

**SANIBEL CITY COUNCIL MEETING  
JUNE 07, 2005**

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

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

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

Councilman Brown made a motion, seconded by Vice Mayor Denham, to allow Councilman Rothman to participate by phone due to extraordinary circumstances.

Discussion ensued regarding Councilman Rothman participating by phone and Mr. Cuyler explained that the Attorney General's opinion cited that there needed to be extreme circumstances in order to participate by phone and it was Council's decision.

Council agreed by consensus.

Mayor Johnston asked that Item 13 (11) be moved up for discussion before "New Business." She also asked that Council be aware of Island Night at 6:30 p. m. and asked that Council help to end the meeting by 4:00 p. m.

Public Comments:

Hazel Schuller spoke to an advertisement that was in Sunday's paper regarding segways.

Mayor Johnston asked Council if they would like to have staff prepare a report and add to a future agenda.

Discussion ensued regarding bringing the segways issue to Council and Mr. Cuyler stated that the safety of segways on the Shared Use Paths would be the topic of discussion.

Mr. Cuyler enumerated two issues:

- The use of segways on the Shared Use Paths
- Commercial use of segways

Hazel Schuller spoke a second time regarding Council-discussing segways from a safety issue.

Claudia Burns spoke to wildlife nest on the beach, i. e. turtle, and snowy plovers.

Steve Maxwell spoke to his public records' request that he feels have not been furnished, his lawsuit against the City regarding the Gomberg house on Raintree Place and segways.

Mr. Cuyler stated that Mr. Maxwell was 90% incorrect and he would be meeting with each Councilmember.

**PRESENTATION:**

**Twenty-five years of service award and recognition for Peggy Friar-Wicall.**

Mayor Johnston presented a Luke Century bowl and certificate to Ms. Peggy Friar-Wicall for the 25 years of service.

**Council Comments:**

Councilman Brown spoke to the following:

- A bike day in Boulder, Colorado and thought it was a good idea
- Sanibel Community Foundation met and approved a scholarship for 2 students and have donated \$1.2 million to Sanibel and Captiva residents

Vice Mayor Denham welcomed Councilman Brown.

Councilman Jennings welcomed Councilman Brown back. He asked about the City of Sanibel shirt he was wearing and the "Island Night" tee shirt.

Councilman Rothman welcomed Councilman Brown back. He also spoke to the City Council meeting for the City of Marathon at 6:00 p.m. He stated he would like to see an evening City Council meeting. He asked to move Item 10 (c).

Councilman Jennings spoke to the City Attorney regarding a sticker he purchased that he wanted to pass out to residents to wear for the Recreation Center.

### **Planning Commission Report.**

Mr. Mike Valiquette gave a brief report of the Planning Commission May 24, 2005 meeting.

Discussion ensued regarding Council not discussing the previously permitted segway tour business by the Planning Commission at a specific business location, the use of segways in communities and safety issues.

### **First Reading:**

**ORDINANCE 05-009 AMENDING CHAPTER 62 - TAXATION, ARTICLE II. LOCAL OCCUPATIONAL LICENSE TAXES, SECTION 62-45 – TAX SCHEDULE TO REFLECT A FIVE (5%) PERCENT INCREASE FOR ALL CATEGORIES OF THE OCCUPATIONAL LICENSE TAX; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Ordinance 05-009.

Council set the Second Reading and Public Hearing for June 21, 2005 at 9:15 a. m.

**ORDINANCE 05-010 ORDINANCE AMENDING ORDINANCE 04-005 WHICH ESTABLISHED A SYSTEM FOR THE LICENSING, REGISTRATION AND REGULATION OF CONSTRUCTION CONTRACTORS; AMENDING CERTAIN APPLICATION AND LICENSING PROVISIONS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Ordinance 05-010.

Council set the Second Reading and Public Hearing for June 21, 2005 at 9:15 a. m.

### **SECOND READING:**

**ORDINANCE 05-007 AMENDING THE SANIBEL CODE, PART II, SUBPART B. LAND DEVELOPMENT CODE, CHAPTER 126. ZONING. ARTICLE V. NONCONFORMANCES. DIVISION 2. USES. SECTION 126-152 "EXCEPTIONS AND PROHIBITIONS", TO UPDATE THE LISTING OF NONCONFORMING RESORT HOUSING USES LOCATED OUTSIDE THE RESORT HOUSING DISTRICT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE, AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Ordinance 05-007.

Mr. Pfalzer, Acting Planning Director gave the following historical update:

- 1980 Resort Housing District established
- housekeeping item
- previous second reading Council remanded back to the Planning Commission for further review
- Planning Commission review Mitchell's Sand Castle
- Mitchell Sand Castle had 15 units w/restricted use and staff though the number of units was incorrect
- Staff found the 15 units was a correct number
- Resort Housing must have more than 3 units and/or rental service
- Adoption of ordinance 05-007 would allow all 15 units for Mitchell Sand Castle

Mr. Pfalzer passed a corrected page 2 of Ordinance 05-007 that would allow the continuation of non-conforming resort house use subject to the limitations and conditions of Section 126-152, which would establish the exemption.

Mr. Cuyler stated that there was conflicting information regarding Mitchell's Sand Castles and what was previously approved.

Discussion ensued regarding the house on West Gulf Drive (Mitchell's Sand Castle) that was multi-room, long term rental must owned by one family, names/addresses incorporated within Ordinance 05-007 to allow continuance of use to current owner, previous Council approved that the use would not follow if dwelling sold, exemption from the requirement relates to the original exemption due to being grandfathered in the code and current code determines the elimination of the use in case of builback.

Public Comment:

Hazel Schuller asked if the non-conforming uses have the same accessory use as in the Resort Housing District.

Mr. Pfalzer stated the properties could not increase their use, but Sundial could have a commercial use.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to adopt Ordinance 05-007.

The motion passed unanimously.

**ORDINANCE 05-008 PERTAINING TO BRAZILIAN PEPPER ERADICATION; AMENDING SUBSECTION 2 (b) OF ORDINANCE NO. 02-07 BY AMENDING THE BRAZILIAN PEPPER ERADICATION MAP REFERRED TO IN THAT SECTION; BY IMPLEMENTING A NEW MANDATORY ERADICATION ZONE NO. 4, IN ADDITION TO THE MANDATORY ERADICATION ZONE 1 REFERRED TO IN SECTION 3 OF ORDINANCE 98-02, AND ZONE 2 IN SECTION 2 OF ORDINANCE 00-15, AND ZONE 3 IN SECTION 2 OF ORDINANCE 02-07, AND DIRECTING THE CITY MANAGER TO MAINTAIN ON FILE IN THE PUBLIC RECORDS A COPY OF THE BRAZILIAN PEPPER ERADICATION MAP AS AMENDED AND THE DESCRIPTION OF THE MANDATORY ERADICATION ZONES (1, 2, 3 AND 4); PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Ordinance 05-008.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Ordinance 05-008.

Public Comment:  
Karen Storijohann asked about Zone 5.

Dr. Rob Loflin spoke to the following:

- Zone 5 next proposed zone
- Close out Zone 4 (between Dixie Beach Boulevard and Casa Ybel Road west to Tarpon Bay Road)
- Establish Zone 4 as mandatory removal
- Establish Zone 5 as a voluntary zone (between Tarpon Bay Road and Rabbit Road)
- Ordinance 05-008 would start the voluntary process giving property owners incentives to remove pepper
- One more zone left (Zone 6)
- Brazilian Pepper program began in 1997
- Less than 1,000 acres left for pepper removal

Herb Rubin spoke to the reoccurrence of Brazilian Pepper Trees

Dr. Loflin stated that a 4-man crew was utilized to inspect conservation lands for pepper. He also explained that it was the responsibility of property owners to control Brazilian Pepper on private property. He also stated that most conservation lands were free of Brazilian Pepper. He further stated that property owners made arrangements to inspect and eradicate pepper if they found pepper on their property after the property was deemed free of pepper.

The motion carried unanimously

#### **CONSENT AGENDA:**

- a. **RESOLUTION 05-086 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-033 AND PROVIDING AN EFFECTIVE DATE.** (to transfer the \$20,000 originally budgeted in the Fiscal Year 2005 General Fund as a Reserve for the 1<sup>st</sup> Year's Debt Service on the Recreation Center Capital Project to the Recreation Center Capital Project Fund for the purpose of budgeting \$20,000 for the design of the alternate recreation center as directed by Council at their 05-17-05 meeting.)

Ms. Zimomra read the title of Resolution 05-086. She called Council's attention to the supplemental packet information and asked that Council adopt the Resolution with the \$20,000 being transferred required to consider alternate designs as approved by Council.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Resolution 05-086.

The motion carried unanimously.

- b. **RESOLUTION 05-085 AMENDING RESOLUTION NO. 01-18; DESIGNATING THE CITY MANAGER, FINANCE DIRECTOR, PUBLIC WORKS DIRECTOR AND THE ADMINISTRATIVE SERVICES DIRECTOR TO ACT ON BEHALF OF THE CITY TO EXECUTE CORPORATE SIGNATURE CARDS AND CERTIFIED COPY OF CORPORATE RESOLUTIONS WITH BANK OF AMERICA, N.A.; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-085.

Vice Mayor Denham made a motion, seconded by Councilman Brown, to adopt Resolution 05-085.

The motion carried unanimously.

c. **Report of the bi-weekly Lee County Causeway Reconstruction and Replacement Progress meeting May 17 and May 31, 2005.**

Ms. Zimomra spoke to the trees that were being removed would be replanted.

Councilman Jennings made a motion, seconded by Vice Mayor to Denham, to accept the Causeway Reconstruction and Replacement report.

The motion carried unanimously.

d. **RESOLUTION 05-084 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-032 AND PROVIDING AN EFFECTIVE DATE.** (to carry forward the Fiscal Year 2004 appropriation for the Pavilion Project, part of the Ball field Re-orientation Project, which was not able to be begun in Fiscal Year 2004 due to Hurricane Charley and is now nearing completion in Fiscal Year 2005 in the amount of \$313,093)

Ms. Zimomra read the title of Resolution 05-084.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to adopt Resolution 05-084.

The motion carried unanimously.

e. **RESOLUTION 05-087 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-034 AND PROVIDING AN EFFECTIVE DATE.** (to appropriate \$23,425 from the General Fund Building Permit revenues (which have been collected in excess of the budgeted amount due to Hurricane Charley and the resulting increase in permit issuance) and the Planning Department Sign permit fees to the Building and Planning Departments, Professional Services line-item on a pro-rata basis to fund the update of the User Fee study for the Building and Planning department's fee structures)

Ms. Zimomra read the title of Resolution 05-087. She explained that these funds would be used to complete an update of User Fees for the Building and Planning Departments to make certain that fees were capturing all costs. She further explained that the study would be complete before the budget was adopted so that any proposed increase could be incorporated in to the revenue estimates. She advised that it was noteworthy that a portion of the building funds would make a repayment to the funds borrowed for Hurricane Charley.

Councilman Brown made a motion, seconded by Councilman Jennings, to adopt Resolution 05-087.

The motion carried unanimously.

Council recessed at 10:23 a. m.

Council reconvened at 10:35 a. m.

**OLD BUSINESS:**

**Council consideration of the protest letter filed by Waste Services of Florida, Inc., dated April 29, 2005.**

Mr. Cuyler outlined the following process.

- Gates Castle, Public Works Director would give a history
- Quasi-judicial hearing and swearing in those who want to give testimony

Mr. Castle gave the following background:

- Current franchise agreement bid in 1998 and award to BFI
- 2000 County re-bid contract and BFI not awarded any contracts, therefore moving out of the area and turned over to FRS
- 2003 contract scheduled to expire, Council awarded a 2-year extension to FRS (expiration date 093005) to investigate County bidding process
- 2004 Lee County did not include Sanibel as County contract
- December, 2004 bid request for Proposals for a 5-year contract
- February, 2005 received 2 proposals and returned bids of 200% increase
- April Council rejected the bids due to a potential bidder because they did not attend the pre-bidding meeting
- Waste Pro submitted a bid to Sanibel as well as receiving part of Lee County's contract as did Waste Services
- Waste Services bid the same as the February bid
- Waste Pro's bid was half of Waste Services bid

Ms. Smith, City Clerk gave the oath and the following were sworn in:

Herb Rubin, resident  
 Gates Castle, Public Works Director  
 Sherri Rubel, Waste Services, Inc.

Ex Parte communications:

No Councilmember expressed ex parte communications.

Mr. Cuyler explained that Waste Services, Inc. was the same entity of Florida Recycling. He further called Council's attention the letter of protest in the agenda packet. He stated that there were volumes of bidding procedures and the question being asked was had there been a level playing field or if there was an irregularity in the bidding process.

**Acceptance of Solid Waste Proposals submitted by Waste Services of Florida, Inc., and Waste Pro of Florida, Inc., acceptance of the recommended staff ranking and direct City Manager to negotiate a solid waste franchise contract with the top ranked firm, Waste Pro of Florida, Inc.**

Waste Services of Florida Inc. gave the following testimony.

Sherri Rubel spoke to the following:

- Section pertaining to the attendance of the pre-bidding meeting
  - Republic
  - Waster Services
  - Waste Pro
- Bids were prepared by information given during the pre-bid meeting

Gates Castle gave the following testimony:

- Specifications did include a mandatory pre-bidding meeting
- Advertisement was changed to reflect that there was no pre-bidding meeting
- Addendum issued on the second bidding that outlined any changes
- Specifications an update of December, 2004 to April, 2005
- Pre-bid meeting was a pre-proposal conference on January 07, 2005 already passed in April
- Republic did not bid
- Waste Services and Waste Pro notified the City that they would be placing a bid

- Intent to allow other contractors to
- Re-bid went out April 07, 2005
- Addendum to the second bid went out April 07, 2005

Discussion ensued regarding the re-bid, advertisement placed for re-bidding the waste contract, three companies received the same material, no pre-bid conference was agreed upon, there was a pre-bid conference during the first waste bidding, 3 interested companies attended the pre-proposal meeting, if companies interested in bidding did not attend the pre-proposal meeting they were disqualified during the first bid process, of which Onyx was disqualified for not attending, there was no requirement for a pre-proposal bid conference, mistake made by putting a pre-proposal meeting date of January 07, 2005 in the April 07, 2005 request for proposal, option to re-bid, Mr. Cuyler stated that if Council finds there was a competitive disadvantage then the contract could be re-bid, first determination was a viable protest and then the possibility of re-bidding the contract, all bidders were given the same specifications, Mr. Cuyler explained that during the first bid there was mandatory pre-bidding conference, the bids were unacceptable and Council rejected the bids and provided a new request for bids, which included the mistake that the language was inadvertently included in the April 07, 2005 re-bid for a mandatory pre-bid meeting to be held January 07, 2005.

Discussion ensued regarding original bid included the January 07, 2005 pre-bidding conference and the first bids were unacceptable, April 07, 2005 re-bid did not include a mandatory pre-bid meeting with the exception of the inclusion of the mistaken information of a mandatory pre-bid meeting on January 07, 2005, which had passed by the April 07, 2005 re-bid request, no one gave the City any prior notification that there was mistaken information in the April 07, 2005 bid process, when the rejection and re-bidding process was discussed in April staff did state the re-bidding would hopefully bring additional bids from companies that did not bid during the first round

Sherry Rubel spoke again and stated she did not receive any additional information.

Discussion ensued regarding how were companies advised of the re-bidding and Mr. Castle stated that an advertisement was placed in the News Press, Council reserves the right to reject bids and sometimes the specifications were changes and sometimes the specifications were not changed.

Mr. Cuyler gave Council the following alternatives:

- Council could hold the protest letter
- Council could find that the process was fair and the inadvertently

Councilman Brown made a motion, seconded Vice Mayor Denham, that Council found there was no disadvantage in the bidding process and denied the protest letter.

The motion carried four to one, with Councilman Rothman dissenting.

**Acceptance of Solid Waste Proposals submitted by Waste Services of Florida, Inc., and Waste Pro of Florida, Inc., acceptance of the recommended staff ranking and direct City Manager to negotiate a solid waste franchise contract with the top ranked firm, Waste Pro of Florida, Inc.**

Mr. Castle gave the following report:

- Both bidders were qualified to perform the work
- Waste Pro had the lowest pricing
- Recommend that Council direct the City Manager to negotiate a contract

Discussion ensued regarding including the mandatory condo recycling within the contract when negotiating the contract, small trucks purchased in 2003 when the weight restrictions were put in place and within the contract the agreement was the new contractor for the City would purchase those vehicles from Waste

Serves at a maximum value of 55% and Section 3 spelled out the particular trucks and the price, Lee County not interested and the company given the contract was not interested in giving the same price to Sanibel as Captiva, 5% franchise fee and surcharge there would be an 17% increase over the present contract with the present weight restrictions, City not unhappy with services rendered by Waste Services, residential rates were proposed to double with Waste Services contract, very expensive to include City waste services contract with Lee County contract, length of proposed contract for 5 years and City waste contract renewal up since discussions began with Lee County.

**Public Comment:**

Herb Rubin spoke to the former Stewardship Committee interested in the City being included in the County waste contract bidding process.

Mr. Castle spoke to his discussion with Lee County in regards to the solid waste contract bidding process:

- Interruption of Hurricane Charley
- Contacted Lee County in October, 2004 contract proposal going to paper
- Sanibel not initially include by Lee County
- Lee County advised that there would be an addendum to the proposal to include Sanibel
- Lee County staff advised the County Attorney was reviewing the bid
- Lee County staff informed Mr. Castle that the City did not submit any written request for inclusion in the waste bidding process

Ms. Zimomra stated that staff had talked to Lee County staff and they found it acceptable for Sanibel to negotiate a contract, but the company was not interested in providing services at the same rate as given to Captiva (unincorporated Lee County).

Discussion ensued regarding the cost to the property owner if the City was within the Lee County contract versus a contract with Service Pro.

Mr. Zimomra stated that pricing in a specific region could not be applied to Sanibel.

**Public Comment:**

Herb Rubin asked if Waste Services was serving Lee County and Ms. Zimomra answered yes. He further spoke to the contract difference with service and cost of service to single-family dwellings and condos.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to table further discussion until June 21, 2005.

The motion carried unanimously.

**Review Proposed Outline of Scope to Noise Consultant regarding additional task for Bernie Kinney at the Donax Wastewater Treatment Facility, 930 Donax Street.**

Ms. Zimomra called Council's attention to the packet information of a draft letter that was prepared in response to direction from Council at the last Council meeting including a proposed scope of work and questions to the noise consultant in an effort to capture Council's direction. She also noted the Council had been provided with correspondence between the City and Mr. Kinney for the cost of a total close down of the Donax Plant.

Discussion ensued regarding giving the consultant direction in the proposed letter of measuring noise, recommendation to measure noise at the boundary at the Donax Plant and at a height equal to the height of residences homes, 16 foot wall surrounding the Donax Facility, the letter would come from the director and the letter should state what the goal was of as close as ambient noise as possible.

Public Comment:

Herb Rubin spoke to the need to completely encompass the Donax Facility.

Councilman Rothman made a motion, seconded by Councilman Jennings, to approve the letter by giving the consultant direction that when measuring noise to measure at the boundary of the plant and at a height equal to that of the living quarters of the surrounding residences.

Discussion ensued regarding the need for a wall surrounding the Donax Facility, August report from the consultant or work completed and the cost and should the letter be mailed to the consultant.

Mr. Hefty stated that he had previous discussions and sight visits to determine what a real ambient noise level would be at the Donax Plant.

Discussion ensued regarding a possible cost estimate of \$500 per foot to place a wall around the Donax Facility.

Ms. Zimomra stated that later in the agenda there would be discussion of the annual sewer rate study and if there was anything that Council wanted as far as Capital Costs were concerned and if costs were not incorporated into the rate study another year would pass before the next study was completed.

Public Comment:

Claudia Burns spoke to living in the Donax neighborhood for 2 years prior to 2005 and never noticing any noise or odor.

Mike Cuscaden spoke to the Fair Haven, New Jersey plant having a solid wall and roof over the facility.

Councilman Jennings withdrew his second to Councilman Rothman's motion.

Councilman Rothman withdrew his motion.

Discussion ensued regarding that Donax Facility being closed down to find the ambient noise level, more equipment being installed and a report from the consultant in August, 2005.

Council decided to discuss the following item:

### **Approval on flyer on the status of the Recreation Center.**

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to approve the Recreation Flyer.

Council approved the flyer by consensus.

### **Status of Barge/Ferry Service Demonstration.**

Mr. Castle gave the following report:

- Demonstration to bring equipment to the island
- Secured a permit to establish a barge landing
- Working with weight restrictions
- Triggered the permit to build a temporary landing and off loaded the equipment to dredge canals
- DEP would not allow demonstration, but could do a beach landing

Discussion ensued regarding a report saying that the City could perform the same service in an emergency, 1 area not covered was when Council approved using Kelley Brothers, a formal contract was never completed, Mr. Castle had a high confidence level that materials could be delivered to the City, and barge services during a disaster was not a high priority for Lee County.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to have a report from staff regarding staff's ability to handle emergencies with barge services and having a contract.

Council agreed by consensus.

**NEW BUSINESS:**

**Request from Sharon Harrington, Lee County Supervisor of Elections to change Municipal Election Day.**

Ms. Zimomra called Council's attention to the agenda packet of attendance at a meeting with other Lee County Clerks and the possibility of having a Municipal Election Day for all municipalities. She stated that several years ago there was a Charter change of appointment of Mayor and Vice Mayor when the Sanibel election was changed from November to March.

Mr. Cuyler enumerated the procedures:

- Lee County Supervisor of Elections reacting to questions by other municipalities
- December 31, 2005 deadline to make a decision

Discussion ensued regarding waiting until each municipality made a decision, voter participation, time limit to run a campaign, and proposal to have municipal elections in November of odds years.

**Approval of Change Order No. 5 - E.T. MacKenzie of Florida, Inc. Sanibel Sewer System Phase 3A in the amount of \$60,215.20. (Increase in pay for Line Item Pavement Overlay).**

Ms. Zimomra stated that the majority of the request was to increase of funds in the line item in the pavement overlay. She noted that there was a change in the contract for quantity changes and a pre-bid price for any quantity changes of \$.50 per yard for paving. She also advised that as the owner there was a pass over in cost for any quantity changes.

Mr. Hefty, Utilities Director stated the costs to the sub-contractor who passed the cost on to the contractor, E. T. MacKenzie due to the increase cost of liquid asphalt since contract bidding accepted in December, 2004. The increase were as follows:

- #89 stone increased 50%
- Screen increased by 39%
- Bridge tolls doubling
- Overall costs increased by 28%
- Unit price for the City increase \$.95 per unit
- Relocating a lift station on Jamaica Drive due to line of sight issues with traffic

Councilman Brown made a motion, seconded by Vice Mayor Denham, to approve the Change Order.

The motion carried unanimously.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to excuse Councilman Rothman from the remainder of the meeting.

The motion carried unanimously.

Council recessed at 12:39 p. m.

Council reconvened at 1:35 p. m.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to excuse Councilman Brown from the remainder of the meeting due to driving the City Clerk to the hospital due to a bee sting.

The motion carried by consensus unanimously.

## **Fiscal Year 2005-06 Budget**

### **Review of Budget Calendar**

#### **Preliminary appraisal from Mr. Ken Wilkinson, Property Appraiser.**

Ms. Zimomra called Council's attention to the budget calendar. She noted that staff was providing Council with non-departmental initiatives. She reminded City Council that no final action would be taken in regard to the budget until September 20, 2005. She also reported that the preliminary estimate appraisal from Mr. Ken Wilkinson, Property Appraiser shows a decrease of 3.85% in land value on Sanibel and the appraisal for the Island was approximately \$4 Billion.

### **Discussion of Non-Departmental Initiatives**

#### **Historical Village**

##### **Electricity for the Old Schoolhouse (Spoth Fund - \$6,613)**

**Sewer connection and restroom construction for the Old Schoolhouse and a water connection and drain for a sink in the Tea Room. (Plumbing Cost , Sewer Connection Fees, Water Connection Fees and Out House Construction Fees \$30,000) (staff recommend pursuing TDC funding)**

##### **Hiring an additional part-time employee under Parks and Recreation to assist the Historic Society and Village Personnel.**

Ms. Zimomra reported that the Community Development Block Grant (CDBG) allocation for the City of Sanibel for HUD FY 2005 was \$25,964 and that time money could be used for restoration, but not for new buildings.

Mr. Sam Bailey, Chairman of the Historical Preservation Committee reported on the request for funding electricity for the Old Schoolhouse and also the need for sewer connection and restroom facilities at the Historical Village. He spoke to the cost being \$6,600 for the above-mentioned request. He also spoke to the request for a part-time employee at the Historical Village

#### **Public Comment:**

Alex Werner spoke to the cost of the above-mentioned requests and adding ceiling fans.

Discussion ensued regarding the purchase of ceiling fans, \$25,000 grant would cover the electricity and some of the costs being covered by the Spoth fund, the hiring of a part-time employee for the Historical Village, the proposal for an additional employee to write grant requests, and long-term plan for applying for grant money.

Ms. Zimomra stated that she would like direction from Council to direct staff to pursue funding through TDC grant

Gail Pence spoke in favor of the possibility of instituting a 501C3, and further enhancing the museum village.

Alex Werner spoke a second time in favor of hiring a part-time employee and grants.

Councilman Jennings made a motion, seconded by Mayor Johnston, to retain the Historical Village budget items as budget initiatives for discussion.

Councilman Jennings amended his motion, seconded by Mayor Johnston, to include approaching the TDC for further funding.

The motion carried unanimously. Councilman Brown and Councilman Rothman excused.

## **Shared Use Paths**

### **Overview of Shared Use Master Plan**

Ms. Zimomra gave an overview of the Shared Use Master Plan as follows:

- Shared Use Paths were difficult to maintain
- Paths damaged by Hurricane Charley and equipment used to removed debris
- Temporary patches instituted
- Significant increase in costs to maintain
- Last year new revenue identified (beach parking)
- Mr. Cuyler's opinion was that money from beach parking fees could be used for Shared Use Paths connecting directly to beach facilities
- Annual letter from Sanibel Bike Club with recommendations
- \$40,000 contribution from the Dunes Homeowners Association.

### **Staff recommendations for FY 2005-06 for Shared Use Paths**

#### **Land Acquisition of Periwinkle Way Path Relocation. (\$111,000 carry forward from FY 2004-05 Capital Improvement Program (CIP) to FY 2005-06)**

Gates Castle reviewed the request in the proposed FY 2005-06 budget as follows:

- Land Acquisition for right-of-way for the Periwinkle Way parallel path behind the stores from Casa Ybel Road to Sanibel Steakhouse (Council reviewed an aerial photograph of area) cost requested \$111,000 with initial cost of \$120,000 and paid \$9,000 for appraisals (appraised value was \$80,000) leaving funds for attorneys fees for eminent domain Path
- Rabbit Road path repaving, and routine Maintenance and Path Widening.

Mr. Cuyler reported the history of the legal aspect process for land acquisitions:

- Council adopted a resolution as a pre-requisite to eminent domain
- Pre-suit letter had been sent out to property owners to start eminent domain process
- Process interrupted due to Hurricane Charley
- Expenses incurred due to letter being received by property owners

Discussion ensued regarding delaying any project where Shared Use Paths would be expansion, past Budget Committee recommendation to delay spending funds to expand Shared Use Paths, Periwinkle Way Shared Use Path from Casa Ybel to Sanibel Steakhouse was a dangerous path, monies should be spent for maintenance and widening existing paths, path expansion should be delayed, land was being taken from residents (eminent domain for the proposed shared Use Path on Periwinkle Way behind Sanibel Steakhouse to Casa Ybel Road), and safety.

#### **Public Comment:**

Claudia Burns, spoke in support of maintaining, widening and expanding the path system.

Joel Ospa spoke in support of maintaining, widening and expanding the Shared Use Path System.

Mayor Johnston made a motion, seconded by Vice Mayor Denham, to direct staff carrying forward the \$111,000 in the FY 2005-06 budget for Land Acquisition of Periwinkle Way Path relocation as a budget initiative for further discussion.

Discussion ensued regarding the amount of land each property owner was being asked to relinquish.

Mr. Cuyler stated the appraisals had been completed, but due to length of time they may have to be redone to determine current market value. He stated that nothing precluded Council from discontinuing the project at a later date.

Harris Gilbert spoke in support of maintaining, widening and expanding the Shared Use Path System.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

**Extending Bailey Road Path (funded by \$10,000 contribution from Dunes Homeowners Association and \$40,000 through FY 2005-06 Capital Improvement Program (CIP))**

Mr. Castle spoke to the Shared Use Master Plan's inclusion of connecting the crosswalk at Periwinkle Way/Bailey Road to Sandcastle Road. He further stated that the Dunes Homeowners Association had contributed \$10,000 toward the \$50,000 cost.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to retain extending Bailey Road Shared Use Path as a budget initiative for further discussion.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

**Rabbit Road path repaving & widening.(\$180,000 FY 2005-06 Capital Improvement Program (CIP) to widening Rabbit Road shared use path from 6 feet to 8 feet)**

Mr. Castle stated that Council approved a new bridge and would allow widening of the path.

Mr. Cuyler stated that the City's interest would out way the Sanibel Bike Club interest due to the safety issue of the surrounding environment.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to retain the Rabbit Road Path Repaving and Widening as a budget initiative for further discussion.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

**Routine Maintenance and Path Widening (\$50,000 for repairs of non-beach related shared use paths; \$100,000 for routine contractual repairs of beach parking related shared use paths and \$100,000 to widen Casa Ybel Road shared use path)  
Marine Committee Recommendation**

Ms. Zimomra gave an historical overview of funding:

- 1999/2000 in-house and contractual cost \$127,000
- 2003/2004 cost increased to \$418,000 per year in Shared Use Path maintenance
- Current cost \$11,860 per mile for maintenance
- Current cost for construction \$100,000/\$200,000 per mile
- Increase of TDC funding which freed up more beach parking money
- New funds available for this year
- Beach parking would bring in 86% of projected revenue

Discussion ensued regarding Shared Use Path maintenance was approximately 25% of total public works road maintenance costs, and Sanibel Bike Club recommended consider adopting an ordinance that would allow collecting \$2.00 per bike rental.

**Request from Sanibel Bike Club**

Public Comment:

Brenda Tate support of maintaining, widening and expanding the Shared Use Path System. She noted the following request to Council from the Sanibel Bike Club:

- Consider supporting and consistent level of funding utilizing the Public Works Capital Improvement Program
- Utilize the a portion of the Enterprise Funds to supplement not supplant the Public Works Capital Improvement Fund
- Adopt a City policy to widen pathways to at least 10 feet in width where possible
- Consider expanding and enhancing the 2005/2006 Shared Use Master Plan
  - Include a long-term maintenance plan and funding strategy
  - Capital Improvement Funding and implementation strategy

Ms. Tate also spoke to the Shared Use Path being a transportation system linking the community.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to retain the Routine Maintenance and Path Widening as a budget initiative for further discussion.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

### **Overview of City Canal Dredging Policy**

#### **Canal Dredging (\$15,000 in the Five-Year Capital Improvement Program (CIP) request for FY 2007 and FY 2010 City's 1/3 share)**

##### **Dock:**

Ms. Zimomra stated that the Marine Advisory Committee had 2 requests:

- Canal Dredging
- Police Dock for the Marine Patrol

She advised that there were privately owned canals that the City does not control.

Mr. Castle stated that if a Special Assessment was adopted it was done by resolution with the City paying one-third and property owners paying two-thirds of the costs. He stated that he had out funding in the Capital Improvement Plan from 2007 to 2010 for the City shared of funds to dredge the Shell Harbor entrance.

Ms. Zimomra explained that the Marine Committee recommended funding City dredging every year.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to retain the Canal Dredging item as a budget initiative for further discussion.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

Ms. Zimomra also explained that the Marin Advisory Committee recommended a dock/storage location for the Police Department Marine Patrol. She further explained that the committee looked for alternative sites, but none were found. She also explained that most property owners were in favor of a dock.

Chief Tomlinson reported that grants may be available to help defer the cost of this item and that it may be possible to share the dock space with the Sanibel Fire and Rescue District.

Discussion ensued regarding fair value for the property, Tennis Place Board had taken an official position to support the dock, and single citizens were against the project, and land acquisition would come back to Council for approval.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to retain the acquisition of land for the Marine Patrol boat dock as a budget initiative for further discussion.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

**Land acquisition cost (\$20,000 FY 2005-06 Beach Parking Capital Improvement Program (CIP))**

**Construction Cost (\$120,000 FY 2005-06 Beach Parking Capital Improvement Program (CIP))**

**B.I.G. Arts**

**Additional parking lot lighting for safety upgrade. (\$15,000 FY 2005-06 B. I. G Arts budget)**

Ms. Zimomra stated that the City had a long-term agreement with B. I. G. Arts for the following:

- Multiple year agreement
- City performs certain maintenance
- Pays insurance for exterior of building
- Complaints of parking and a fall in parking lot
- Expand lighting for safety reasons

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to retain the B.I.G. Arts item as a budget initiative for further discussion.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

Ms. Zimomra advised Council that National Geographic Magazine had published an article titled "Hunter and Hunted" that would feature a story regarding the most recent alligator incident on Sanibel. She also stated that staff had contacted Lee County for a plan if the Causeway was disabled due to a hurricane and had a contract to get equipment over for recovery.

## **CITY MANAGER'S REPORT**

### **Informational items:**

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

#### **Joint City Council, Planning Commission, Vegetation Committee Meeting June 27 at 9:00 a. m. to discuss the Periwinkle Way Restoration Plan**

Ms. Zimomra explained that there would be a joint meeting between City Council/Planning Commission/Vegetation Committee on June 27, 2005 meeting to review restoration of the Periwinkle Way Corridor. She also advised that staff had applied to Lee County for \$100,000 grant.

#### **Independence Day Parade and Picnic**

Ms. Zimomra reviewed types of activities for Council to volunteer for at the Independence Day Community Picnic

#### **Time Line for Annual Utilities Financial Feasibility Study (Annual Rate Study).**

Ms. Zimomra stated that every year a rate study was completed and would come to Council before October 1, 2005 for inclusion in the budget.

#### **Discussion and update of the status of zoning regulations relating to prohibiting the combining of smaller commercial units into large commercial units and to prohibit certain non-resident oriented retail uses within specified commercial areas.**

Ms. Zimomra stated that there was a memorandum regarding the update of zoning regulations.

Discussion ensued regarding zoning regulations going before the Planning Commission, Mr. Pfalzer stated that this would be a complication process and would come before the Planning Commission within 2 months.

#### **Report on Status of City Council Goals. (approval of survey of Sanibel businesses)**

Ms. Zimomra stated the survey was ready to send to all businesses holding an occupational license approved by City Council.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to proceed with sending the survey.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

**Attendance at the Annual Southwest Florida Regional Planning Council Conference October 6 & 7, 2005 Sarasota, Florida.**

Ms. Zimomra called Council attention to the packet information. She advised Council that normally City Managers, Mayors and Council members attend the conference. She asked Council members to make it known if they would like to attend.

**League of Cities Conference August 18 to 20, 2005 - Orlando (cancellation by Friday, August 05, 2005 at 5:00 p.m.)**

Ms. Zimomra advised that all City Council members were registered and August 5, 2005 was the date to cancel without penalty.

**Request for permission from TDC to allow TDC to register the name of Sanibel travel**

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to approve the request of TDC to register the name of Sanibel travel.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

**Sanibel Sewer System Phase 3B, E. T. MacKenzie of Florida, Inc. regarding subsurface conditions on Sanibel-Captiva Rd.**

Ms. Zimomra explained that conditions had been found that differ from what was expected. She stated that 18" below the existing road was an old road and would change the base condition.

**Nomination of the City Manager on the Advisory Board for the Sanibel School:**

Ms. Zimomra asked City Council for approval to service on this board.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to grant approval for City Manager, Judy Zimomra, to serve on the Advisory Board for the Sanibel School.

The motion carried unanimously. Councilman Brown and Councilman Rothman were excused.

**CITY ATTORNEY'S REPORT.**

None.

**COUNCILMEMBERS' REPORT.**

**Report from Mayor Johnston on meetings with Lee County Commissioners.**

Mayor Johnston spoke to the following:

- Talked with Lee County Commissioners regarding (1) recreation, (2) the trolley at Ft. Myers Beach, (3) water taxi, (4) water quality and releases from Lake Okeechobee, (5) variable pricing for Sanibel bridge transponders, (6) land near the Sugar Shack could be used for a high rise building – need input from Sanibel citizens to prevent this from happening, (7) Councilman Jennings will work with Lee County regarding the Recreation Center at Sanibel, (8) need support for a bike path to Bunch Beach

**Report from Mayor Johnston on MPO Meetings:**

She called attention to the agenda packet information.

**Report from Vice Mayor Denham on attending the Governor's Hurricane Conference.**

He called Council' attention the packet information.

Vice Mayor Denham reported that he would be absent from the September 10, 2005 meeting.

**PUBLIC COMMENT.**

Doug Dietrich, member of the bike club, distributed photographs of shared use paths and talked about bike club concerns.

Brenda Tate, member of the bike club, talked about problems with the shared use paths and stated that the bike club is willing to work with the City.

Councilman Brown returned to the meeting at 3:34 p. m.

City Manager Zimomra alerted the bike club that on June 27, 2005 at 9 AM a joint meeting will be held with City Council, the Planning Commission and the Vegetation Committee regarding the Restoration of the Periwinkle Corridor and urged the bike club members to attend.

Patty Sousa, bike club member, asked if the bike club should submit written information for this meeting. The City Manager said if this information is received in time it would be posted as part of the meeting packet.

Councilman Brown reported that the City should look at widening the shared use paths and the cost of this.

Claudia Burns, Sanibel resident, said that money has been spent to appease a few people who found the odor from the sewer plant to be offensive and there should be money to work on the shared use paths that thousands of people use.

Harris Gilbert, bike club member, said that previous Councils passed funding but the Shared Use Path issue was put on the back burner. Mr. Gilbert said that items put on the back burner should be evaluated and prioritized.

George Sousa, bike club member, spoke in support of the paths.

Vice Mayor Denham moved to adjourn the meeting. Councilman Brown seconded the motion. Mayor Johnston adjourned the meeting at 3:44 p. m.

There being no further business the meeting adjourned at 3:44 p.m.

Respectfully submitted by,

Susan Beck  
Recording Secretary