsuit regarding damages incurred by Lee County weight restrictions.

The motion passed 4 to 1 with Councilmember Workman voting in opposition , and Mayor Harrity, Vice Mayor Walsh, Councilman Brown and Councilman Jennings voting in favor of the motion.

Council recessed at 3:40 p. m.

Council reconvened at 3:56 p. m.

Council took the following for discussion due to the advertised public hearing.

**EVALUATION APPRAISAL REPORT (EAR)  
ORDINANCE 05-003 ADOPTING THE 2004/2005 EVALUATION AND  
APPRAISAL REPORT (EAR) OF THE SANIBEL PLAN; AND PROVIDING AN  
EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-003. She reminded Council that this was the second public hearing. She also noted that by state statute the Planning Commission was charged with the review of the Sanibel Plan, which was submitted to Council and two public hearings were mandated. She further added that there were 2 e-mail comments submitted by a resident, which was included in the agenda packet.

Discussion ensued regarding the following:

- property owned by deed or contract

Mr. Cuyler stated that all the issues of property owned by deed or contract was addressed in the Code and dealt with the original determination as to what were single lots and whether a deed or equitable interest/contract was needed. He also stated that this issue would not need to be addressed by the EAR process.

Discussion ensued regarding amending the Comprehensive Plan, which may result in changes to the LDC.

Mr. Pfalzer spoke to the following:

- common ownership was not addressed in the code, but were procedures to implement the Code
- opinions from the previous City Attorney on how to apply the questions
- previously the City used the ownership of record to issue permits
- permits were issued to the deed holder
- the gifts of exception to density notes that an existing parcel may be allowed even if it doesn't meet what the density map says for a single-family dwelling
- used for a single-family dwelling predicated that the parcel was not in common ownership with adjoining properties
- early days of the City there were several situations where lots were in common ownership by deed as of December 01, 1975
- then in late 70's or early 80's the current owner was able to produce a contract
- the opinion was that contract could be used in lieu of the deed to grant relief that the property was not in common ownership due to the use of the sales contract pre-dating the December 01, 1975
- date was ruled to be valid in terms the procedure of implementing the Sanibel Code as far as existing parcels could not be used if lots were in common ownership, contract to purchase was used
- one instance where a contract for deed made property was used to establish common ownership, where by deed the property may not have been held in common ownership; usually the contract for deed that created common ownership was used to grant relief

Public Comment:

Larry Bator spoke to the court never hearing on merits because the statute of limitations was up. He also spoke to the previous City Attorney using a contract over the owner of the deed of a piece of property.

Discussion ensued regarding that Bruce Rogers stating the City did not correlate enough with Lee County EAR and the following issues with the EAR were discussed.

- Natural Beaches – discussed carrying capacity be noted
  - Buildback and Redevelopment Study

Discussion ensued regarding the Land Development Code (LDC) noting 45 feet maximum height for buildings, State mandates that build back and re-development strategies be addressed for non-conforming buildings and the report stated that being considered was a build back policy that would incorporate an

existing number of dwelling units to be built back and allow the existing number of stories to be built, EAR indicates amendments that could be made to the Sanibel Plan, adoption process to amend the Sanibel Plan would be include a public hearing and debate of the issues, EAR did not make a comment to amend the Sanibel Plan, but assesses the plan identified issues that should be addressed and how the issues would be addressed.

- Intergovernmental Coordination

Discussion ensued regarding Interlocal agreements being included within the EAR, non-conforming uses and structures in the LDC, existing structure could be re-built to the existing footprint, meet the flood regulations and meet the height requirements, question if build back becomes necessary and exceeds density, may be room under the existing regulations to incorporate existing density, the development intensity map in certain cases was different on the current density maps, current inventory for multi-family dwelling units indicate approximately 4,200 units, but site by site if one reviewed the intensity maps the dwelling units would be built back at 2,100 units, address situation where the amount of dwelling units if destroyed were more than could be built back, Planning Commission proposal that the build back regulations should accommodate the existing units, build back was stated in the Sanibel Plan that the buildback would be predicated on the Sanibel Plan, amendment of the LDC and Sanibel Plan as directed by the EAR, allowing existing height to be raised above flood would still be consistent with the Sanibel Plan, conversion of City maps to a computerized base, some maps had been converted, conversion of maps completed within 2 years, splitting the EAR in half and reviewing within the 2 meetings left for the sitting Council,

Council set the public hearing for 10:30 a. m. on February 15, 2005 to continue discussion of the EAR up to page 38 taking the remaining pages on March 01, 2005

- Historic Preservation add "bay front beach, Sanibel River and bayous

Discussion ensued regarding the water supply element was the ability to provide water to the island and adopt water regulations as presented by IWA earlier in the year.

Vice Mayor Walsh made a motion, seconded by Mayor Harrity, to continue with discussion at starting at Section 3.3.4 and scheduled the public hearing for 10:30 a.m.

Public Comment:

Hazel Schuller spoke to Shared Use Master Plan, possibility of sidewalks for residents walking on the opposite side of the street, shared use path used by visitors.

Sonia Smith spoke to the January 12 CASI meeting and the different sides regarding the upcoming ballot questions. She suggested voters need an outline on how the Sanibel Plan works and was implemented.

Mr. Cuyler explained the way the Sanibel Plan could be amended:

- Through the EAR, which by ordinance would come back to Council after the State approves the EAR

Larry Bator spoke to the Sanibel Report recommending an additional weir to control the water table. He also spoke to density.

The motion passed unanimously.

## **NEW BUSINESS**

### **Discussion of Sanibel Charter Section 5.02 regarding non-partisan elections.**

Ms. Zimomra noted that this discussion was placed on the agenda by Councilmember Workman.

Discussion ensued regarding that all candidates should be made aware that all election be conducted in a non-partisan way, Mr. Cuyler advised that the spirit of the Charter was that all election be non-partisan and the wording of the Charter that a court would interpret that elections should be run on a non-partisan election. He further stated that all elections were conducted on a non-partisan basis, Council going on record supporting non-partisan elections and Councilman Jennings spoke to false allegations of his running partisan elections and ask for proof.

Public Comment:

Wayne Ponader spoke to agreeing with non-partisan elections as noted in the Charter.

John Carney spoke to the spirit of the law as it applies to non-partisan elections.

Bob Laswell spoke to condemning COTI for endorsing candidates.

Mr. Cuyler explained that it would not be out of line to send Resolution 05-027 if adopted to the political parties within Lee County.

Discussion ensued regarding Councilman Jennings violating the Election Law, campaign incorrectly by bringing in the Republican Party, accusations unfounded due to Councilman Jennings not being fined.

**RESOLUTION 05-027 EXPRESSING THE FULL SUPPORT OF THE SANIBEL CITY COUNCIL FOR FAIR ELECTIONS; REITERATING THE COUNCIL'S SUPPORT FOR COMPLIANCE WITH ALL ELECTIONS LAWS AND REGULATIONS; EXPRESSING THE CITY COUNCIL'S SUPPORT FOR NONPARTISAN ELECTIONS AS REQUIRED BY SECTION 5.02 OF THE SANIBEL CHARTER; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-027.

Vice Mayor Walsh, made a motion, seconded by Councilman Brown, to adopt Resolution 05-027 and amend Section 2 as follows: after the word "required" add "the spirit of".

Public Comment:

Wayne Ponader spoke to sending Resolution 05-027 to all Lee County political parties.

Larry Bator spoke to being harassed by groups at elections.

The motion passed unanimously.

**Discussion of campaign contributions from off-island sources.**

Councilmember Workman spoke to keeping issues local as not to take on national or international causes and limit off-island contributions.

Mr. Cuyler stated that there was no prohibition of cross-jurisdictional contribution.

Discussion ensued regarding relatives living out island making contributions.

**RESOLUTION 05-028 OF THE CITY COUNCIL OF THE CITY OF SANIBEL EXPRESSING ITS INTENT TO DECLARE A PRELIMINARY SPECIAL ASSESSMENT TO FINANCE A PUBLIC IMPROVEMENT AS AUTHORIZED BY THE HOME RULE PROVISION OF THE FLORIDA CONSTITUTION, GENERAL LAW AND THE SANIBEL CHARTER FOR THE EXPANSION AND EXTENSION OF THE SANIBEL SEWER COLLECTION SYSTEM; SAID PROJECT TO BE REFERRED TO AS THE "SANIBEL SEWER SYSTEM**

**PHASE 3b EXPANSION PROJECT””; ADOPTING THE PROCEDURES SET FORTH IN CHAPTER 170, FLORIDA STATUTES; PROVIDING FOR A DESCRIPTION OF THE NATURE AND LOCATION OF THE IMPROVEMENT, THE MANNER OF LEVYING ASSESSMENTS, THE ESTIMATED COST AND THE DESCRIPTION OF THE LANDS UPON WHICH THE ASSESSMENT SHALL BE LEVIED; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title Resolution 05-028

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to adopt Resolution 05-028.

Public Comment:  
None.

The motion passed unanimously.

**RESOLUTION 05-029 PERTAINING TO THE SANIBEL SEWER SYSTEM EXPANSION PROJECT PHASE 3B SPECIAL ASSESSMENT; FIXING A TIME AND PLACE AT WHICH OWNERS OF PROPERTY TO BE ASSESSED OR OTHER PERSONS INTERESTED, MAY APPEAR BEFORE THE SANIBEL CITY COUNCIL AND BE HEARD ON ALL MATTERS CONCERNING THE PROJECT AND ASSESSMENT; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-029.

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to set the public hearing for March 15, 2005 at 1:00 p. m.

Public Comment:  
None.

The motion passed unanimously.

## **CITY MANAGER'S REPORT**

### **Informational items:**

#### **Hurricane Recovery Update.**

Ms. Zimomra gave a brief update as follows:

- Ashe hauling complete
- Burning operation 98% complete
- Funding for hurricane recovery and a letter from D. T. Minich, TDC in support of the requested \$400,000 grant
- Notified from governmental affairs people that Community Budget Issues
- Received the first FEMA payment in the amount \$194,505.32
- Meeting with Sanibel Fire District and state representatives re fire hazards

#### **Reduction in loan amount for Phase 3B sewer expansion project.**

Ms. Zimomra explained that due to bids for Phase 3B coming in lower the state revolving loan debt would be reduced.

**Council participation in the Edison Festival of Lights Sprint Yellow Pages Junior Parade on Sunday, February 13, and Suntrust Grand Parade of Lights Saturday, February 19, 2005.**

Ms. Zimomra called Council's attention to the parades and participation.

Councilman Jennings accepted the invitation to participate in the parade.

**AFSCME request to begin the negotiation process.**

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

**Lee County Days in Tallahassee.**

Ms. Zimomra stated that Lee County days in Tallahassee would be upcoming and the packet would cost approximately \$500 March 22, 2005.

Council by consensus asked staff to make a reservation for one Council member to attend.

**Blind Pass Erosion Update.**

Ms. Zimomra called Council's attention to the escarpment at Blind Pass and that TDC funding would be pursued to repair.

**CITY ATTORNEY'S REPORT.**

None.

**COUNCILMEMBERS' REPORT.**

Councilmember Workman read a letter from Michael Hannan in to the record.

Vice Mayor Walsh spoke to a memo by Commissioner Albion passed out that Florida was a donor state.

**PUBLIC COMMENT.**

None.

There being no further business the meeting was adjourned at 6:20 p. m.

Respectfully submitted by,

Pamela Smith, CMC  
Deputy City Clerk