

**SANIBEL CITY COUNCIL MEETING
JUNE 21, 2005**

Mayor Johnston called the meeting to order at 9:02 a. m.

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

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

Public Comments:

Dr. Trish Herman, Sanibel School, reported that 100 Alligator Coloring Books had been distributed to each of the Council members so they could distribute throughout the Island, Ding Darling had more copies and that Sanibel students would be distributing these books during the Independence Day Celebration. Dr. Herman thanked City Council, Mike Valiquette and the Kiwanis Club for their support.

Hazel Schuller spoke to commercialization of resort values that replace Sanibel's sanctuary values and submitted flyers and ads regarding vacations sponsored by PMR/Resort Quest, Sun Dial and South Seas Resort. Ms. Schuller also distributed a map of Shared Used Paths to Council members.

Steve Maxwell submitted an Official Notice per Florida Statute 119 requesting the inspection and reproduction of Public Records.

Council discussion ensued regarding a Council meeting was not the place to discuss the matter due to pending litigation and Mr. Maxwell should discuss the matter with Mr. Cuyler, City Attorney.

Council Comments:

Councilman Brown spoke to the above ground pool (elevated pools) issue and addressed comments made by Commissioner Valiquette about Councilman Brown during the June 14, 2005 Planning Commission meeting. Councilman Brown asked that the item concerning Zoning in Progress be moved higher on the agenda.

Mr. Cuyler, City Attorney stated that City Council should add the elevated pool issue to the Agenda. Council added Resolution 05-106 relating to Zoning in Progress and above ground swimming pool issue under 9f of the June 21, 2005 Agenda.

Second 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.

Renee Lynch, Finance Director presented a brief overview of the State requirements for raising the Occupational License Taxes and Harold Law, Building Official spoke to the Handyman classification and why it had been removed from this Ordinance.

Vice Mayor Denham made a motion, seconded by Councilman Brown, to adopt Ordinance 05-009 with the following revisions:

- Delete the strikethrough lines on Page 2, 1561 *Handyman*, minor repairs and painting, yard maintenance, one person only, does not authorize electrical or plumbing work or any of the construction trades 55.00
- Increase the Handyman fee to \$55.00
- Assign number 1562 to Building Maintenance

Public Comment:
None.

The motion carried by a vote of 4 to 1, with Councilman Jennings dissenting.

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.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to adopt Ordinance 05-010.

Public Comment:
None.

The motion carried unanimously.

PRESENTATIONS

Recreation Status Report of the proposed Recreation Center design modifications by Henry Woodroffe, Woodroffe Architect.

City Manager Zimomra introduced Armand Ball, Chairman of the Parks and Recreation Committee and Henry Woodroffe, Architect for the Design of the proposed Recreation Center and stated the purpose of the presentation and discussion was so City Council could direct the path forward.

Mr. Woodroffe reviewed a PowerPoint presentation.

Mr. Ball reviewed concerns from citizens and stated he was in favor of the original design.

Public comments were entertained and City Council questions and comments were addressed.

Council recessed at 11:25 a. m.

Council reconvened at 11:33 a. m.

Councilman Brown made a motion, seconded by Councilman Jennings, to accept the original plan for the Recreation Center.

The motion carried by a 3 to 2 vote with Vice Mayor Denham and Councilman Rothman dissenting.

Ms. Zimomra asked Council if Mr. Woodroffe should proceed with the next level of drawings for the schematic that was just approved.

Mr. Woodroffe stated what had been authorized was through Design Development; and the next level would be construction documents, which would be done in two phases at this level (1) a 50% and (2) 100%.

City Council agreed that the 50% design should be done.

Mr. Woodroffe advised that it would take between 2 and 3 months to complete.

Mayor Johnston asked the City Manager to prepare a financing plan for the Recreation Center and present the plan to City Council at the July 19, 2005 City Council meeting.

Memorandum from IN REM Grant Writers update on Recreation Center Funding Alternatives:

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

Planning Commission Report.

Commissioner Bilhiemer stated that he would relinquish his time to Councilman Brown because the Planning Commission Report of the June 14, 2005 meeting was mainly in regard to the elevated pool issue.

Councilman Brown spoke to the following:

- Newspaper coverage of the June 14, 2005 Planning Commission meeting, specifically the article about elevated pools and references to interactions of Councilman Brown with Mr. D'Amelio and the bias of a Planning Commissioner who didn't listen to both sides of the story
- A letter from Jack McGrath regarding concerns about elevated pools and said that he, Councilman Brown, agreed with Mr. McGrath's letter
- Nothing on drawings for the D'Amelio residence that shows an elevated pool
- City Council and the public discussed the topic of elevated pools.

Mike Valiquette stated he did not insinuate that the elevated pool issue was because of Mr. Brown's neighbor.

Mr. Cuyler explained the meaning of Zoning in Progress and how it affected permit applications.

Council decided to discuss the following:

Zoning in Progress/Elevated Pools:

RESOLUTION 05-106 ACKNOWLEDGING THAT THE PLANNING STAFF, AT THE DIRECTION OF CITY COUNCIL, HAS DEVELOPED PROPOSED LAND USE REGULATIONS RELATING TO THE PROHIBITION OF ABOVE-GROUND POOLS AND THAT SUCH PROPOSED ORDINANCE HAS BEEN SUBMITTED TO THE PLANNING COMMISSION FOR ITS CONSIDERATION AND RECOMMENDATION; DIRECTING THAT THE PLANNING COMMISSION PROVIDE RECOMMENDATIONS, AFTER ITS DUE CONSIDERATION, WITH REGARD TO SUCH PROPOSED LAND USE AND DEVELOPMENT REGULATIONS; DECLARING THAT THE DEVELOPMENT OF SUCH REGULATIONS AND THE ZONING PROCESS RELATED THERETO CONSTITUTES "ZONING IN PROGRESS"; DIRECTING THAT PERMITS FOR ABOVE-GROUND POOLS NOT BE ISSUED UNTIL THE "ZONING IN PROGRESS" HAS BEEN COMPLETED BY FINAL CONSIDERATION OF SUCH PROPOSED LAND USE AND DEVELOPMENT REGULATIONS BY CITY COUNCIL; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 05-106.

Mr. Cuyler explained that if Council decided to start the process of going forward with regulations, then formal public notice needed and permit issuance would be put on hold. He further explained that Resolution 05-106 would put a freeze on issuing permits for aboveground pools.

Discussion ensued regarding houses with elevated pools that were build on either side of the McGrath property and asked Mr. Pfalzer if he knew the height of the Baum house.

Mr. Pfalzer answered that the Florida Building Code on Gulf front construction required the lowest horizontal structural member to be generally at an elevation from 16' to 19'. He explained that the construction for the velocity zone requires that all the support for a pool be above of that elevation, which was above sea level not above grade.

Mr. Cuyler stated he would like to revise the wording in Section 1 of Resolution 05-106 "the issuance of final permits for the construction of above-ground pools shall be prohibited" to something like "the issuance of final permits for any permit applied for after June 21, 2005, for the construction of above-ground pools. An above-ground pool shall be defined as any pool 3'6" above grade."

Public Comment:

Were entertained from Sanibel residents and Robert Edwards, Esq., representing Mr. and Mrs. D'Amelio.

Councilman Jennings made a motion, seconded by Councilman Rothman, to table the issue. The motion failed by a vote of 3 to 2, Mayor Johnston, Vice Mayor Denham and Councilman Brown dissenting.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to adopt Resolution 05-106 including the amendment as stated above.

The motion carried by a 3 to 2 vote, with Councilman Jennings and Councilman Rothman dissenting.

CONSENT AGENDA:

Council asked that the following be pulled from the Consent Agenda items (a), (b), (h), (i), and (j).

Councilman Jennings made a motion, seconded by Councilman Rothman, to approve the following Consent Agenda items.

- c. **Approval of Interlocal Agreement Between the Lee County School Board and the City of Sanibel for the School Resource Officer Program (D.A.R.E.) in the amount of \$35,035**
- d. **Award contract for Hurricane Related Drainage Repairs to CEM Enterprises, Inc., in the amount of \$372,280.00 and authorize the City Manager to execute the contract. (funded 75% by N. R. C. S. grant and 25% by City of Sanibel)**
- e. **Annual increase of 4.4% for City Hall and 3.5% Beach Restroom Cleaning**
- f. **Award Boat Ramp Dock Replacement contract to SteMic Enterprises, Inc., in the amount of \$65,700 and authorize City Manager to execute the contract.(\$30,000 from W.C.I.N.D. grant and \$35,700 from the Beach Parking Fund)**
- g. **Approval of contract agreement with RJN. Inc., to provide sewer system evaluation services for the City of Sanibel at a cost of \$60,229.28 at the**

designated areas of the Dunes, Beachview and Gumbo Limbo funded through the Sewer Enterprise Fund

- k. Approve Change Order #1 for San-Cap Road Improvements project in the amount of \$27,950 and authorize the City Manager to execute the Change order (overlay additional portion of San-Cap Road funded with \$17450 from San-Cap Road Fund and \$10,500 from Phase 3A sewer expansion project)**

The motion carried unanimously.

- a. RESOLUTION 05-088 AMENDMENT/TRANSFER NO. 2005-037 AND PROVIDING AN EFFECTIVE DATE (to appropriate a grant award of \$25,000 from the Fish and Wildlife Service, FWS Agreement #1448-40181-05-F for a \$575,000 project (City share =\$550,000) to restore 45 acres of coastal strand habitat at Bowman's Beach by eradicating invasive exotic plants, and replanting with native vegetation to restore habitat for wildlife, migratory birds and federally listed plant species)**

Ms. Zimomra read the title of Resolution 05-088.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to adopt Resolution 05-088.

The motion carried unanimously.

- b. RESOLUTION 05-089 AMENDMENT/TRANSFER NO. 2005-035 AND PROVIDING AN EFFECTIVE DATE. (to appropriate \$4,265 of confiscated property in the Federal Forfeiture Fund to be used to equip the DARE car per the attached memorandum from the Police Chief)**

Ms. Zimomra read the title of Resolution 05-089.

Vice Mayor Denham made a motion, seconded by Councilman Brown, to adopt Resolution 05-089.

The motion carried unanimously.

- h. RESOLUTION 05-099 BY THE CITY OF SANIBEL, FLORIDA SUPPORTING THE RESTORATION OF THE TREE CANOPY ALONG THE PERIWINKLE WAY CORRIDOR AND AN APPLICATION FOR FUNDING FROM THE STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF FORESTRY 2005 EMERGENCY HURRICANE SUPPLEMENTAL URBAN AND COMMUNITY FORESTRY GRANT PROGRAM; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 05-099. She stated that the plan had not been approved, but adopting Resolution 05-099 was a requirement of the Department of Forestry for a grant that had been established for replanting cities hit by hurricanes. She further stated that the deadline to apply was July 1, 2005.

Discussion ensued regarding adopting Resolution 05-099 and that the resolution did not require the City to restore the Periwinkle Way corridor, but would authorize staff to apply for the grant.

Councilman Jennings made a motion, seconded by Councilman Rothman, to adopt Resolution 05-099.

The motion carried unanimously.

- i. **RESOLUTION 05-100 APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE LEE COUNTY AND THE CITY OF SANIBEL PROVIDING FOR COUNTY FUNDING AND RELATED CITY OBLIGATIONS FOR THE CONSTRUCTION, MAINTENANCE AND USE OF A PUBLIC COMMUNITY SKATEBOARDING PARK TO BE LOCATED ON PROPERTY OWNED BY THE LEE COUNTY SCHOOL BOARD; PROVIDING THAT SUCH PARK SHALL PROVIDE SKATEBOARDING AND INLINE SKATING RECREATIONAL OPPORTUNITIES; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 05-100.

Councilman Brown made a motion, seconded by Councilman Jennings, to adopt Resolution 05-100.

The motion carried by a vote of 4 to 1 with Councilman Rothman dissenting.

- j. **RESOLUTION 05-101 AMENDMENT/TRANSFER NO. 2005-036 AND PROVIDING AN EFFECTIVE DATE (to transfer \$17,000 from the Road Impact Fee Fund to the San-Cap Road Capital Project Fund to augment the San-Cap Road project in Fiscal Year 2005 for a portion of the project planned for Fiscal Year 2006 in order to promptly address safety concerns)**

Ms. Zimomra read the title of Resolution 05-101.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt Resolution 05-101.

The motion carried unanimously.

Ms. Zimomra asked if Council would add an executive session to the July 5, 2005 regarding union negotiations.

City Council agreed by consensus.

Council recessed at 12:00 p.m.

Council reconvened at 1:07 p. m.

Discussion regarding Safety of Electronic Personal Assistive Mobility Devices (brand name Segways)

Mr. Cuyler opened the discussion by explaining State of Florida legislation regarding Segways by the State of Florida. Mr. Cuyler added that this item did not have anything to do with the decision regarding the tour business that was approved by the Planning Commission and addressed in Planning Commission Resolution 05-07; however, any limiting decision regarding Segways could apply to the tours.

Public comments from individuals and the Sanibel Bicycle Club, who distributed two documents to Council members, were entertained and City Council questions were addressed.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to direct Mr. Cuyler to compose an Ordinance, in the interest of safety, that prohibits the use of Segways other than for guided or controlled tours.

l.

The motion carried by a 4 to 1 vote, with Councilman Jennings dissenting.

Discussion and direction to staff regarding MIS Department Work Program and Priorities:

Ms. Zimomra, and Bert Smith, MIS Director, reviewed the responsibilities of the Department and the backlog of projects.

Mr. Cuyler discussed how to charge for MIS services.

City Council agreed that they now had a general sense of the MIS Department work program and agreed that the department was short staffed.

Discussion regarding the Environmental Handbook:

This item was withdrawn per a memorandum from Julie Schwartz, Chairman of the Vegetation Committee dated June 20, 2005.

Councilman Brown reported there were sections of the Handbook that he was not comfortable with and feels there are inaccuracies. He suggested that experts and private citizens look at the handbook to assure accuracy.

Fiscal Year 2005-06 Budget:

Ms. Zimomra reviewed the schedule for budget meetings.

Revenue Initiatives

Discussion Regarding Bike Rental Fee Draft Ordinance:

Mr. Cuyler asked for direction from Council as to whether to prepare an Ordinance for Bicycle Fees.

Vice Mayor Denham made a motion, seconded by Councilman Brown, to ask the Mr. Cuyler to draft an Ordinance for Bike Rental Fees to be brought back to City Council on July 19, 2005.

The motion carried unanimously.

Occupational License Increase:

Ms. Zimomra advised that the ordinance previously adopted by Council to increase the Occupational License fees would bring in an additional \$16,000 in revenue for next year.

User Fees for Development and Building Fees Update:

Ms. Zimomra reported the following:

- All fees in the Building and Planning Departments were being captured
- A memorandum from the Finance Director was included in the meeting packet
- By July 19, 2005 an Ordinance would be ready for first reading

Impact Fee Study Update:

Ms. Zimomra reported the following:

- The same consultant that was working on the Development and Building Fees Update had been asked to submit a quote for the Impact Fee Study Update
- A memorandum from the Finance Director was included in the meeting packet showing current rate of fees for road impact, park fees and what the impact would be.
- If the consultant quote was reasonable staff would proceed with the Impact Fee Study

Discussion ensued regarding exploring additional revenue opportunities and Vice Mayor Denham discussing the issue with Mr. Cuyler.

Solid Waste Proposal from Lee County:

Ms. Zimomra stated that the proposal had not been received, but staff was waiting for a letter from Lee County by June 22, 2005.

Departmental Initiatives:

The City Manager asked Council members to submit questions and comments to her.

Draft Capital Improvements Project Review:

Ms. Zimomra stated the Draft Capital Budget would be included with the Working Budget when submitted to Council.

Hurricane Debt:

Ms. Zimomra called Council's attention to the packet information and the memorandum from Renee Lynch, Finance Director recommending that the Hurricane Debt be paid in equal amounts over the next three years.

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to repay the Hurricane Debt in three equal payments over the next three years.

The motion carried unanimously.

CITY MANAGER'S REPORT

Informational items:

Hurricane Recovery Update.

Schedule for hurricane drainage improvement project

Ms. Zimomra reminded Council that \$333,000 was approved earlier in the meeting for the Hurricane drainage improvement project.

Joint City Council, Planning Commission, Vegetation Committee Meeting June 27 at 9:00 a. m. to discuss the Periwinkle Way Restoration Plan & Lee County's proposed landscaping plans for Causeway Boulevard:

Ms. Zimomra reminded Council of the scheduled meeting on June 27, 2005 at 9:00 a.m. with City Council, Planning Commission and the Vegetation Committee to discuss the Periwinkle Way Restoration Plan and Lee County's proposed landscaping plans for Causeway Boulevard.

Independence Day Parade and Picnic:

Ms. Zimomra noted that the information was included in the agenda packet.

Distribution of staff report on Build Back issues to be scheduled for City Council discussion July 5th :

Ms. Zimomra called Council's attention to the staff memorandum in the agenda packet summarizing the Buildback issue as understood from Council at the last meeting. She stated that this item was scheduled to be discussed during the July 5, 2005 meeting.

Report on status of Clam Bayou Project:

Ms. Zimomra spoke to the e-mails Council had received regarding the Clam Bayou Project. She stated that every time it rains the water level would rise. She also stated that staff was working toward eminent domain to obtain the land necessary to complete the project as authorized by Council as quickly as possible.

Request from the Metropolitan Planning Organization (MPO) for data on Revenue Projections and Transportation Projects through 2005

Ms. Zimomra advised Council that the MPO has requested a 30-year projection on transportation dollars. She stated that there would be no problem extrapolating what had been done for the past 5 years and asked for Council's approval.

Council by consensus agreed to send a projection for 5-years of transportation dollars, but not to spend a lot of time of the project.

Council representative for the Lee County Human Services Council.

Ms. Zimomra advised Council that Lee County had requested a City liaison to serve on the Lee County Human Services Council. She further advised that the position was advertised, but there were no volunteers.

Council agreed by consensus that Marty Harrity should be given the opportunity to participate.

Council representative for the MPO Citizen Advisory Committee

Ms. Zimomra advised that MPO Citizen Advisory Committee had requested a volunteer to serve on this committee. She further advised that the position had been advertised, and there were no volunteers.

Mayor Johnston reported that Paul Reynolds had been the appointed previously and was prepared to continue as the representative.

City Council agreed by consensus.

Ms. Zimomra advised Council that Crystal Mansell was hospitalized after an injury from a car accident.

Council agreed to send flowers.

CITY ATTORNEY'S REPORT.

None.

COUNCILMEMBERS' REPORT:

Request from the Chairperson of Lee County's Roadway Landscape Advisory Committee to provide input to designs underway.

Councilman Brown stated that Keith Trowbridge, the Chairman of Lee County Landscape Committee, suggested that a representative from the City should attend a meeting on Thursday, June 23, 2005 at 1:00 p. m. regarding landscaping/plantings on the Causeway. He suggested that someone from the Vegetation Committee should attend this meeting.

Ms. Zimomra stated that the meeting would be posted.

Discussion ensued regarding Councilmembers attending, as well as Planning Commission and Vegetation Committee members, requesting that the Causeway Islands be kept informal, make certain that people on the island would be able to see the beach, and leave enough green space to accommodate large gatherings.

Councilman Brown stated that the Marine Advisory Committee requested \$15,000 to clear canals.

Mayor Johnston reported that the MPO was looking for an elected official to serve on the Transit Authority Policy Committee. She further stated that she is the present representative and would agree to continue in this capacity.

Council agreed that Mayor Johnston would be the representative.

Councilman Rothman asked that at the July 19, 2005 meeting an agenda item be added called, "Update from staff regarding the Donax noise issue from the noise expert."

Vice Mayor Denham asked if it was worth spending \$40,000 each year for lobbyists; the Lions Club donated \$100 to the City's scholarship fund and issued a challenge to other organization to match this donation, and he would support any endeavor to get the recreation center approved.

Councilman Jennings thanked Councilman Brown for the Recreation Center license plate; thanked the children that distributed the alligator coloring books and recreation tags; stated that the Board of County Commissioners recognized a representative from Sanibel was present at the newest Lee County Library opening; and that there was a seat for the Mayor of Sanibel during the Governor's visit.

Request from Senator Nelson for the City of Sanibel to support the opposition to lifting the moratorium of offshore drilling.

Mayor Johnston suggested that letters be written to Senators Nelson and Martinez opposing offshore drilling.

Councilman Brown made a motion, seconded by Councilman Jennings, to direct staff to prepare a letter for the mayor's signature in opposition to lifting the moratorium of off-shore drilling and send to Senators Nelson and Martinez.

The motion carried unanimously.

PUBLIC COMMENT:

Hazel Schuller asked if a Walgreen's would be replacing the shopping center where Amy's Over Easy is located, and Public's replacing the Bailey Shopping Center were true.

Council advised that the Zoning in Progress that was in place would prevent this.

Mr. Cuyler stated that a Walgreen's would not be built where Amy's Over Easy Restaurant was located.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adjourn the meeting.

The motion carried unanimously.

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

Respectfully submitted by,

Susan Beck
Recording Secretary