

**SPECIAL SANIBEL CITY COUNCIL MEETING  
JULY 05, 2005**

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

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

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

Mayor Johnston asked Council and the audience to applause City Staff for their work and efforts during the Independence Day weekend celebration.

Ms. Zimomra also thanked the Chamber and all the sponsors of the parade and picnic.

Mayor Johnston explained that there was no public comment on the agenda due to the meeting being a special meeting.

**Public Comment:**

Henry Glissman spoke to the need for public comment.

Jack Samler spoke to an approval of subdivision, possible four-laning of Periwinkle Way and an approved easement that would allow the above-mentioned.

Mr. Cuyler stated that the only easement included in the subdivision approval was for the Shared Use Path.

Ed Seibert spoke to the publishing of financial spending and funding sources in the paper.

Claudia Burns spoke to the need for public comment, the parade and community picnic.

Billy Kirkland spoke to how well the Independence Day community picnic.

**Council Comment:**

Councilman Brown spoke to Council riding together in the parade. He also spoke to the last Council meeting and discussion of aboveground pools.

Councilman Jennings spoke to the Independence Day parade, thanked citizens for working toward a new Recreation Center and not speeding on the Causeway. He further asked that staff contact Sheriff Scott to request a greater profile on the Causeway.

Consensus of Council to asked the City Manager to draft a letter to Sheriff Mike Scott for more traffic patrol on the Causeway.

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

**ORDINANCE 05-011 RELATING TO ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES (“EPAMDs”); SETTING FORTH FINDINGS; DETERMINING THAT EXCEPT IN ACCORDANCE WITH THE USE, OPERATIONAL AND LOCATIONAL CRITERIA SET FORTH IN THIS ORDINANCE, THE USE AND OPERATION OF EPAMD’S ARE UNSAFE ON THE STREETS, ROADS, BICYCLE PATHS, SHARED- USE PATHS AND**

**SIDEWALKS WITHIN THE CITY OF SANIBEL; SETTING FORTH USE, OPERATIONAL AND LOCATIONAL CRITERIA FOR THE USE AND OPERATION OF EPAMDs; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Ordinance 05-011.

Council set the second reading and public hearing for July 19, 2005 at 9:30 a.m.

**ORDINANCE 05-012 GRANTING TO LEE COUNTY ELECTRIC COOPERATIVE, INC., (LCEC) ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE; IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO; PROVIDING FOR QUARTERLY PAYMENTS TO THE CITY OF SANIBEL, FLORIDA; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 05-012.

Council set the second reading and public hearing of Ordinance 05-012 for July 19 at 10:00.

**PRESENTATIONS:**

**Employee Housing Study by Community Housing Resources.**

Ms. Jan Hyatt introduced CHR Board members and attorney Bob Pritt. She gave the following report:

- 2002 housing survey sent to employees
- 2003 City Council requested CHR to perform an employee housing study
- 2004 proposed scope of work for study, which was approved and hired a consultant

Richard Faris, CHR Board member gave the following report:

- Survey country and world
- Study baseline in Sanibel
- Prepared a menu for Council

Alternatives:

- Housing Counseling
- Home Buying Assistance – Down Payment Assistance
- On-Island Housing Units in need of repair for purchase or rental

Another CHR Board member gave the following report:

- Establish a housing office that monitors housing trends and assist employees (create a position for this purpose)
- Schedule a workshop
- Appoint a committee to work on employee housing

Discussion ensued regarding working with banking institutions for mortgages, critical housing for employees, structures employees are currently able to lease from City at reduced rent, possible travel allowance for employees; and Ms. Zimomra spoke to the challenge of recruiting employees due to the commute and affordable housing, cost of program due to the number of employees that would participate, 80% of employees that have an annual salary \$45,000 per year, number of commuting residents that work

off island, possibility of a housing consultant in CHR, keeping a housing program unbiased, should assistance be given to an employee that want to live in Lehigh and could employee housing units meet the criteria of Department of Community Affairs (DCA); Mr. Pritt answered that he doubted that employee housing would meet the criteria of DCA funding.

Public comment:

Henry Glissman spoke to not using City funds for employee housing.

Discussion ensued regarding how many cities in Florida have a low-cost housing program and bringing a timeline back to Council on July 19.

Council recessed at 10:21 a. m.

Council reconvened at 10:31 a. m.

### **Proposed Special Taxing District for the Sanibel Library by Sanibel Library.**

Tom Kreckel, President of the Sanibel Library and Pat Allen, executive Director of Sanibel Library:

- 10 years Interlocal Agreement with Lee County and receives 65% of milage rate with Lee County receiving 35%
- Funds received through the City of Sanibel 2004
- 2004 City staff helping to negotiate Interlocal Agreement between Lee County and Sanibel Library
- 2004 library took over negotiations with Lee County
- 2004 no favorable Interlocal Agreement with Lee County
- 2004 approval from City Council to submit a bill to Florida legislature
- 2004 submitted a bill to Florida legislature, which was approved for an Independent Library District
- New taxing district collected by Lee County and distributed directly through Sanibel Library
- Past milage rate .9630 reduce to .6055 in FY 2004-05, which resulted in a 17% reduction
- Requested 1.0 mil and was reduced to .05
- Require election of 7 commissioners
- If not approved by electorate would result in an unfavorable Interlocal Agreement with Lee County

Discussion ensued regarding reduction of library district milage rate and savings to residents and if electorate approved referendum on November 8<sup>th</sup> there would be a March election for the new Library Board.

Public Comment:

Jeannie Wygan spoke to the excellence of the Sanibel Library.

### **Update from Island Water Association (IWA) Water Association Conservation Efforts and Opportunities.**

#### **Memo from Utilities Department on Status of Reclaimed Water Sales**

Ms. Zimomra explained that one of Council goals was water conservation. She further stated that Island Water Association (IWA) had made great efforts and strides toward water conservation.

Roger Blind, Executive Director of IWA gave the following report:

- IWA Plant could provide 5.2 million gallons of water each day
- 10,000 gals pumped
- Demand was variable
- Midnight and 5:00 a. m. water usage peaks due to irrigation
- 4.2 million gallons per day highest demand thus far
- Top 35 water users – 81,000 to 349,000 gallons per month – 18 users on Sanibel & 17 users on Captiva
- Average user 13,000 per month

- 1992 last rate increase
- Tiered rate structure
- Residential water meters being upgrade from 5/8's to one inch
- 2003 implemented a new water conservation program
- Continuing education program
- Installing rain sensors for free with free installation to existing customers
- City could continue to expand reuse system
- Modify ordinance for water conservation
- South Florida Water Management District requires watering only 3 days per week

Discussion ensued regarding the reuse report in the agenda packet, current agreements expire and negotiations begin for future reuse customers, storage of reclaimed water, obtained a grant from water district for switching to reuse usage for customers, reluctant to increase water rates, but may need to increase rate if expansion becomes necessary, enforcement of water district watering requirements and asking staff to work with IWA.

Council by consensus agreed that if it was legally possible to advertise the names of high water users.

Public Comment:

Rob Jess asked if water connection was a right or privilege?

Mr. Cuyler stated that there was far more right to access to water than usage.

### **Alligator Study Proposal from Sanibel Captiva Conservation Foundation (SCCF).**

Ms. Zimomra reminded Council that over the last 3 years there had been 2 alligator fatalities and 2 other attacks by alligator. She stated that the City had been working in concert with the State and their guidelines. She further stated that Ding Darling and SCCF approached the City for a partnership for a proposed study of alligators on Sanibel. She recommended that Council approve a nominal financial support. She also stated that staff had 2 areas of concern:

- Concern regarding the safety aspects of those involved in the study especially when sexing alligators
- No article baiting or stimulating of alligators to desensitize them

Erik Lindbald, Executive Director of Sanibel Captiva Conservation Foundation (SCCF) spoke to the following:

- Identify groups affected by or have interaction with alligators on Sanibel
- Determine the knowledge, attitudes and beliefs of the above towards alligator
- Assess status and ecology of alligators on Sanibel Island
- If the study warrants, recommendations will be made and assistance provided regarding management of alligators to insure public safety and conservation of ecological integrity

Frank Mazoti, Florida University spoke to his credentials and experience as well as the following:

- No baiting of animals
- Safety was paramount and trained professionals to work with alligators

Rob Jess, Executive Director of J. N. "Ding" Darling Wildlife Refuge spoke to the following:

- First concern was health and well being of public
- Study would give the science needed to create a policy
- Dr. Laura Brandt would also be assisting

Dr. Rob Loflin, Natural Resources Director stated that the current City alligator program was endorsed by the State. He further stated that the involvement of Dr. Frank Mazoti was important due to his being a state employee. He also spoke to the continued feeding of alligators both adults and adolescent, and reporting this feeding.

Discussion ensued regarding of total project for 3 years and financial support of \$70,000, \$35,000 from SCCF and \$35,000 from the City over the 3 years, in-kind service of housing and staff from the refuge, and the mosquito district would provide the air support.

Public Comment:

Bob Laswell spoke against the proposed study.

Henry Glissman spoke in support of the propose study.

Claudia Burns spoke in support of the proposed study.

Ms. Zimomra stated that the workers and employees that respond to alligator attacks were very important and the City's obligation was to keep employees safe. She stated that the study would be done with open eyes and very objective.

Jack Samler spoke in support of the proposed alligator study.

Discussion ensued regarding more alligators on Sanibel than 40 years ago, taking the map of 1940 and a current topography map for the study.

Council by consensus approved the inclusion of the funding for the proposed alligator study.

Mayor Johnston made a motion, seconded by Councilman Jennings, to excuse Councilman Brown.

The motion carried by consensus.

### **Discussion Items:**

#### **Direction to staff regarding the Planning Department Memorandum regarding Build-back Issue:**

Mr. Pfalzer, Acting Planning Director spoke to the following:

- Revisions for consideration of intent, structures devoted to nonconforming uses, non-conforming structures and reconstruction of structures in violation of standards prohibited
- Question regarding height
- Buildback if use were changed
- Resort use not re-established by right
- Currently 500 resort housing units located in the Gulf Beach Zone & Bay Beach Zone would not be allowed to be re-built
- June 27, 2005 letter from Department of Community Affairs (DCA) state found EAR sufficient, but the proposal to increase density could only be allowed through an amendment of the Land Development Code (LDC)
- Memo dated on October 22, 2004 spoke to restricting development intensity in the resort housing area that was in excess of levels upon which the Sanibel Plan was predicated
- Amendment to the Sanibel Plan was needed before the buildback amendment could be made

Discussion ensued regarding guidelines that no owner commercial or residential would lose units, long-term goal was to discourage construction in the Gulf Beach Zone, resort use may not be re-instituted if destroyed and re-constructed, encourage buildings to be move back from the water, using the issue of use to encourage placing buildings back from the Coastal Construction Control Line (CCCL), no change in usage policy and further study the ability to move buildings out of the Gulf Beach Zone, any changes should meet

the threshold of the Burt Harris Act, separate policy for buildback versus re-development, the need for strategic planning in case the building was destroyed by a disaster, resort in a resort area should be allowing a buildback scenario, no resort status outside the resort zone if building was destroyed, the adopted Charter Amendments would not be affected by the Burt Harris Act, current code provisions that allow Council to look at a request on a case by case for relief, would need some appeal relief, and the need to be as clear as possible was important.

Mr. Cuyler stated that in the current Code Council could look at post disaster situations on a case-by-case basis to grant relief. He further stated that Council would always be a relief mechanism.

**Public Comment:**

Sonia Smith spoke to a March 30, 2005 memorandum from Ken Cuyler, City Attorney that addressed 4-story buildings and stated that the only amendment needed to the Sanibel Plan since the charter amendment needed was related to the permitted heights of buildings.

Mr. Pfalzer stated that the suggested changes made a reference to deal with the 45 feet and how it deals with height in the resort district, but does not include a provision to allow the 4<sup>th</sup> habitable floor in the base flood elevation to be built back. He also stated that in his opening presentation staff thought that was how Council consensus was going, but the feedback on the memorandum was that it was not correct.

Discussion ensued regarding Council consensus that amendments intended that the 4-stories be permitted to go up one, the EAR adopted by Council and the Planning Commission intended the same, and amendments to the Sanibel Plan would be part of the process.

Jack Samler spoke to asking staff to bring forward a proposal due to Council discussion.

**Recreation Center Next Steps:**

Ms. Zimomra stated there were three areas for discussion and they were as follows:

- **Status of funds:**

Have not heard from Lee County as to the amount of funds being incorporated in to the County budget.

- **Status of referendum:**

Mr. Cuyler explained that Bond Counsel would need to be involved, would need 120 days out before an election could take place, and adoption of a resolution with the date of the election and a ballot question.

Discussion ensued regarding the need for funding in place, Mr. Cuyler answered that the legal requirements if there was a long-term (bond issue) the amount must be within the ballot question, 6 to 8 weeks the architect would have the design that Council selected on June 21, 2005 and Council decision as to a poll or mail ballot.

Armand Ball, Chairman Parks and Recreation Committee Chairman spoke to discussion of raising funds and no one coming forward and residents want to give funds for the construction.

- **Status of design:**

Ms. Zimomra stated that it was not uncommon for staff to look at modifications that might reduce saving that would not delay the design.

Council by consensus agreed to allow staff to look at modifications that might reduce savings, but not delaying the design.

**Public Comment:**

Andrew Reding spoke to Council's need to anticipate any questions regarding a ballot question. He also spoke to community need,

Armand Ball spoke to the pool area being different levels.

Council recessed at 1:46 p. m.

Council reconvened at 1:50 p. m.

Council went in to Executive Session at 1:50 p.m. and Mayor Johnston announced that the following persons would be included:

**EXECUTIVE SESSION RELATING TO UNION NEGOTIATIONS.** In attendance shall be only the following persons:

**Sanibel City Council**  
**Sanibel City Manager Judie Zimomra**  
**Sanibel City Attorney Kenneth Cuyler**  
**Jim Isom, Manager of Administrative Services**  
**Wayne Helsby, Labor Counsel (Allen, Norton & Blue)**  
**Renee Lynch, Finance Director**

Council went in to open session at 3:00 p. m.

There being no further business the meeting was adjourned at 3:01 p. m.

Respectfully submitted by,

Pamela Smith, CMC  
City Clerk