

**SANIBEL CITY COUNCIL BUDGET WORKSHOP
APRIL 25, 2005**

Mayor Johnston called the meeting to order at 2:38 PM

Members Present: Mayor Johnston, Vice Mayor Denham, Councilman Jennings, and Councilman Rothman. Councilman Brown was excused.

Councilman Jennings gave Invocation and led the Pledge of Allegiance.

Mayor Johnston reported the objective of the meeting was for City Council to take an objective look at the FY 2004-05 budget.

Ms. Zimomra, City Manager spoke to the following:

- the numbers being reported were through the first half of Fiscal Year 2004-05
- this was the time to identify deviations, make necessary alterations and adopt changes
- three specific areas will be covered, (1) the financial impact of the Causeway law suit, (2) where we are on the hurricane damage expenses and the repayment for those damages, and (3) the impact on the enterprise fund beach parking
- future meetings would be scheduled according to regulations set by State Statutes
- three major headlines on the budget will be discussed by Finance Director Lynch, (1) general fund – 72% of the budgeted revenue has been collected as of March 31, 2005 and 47% of the budget has been expended; (2) Sewer Enterprise Fund – 54% of the budgeted revenue has been collected as of March 31, 2005 and 30% of the budget has been expended; (3) Parking Enterprise Fund – 39% of the budgeted revenue has been collected (this is due to the effects of the hurricane) and 28% of the budget has been expended

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to excuse Councilman Brown from the meeting,

The motion passed unanimously.

Ms. Renee Lynch, Finance Director explained how Government Accounting works, i.e., the definition of a fund; and the five (5) government type funds (Sanibel only uses four (4)).

Ms. Lynch reviewed the FY 2004-05 budget figures as follows:

- Adopted Governmental type funds totaled \$23.8MM
- Two Enterprise Funds – (1) Sewer System - \$14.4MM, (2) Beach Parking Fund - \$1.4MM
- Total Budget - \$39.7MM
- Effective March 31, 2005 budget was amended to a total budget of Governmental Funds of \$28.7MM, the Sewer System remained \$14.4MM and Beach Parking is \$2MM for a total budget of \$45.2MM

Ms. Lynch explained the following:

- The numerous grants that have been received and how grant monies are expended on an individual grant basis
- Governmental accounting and budgeting different fund types

Ms. Zimomra explained how the weigh station process works and how the income was derived.

Ms. Lynch discussed the following:

- Intergovernmental Revenue
- Charges for Services
- Fines & Forfeitures
- Miscellaneous Revenue
- Reserve for Undercollection

Discussion ensued regarding the following topics:

- Beginning and ending fund balances – how and why adjustments are made during the year
- Difference between amending the budget and transferring funds from one account to another
- Impact fees (Ms. Lynch would submit the information to Council)
- Fund balances and the regulations that control these funds
- Excess funds and interest earned on these funds
- Grant monies; how they are used and how they are accounted for
- Ad valorem taxes and millage rates and how these taxes are distributed
- Utility tax
- Sources of funds
- Contingency reserves
- Service tax

Public Comment:

Curt Stendahl asked if permit fees are included in indirect costs.

Ms. Lynch answered yes.

Ms. Lynch reviewed the Governmental Fund Uses and explained each of the 12 uses.

Ms. Zimomra stated that the State of Florida mandates which department funds are included in each category. She reported that due to effects of the hurricane, Building Department permits had increased and expenditures had also increased due to the necessity for additional assistance. She further stated that these funds must be used by the Building Department; they cannot go into the General Fund. She also stated that monies remitted to the City for moving violations have been impacted by the hurricane because many of the City's police officers were deployed to do other jobs rather than speed enforcement.

Ms. Lynch stated that parking violations had also been impacted. She explained the definition of roll-forward.

Public Comment:

Hartley Kleinberg asked why so little money had been spent in the areas of transportation and capital projects.

Gates Castle, Public Works Director answered that some projects would be completed during the summer when traffic was less, and the money would be used at that time.

Barbara Cooley reported that the Library does not have an up-to-date copy of the budget.

Ms. Lynch said she would give the Library a new copy.

Council recessed 4:14 p.m.

Council reconvened at 4:29 p.m.

Ms. Lynch continued the budget review continuing with sources and uses of funds regarding the sewer fund and line items regarding the hurricane update.

Discussion ensued regarding beach parking funds and their legal uses, Ms. Zimomra explained parking funds had been used to pay police officers deployed to beach patrol as well as Shared Use Path improvement projects; and there needed to be a nexus between the generator and use of the funds.

Public Comment:

Hartley Kleinberg spoke a second time and asked if the \$50,000 was included in the budget for an emergency situation.

Ms. Lynch answered that once the fund reached \$1MM no more money was put into the fund.

Ms. Zimomra stated that the amount should be increased to \$2MM due to FEMA only reimbursing when a State of Emergency was declared and normally any preparation costs incurred was at the city's expense.

Mr. Kleinberg asked where the money came from to escort trucks off the Island.

Ms. Zimomra answered the contractors paid for the service.

Curt Stendahl spoke a second time to a consultant reporting that cities were using parking fees elsewhere in the city.

Council forwarded the question to Mr. Cuyler for an answer.

Steve Maxwell suggested that staff look at comparative cost and program analysis, i.e., how many development permits are reviewed in a quarter, semi-annually and annually for the FY 2005-06 budget. He spoke to public service tax and using a cross-center comparative analysis.

Council advised that the work program was being reviewed and department heads would be presenting this during the budgeting process.

Barbara Cooley spoke a second time to the need for the City to do a better job informing the public regarding the budget and that budget information should be on the web site and the Library should have an up-to-date budget report.

Discussion ensued regarding the Hurricane Charley debt being paid off in the coming year.

Hartley Kleinberg spoke a third time to Council having goals and those goals should trickle down through the organization.

Ms. Zimomra stated that goals had always been done, but due to Hurricane Charley priorities changed. She further stated that goals would be done for the 2005-06 fiscal year.

Mr. Kleinberg stated the budget on the web was very difficult to read and asked if it would be possible to show large cost items instead of the entire budget.

Steve Maxwell spoke a second time to holding a Saturday Council meeting; that Council meetings should be as accessible as possible for the public to attend; and the City should use an analysis form to measure tasks and show where tax money was being spent.

Discussion ensued regarding what Council believed was important to get from the City regarding the budget, Financial Analysis Needs document and reviewed the document, the document listed items that could be used to process Historical Data – a time period of 5 or 10 years was proposed and by doing an analysis one could track what expenses were increasing and at what rate.

Council agreed that goals and objectives are very important.

Bernie Lubetkin spoke a second time that he didn't believe that staff had time to do any comparison work. He also stated that in other cities analysis were done by citizen committee groups. He also suggested that a financial comparison be done with other cities the size of Sanibel and with the same uniqueness as Sanibel and this could be done by an ad hoc committee.

Curt Stendahl spoke a third time to his agreement that an analysis going back five (5) years would be beneficial and that the City needs to explain why taxes had more than doubled in the last five years.

Barbara Cooley spoke again that in addition to an analysis to gain information regarding taxes that revenues should be included.

Steve Maxwell spoke again regarding starting at zero for the 2006 budget and then base an analysis on the past year. He further stated that the City needed to come up with a budget philosophy and use historical data; and the Budget Committee could get this information and do a needs assessment.

Discussion ensued regarding including all State requirements for the budget, Finance Department personnel duties, task included in the creation of each fiscal year's budget, that the first analysis by done for a three-year period and next year go to a five-year analysis, Ms. Zimomra recommended that a three-year run of revenue also be done.

Ms. Zimomra explained that it was a priority of the administration to close the books for 2004 before an analysis was began.

Council asked if doing this analysis would be an extra assignment and Ms. Zimomra answered it would. She explained that the data exists, but would need to be put in a different format.

Council decided against an analysis.

Discussion ensued regarding meeting schedules and it was decided to hold an additional City Council meeting for regarding the budget on July 26th.

Hartley Kleinberg spoke again and suggested that a meeting be considered if a utility tax was being considered.

Mr. Cuyler, City Attorney reminded Council that the evening meeting was advertised as the final budget meeting if the public wanted to hear the decision regarding the millage rate.

Ms. Zimomra explained how adjustments could be made to the millage rate, revenue and expenditures.

Councilman Jennings made a motion, seconded by Councilman Rothman, to adjourn the meeting.

The motion passed unanimously

There being no further business the meeting was adjourned at 6:27 p. m.

Respectfully submitted by,

Susan Beck
Recording Secretary

**SANIBEL CITY COUNCIL MEETING
MAY 03, 2005**

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

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

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

PRESENTATION(S).

Proclamation expressing condolences and sympathy from the Sanibel City Council and the citizens of Sanibel to the City of Fort Myers Beach and the family of Bill Thomas, Councilmember and former Mayor.

Mayor Johnston read the proclamation.

Proclamation declaring May 15 as Peace Officers Memorial Day.

Mayor Johnston read and presented the proclamation to Officers Mark Steele and Rachel Bauer-Fithian.

Employee of the Quarter.

Mayor Johnston announced that Sergeant Mike Cooper as the Employee of the Quarter.

Public Comments:

Ed Seibert spoke to fatal crane accident on the Causeway.

Council Comments:

Vice Mayor Denham announced that Francis Bailey fell while in Hong Kong and was in the hospital.

Councilman Jennings spoke to the Causeway crane accident and the death of the construction worker being a hero. He also spoke to a report from the City Attorney on cell towers.

Discussion ensued regarding there being Council briefings on cell towers.

Mr. Cuyler explained that it was Council's decision to find extraordinary circumstances for a Councilmember to participate by phone.

Councilman Jennings made a motion, seconded by Vice Mayor Denham to allow Councilman Brown to participate by phone.

Council agreed by consensus.

Councilman Rothman spoke to the success of Hazardous Waster Collection Day. He spoke to residents not informed about the proposed Recreation Center.

Planning Commission Report.

Mr. John Veenschoten gave a brief report of the April 26, 2005 Planning Commission meeting.

SPECIAL TOPIC:

Discussion regarding Definition and Scope of Buildback/Redevelopment.

Mayor Johnston stated that this agenda item was to give Council the opportunity to give staff direction and here from the audience.

Larry Schopp spoke on behalf of COTI and the agreement to the adoption of a comprehensive buildback ordinance and that buildback/re-development should be considered separately. He spoke to residential properties should be allowed to buildback if destroyed before a disaster. Sonia Smith, CASI agreed with COTI. She spoke to buildback and re-development being considered separately.

Charlotte Cowich thanked Mayor Johnston for the newspaper articles. She asked what precautions should be taken when making code modification not to lose provisions of being grandfathered in the code.

Jack Samler spoke to keeping buildback/re-development separate.

Jack Samler spoke a second time regarding that buildback was due to being destroyed. He stated that buildback was an act that caused construction and re-development of non-conforming structures was a different issue.

Larry Schopp spoke a second time that buildback would incorporate improvements; but in compliance with current building standards. He also stated that owners should be allowed to rebuild in the original footprint.

Discussion ensued regarding resort housing being re-build and residential residences and buildback could not take place according to the code when structure was used as a non-residential in the gulf beach zone.

Andrew Reding spoke to Council taking time to target the problem and study the issue.

Jack Luft spoke to non-conforming structures due to density and height and being constrained due to the recent charter amendments. He spoke to the EAR reflects the charter amendments.

Discussion ensued regarding the language in the existing Land Development Code (LDC) as it applies to non-conformance.

Andrew Redding spoke a second time that the number one value was maintaining the sanctuary of the island and any re-development that leads to more cars or people does not maintain the ecosystem of the island.

Discussion ensued regarding separating 28-day rentals and condominiums.

Claudia Burns spoke to the buildback/re-development issue being complex. She suggested that a committee be appointed to study buildback/re-development.

Robert Pritt spoke to the realtor's buildback ordinance sent to Council in September, 2004. He stated that a new draft of the ordinance (passed to Council) incorporated the charter amendments. He further stated that terms used by Bonita Springs were pre-disaster buildback and post-disaster buildback. He also stated that the Planning Commission established by law was developed to study all land matters.

Discussion ensued regarding the definition between buildback and re-development, accidental fires buildback already in the code, realtors proposed ordinance considered the fire issue, understanding the difference between what was in the code and the proposed realtor ordinance, certain zones allow additional height of one floor due to the flood zone, short-term rental should be allowed to remain a short term rental, 86-43 would be a part of re-development, buildback being a part of the City's disaster plan, U. S. Supreme court recognizes that government does not need to solve all problems as once and existing code permits re-building in the original footprint.

Louise Johnson spoke to maintaining Sanibel as a residential island without focusing on tourism.

Richard Strong spoke to his impression that residences would decide if a particular home could be rebuilt. He asked for clarification of re-development/buildback.

John Veenschoten spoke to the risk residents have living on a barrier island.

Discussion ensued regarding Council considering buildback before re-development, Council goals stated that the first priority was buildback followed by re-development, any buildback would conform to all building and/or hurricane codes, provision in the existing code for buildback, clarify buildback and re-development language, clarify how the City would consider density, clarify that any buildback provision was in place for natural disasters and separate the motel/hotel issue from residential issue.

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

- Current code does address buildback
- Planning Commission looking at definition as it exists in the context of the current code
- Buildback definition noted to be the replacement or duplication of it's existing building within its tree dimensional outline; it's height, width and depth
- Elevated to meet flood regulations
- Must meet current density
- Multi-family dwellings exceed present density
- Can you build the exiting number of dwellings
- Can you build the existing number of stories
- Permitted use allowed
- Less than 600 dwelling identified in the gulf beach zone
- Allow re-establishing the resort dwellings in the gulf beach zone
- EAR identified certain policies; redevelopment/buildback would be exception; policy in plan limiting to 3 stories
- Buildback does not appear in the code, but re-construction does appear in the code

Council thanked everyone for his or her comments.

Discussion ensued regarding the next step and a joint meeting with the Planning Commission.

Council recessed at 11:00 a. m.

Council reconvened at 11:23 a. m

CONSENT AGENDA:

Councilman Jennings made a motion, seconded by Councilman Rothman, to approve Consent Agenda items (d) and (e).

The motion passed unanimously.

d. **Approval of a Mutual Aid Agreement with the Lee County Sheriff's Office for Participation in the Southwest Florida Multi-Agency Gang Task Force with other local agencies.**

e. **CHR Annual Approval**
Annual review of the BMRH point system for tenant selection.
Annual review in maximum income limits.
Annual review of BMRH rent ranges.
Annual review of 2004 rent surveys.

a. **RESOLUTION 05-069 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-026 AND PROVIDING AN EFFECTIVE DATE.** (carry forward \$128,800 from beginning fund balance, \$107,500 of Harriet Spoth contributions and \$21,300 of accumulated fund balance from fund-raising projects.

to move and restore the Schoolhouse (\$107,500) and for the preservation of the packinghouse artifacts (\$21,300)

Ms. Zimomra read the title of Resolution 05-069.

Councilman Jennings made a motion, seconded by councilman Rothman, to adopt Resolution 05-069.

Public Comment:

None.

The motion passed unanimously.

- b. **RESOLUTION 05-070 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-027 AND PROVIDING AN EFFECTIVE DATE.** (roll-forward the unspent FY 2004 City funds pledged to assist CHR in construction the Woodhaven Development. \$1,057,000 was borrowed by the City in FY 2004 for this purpose and \$556,182 was spent during FY 2004 leaving \$500,818 available to be re-appropriated for this project in FY 2005)

Ms. Zimomra read the title of Resolution 05-070.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt Resolution 05-070.

Public Comment:

None.

The motion passed unanimously.

- c. **RESOLUTION 05-072 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-029 AND PROVIDING AN EFFECTIVE DATE.** (to appropriate \$35,348 awarded from Lee County for a US Housing & Urban Development (HUD) grant (CFDA # 14.218) for the grant period of January 1, 2005 through December 31, 2005 pursuant to City of Sanibel contract no. 04/05-068. Funds to be used for upgrading City facilities to accessibility standards by the American Disabilities Act)

Ms. Zimomra read the title of Resolution 05-072.

Councilman Jennings made a motion, seconded by Councilman Rothman, to adopt Resolution 05-072.

Public Comment:

None,

The motion passed unanimously.

COMMITTEE, BOARDS COMMISSIONS LISTEN 1125

Report and recommendations from Parks and Recreation Committee:

Consideration of offer from Periwinkle Pines Homeowners Association for Shared Use Path easement across their property on the west side of Dunlop Road.

Ms. Zimomra explained the request made by Periwinkle Pines Homeowners Association and the recommendation from the Parks and Recreation Committee.

Public Comment:

Sam Weiring spoke to the need of the bike path.

Discussion ensued regarding the placement of the bike path, property owned by Periwinkle Pines, Gates Castle, Public Works Director stated there would be 5 feet between follow the edge of the road, put closer

to Dunlop was less expensive and more use of Community Park and parking could occur on top of bike path, and putting bike path on property separation of pedestrian and vehicular traffic.

Dale Armstrong asked if the 5-foot separation was a concern.

Discussion ensued regarding fiscal issues and not building bike path at this time.

Councilman Jennings made a motion, seconded by Councilman Rothman, to direct staff to negotiate with Periwinkle Pines Homeowners Association for the easement.

The motion passed unanimously.

Selection of alternative for Rabbit Road Shared Use Path.

Ms. Zimomra reported that the current capital budget does include replacement of the bridge on the Rabbit Road bike path. She further stated that there was concern of potential conflict by alligators and an alligator fatality in 2001. She also stated that staff had looked at the bike path's proximity to conservation land and Rabbit Road. She stated that the recommendation was alternative (f) as stated in the memo in the agenda packet as follows:

"Widen the existing path in its current location, maintaining a minimum 2-foot shoulder. Install alligator warning signage along the length of the path."

Ms. Zimomra also explained this project was in the Capital Improvement Plan in 2006 as part of the Rabbit Road improvements.

Public Comment:

George Sousa, Bike Club and recommended widen, improve and keep in same location.

Discussion ensued regarding placement of multi-lingual signs at the beginning and end of bike path, as well as other placements and the concern of alligators in water next to the bike path.

Councilman Jennings made a motion, seconded by Councilman Rothman, to accept the recommendation by the Parks and Recreation Committee.

The motion passed unanimously.

Request from the Vegetation Committee to print the Environmental Handbook.

Ms. Zimomra stated that Ding Darling had given \$5,000 for printing the Environmental Book, but more work was needed regarding the printing aspect.

Public Comment:

Julie Schwartz spoke to the creation of the Environmental Handbook. She stated the committee recommended a 6x9 book with 48 pages, a paperweight of 80 pound for inside pages and 100-pound paperweight for the cover.

Discussion ensued regarding other issues included in the Environmental Handbook, possible special meeting, City-wide product, including only vegetation items within the proposed book, Vegetation Committee working on proposed book for 4 years, delay was the passage of the Vegetation Ordinance, and include the native plant list to the book.

Dr. Rob Loffin, Natural Resources Director spoke to staff reviewing and would like to review again.

Discussion ensued regarding printing with only vegetation information in the book, Wildlife Committee reviewed, problems with instructions regarding dealing with pelicans, standard technique to handle a pelican, C.R.O.W. recommendation of covering the bird's head and hold the bill to secure the bird to

remove a fishing hook and review book, book should only deal with vegetation issues, and incorporate native plant list in book and bring back at the May 17 Council meeting.

Councilman Jennings made a motion, seconded by Councilman Brown, to direct staff to review and bring back at the June 21 City Council meeting.

Ms. Zimomra stated that staff would be available to meet with Councilmembers for their individual comments to include within the handbook.

The motion passed unanimously.

Resignation from Wildlife Committee member Phillip Marks.

Council by consensus accepted the resignation.

OLD BUSINESS

Reviewing and prioritizing Planning Department Work plan.

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

Discussion ensued regarding work in progress, amendment to resort housing ordinance coming to Council May 17, employee and resource hours for each project, current budget includes the development of a scope of services for a re-development study, a status report of all projects as a pending project, the time it takes for routine procedures and a contract planner on contract starting in June.

Public Comment:

None.

NEW BUSINESS

Request for Council direction to the Planning staff to draft regulations prohibiting above-ground pools and commence notice for Planning Commission and Council consideration.

Councilman Brown spoke to a call from a resident where aboveground pools were being built on either side of the house. He stated that these pools were not in keeping with the character on Sanibel. He further spoke to amending the code.

Mr. Cuyler stated that Councilman Brown asked if a moratorium should be considered and he advised that the formality of imposing a moratorium was the same as enacting the regulations. He recommended the development of the regulations for Council's consideration.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to direct staff to develop regulations regarding above ground pools and notice them for the Planning Commission.

Discussion ensued regarding permits already in process and the work on an amendment would not interfere with the permits.

Public Comment:

None.

The motion passed unanimously.

Request from Sanibel Music Festival for 7 Special Event Permits for 2006 at the Congregation Church 1740 Periwinkle Way.

Ms. Zimomra stated that this was the annual request.

Nina Orele explained the 2006 Music Festival from March 04 through March 25, 2006.

Councilman Jennings made a motion, seconded by Councilman Rothman, to approve the request by the Sanibel Music Festival for 7 Special Event Permits in addition of the Congregational Church.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to excuse Councilman Brown at 1:00 p.m. from the remainder of the meeting.

Council recessed at 1:03 p. m.

Council reconvened at 1:09 p. m.

Ms. Zimomra stated that staff would not be seeking direction from Council at this time. She further stated that the City's multi-year contract with LCEC, which expires June 30, 2005. She also advised Council that the future contract would be multi-year. She noted that staff would need direction from Council if they wanted to have specific language in the contract regarding lines underground when feasible. She further noted that Captiva was investigating the underground line option and Marco Island was also considering underground lines as a separate Municipal Service Taxing Unit (MSTU). She stated that when Vanesse-Daylor comes back to Council they would be speaking of hot spots that could have underground lines. She also spoke to the amount of revenue brought in by franchise fees, which was currently 3% and staff was considering 5%.

Council decided to discuss the following agenda item.

PRESENTATION

Lee County Electrical Co-Op (LCEC) regarding the feasibility of placing power lines underground.

Lewis Walton, LCEC gave a PowerPoint presentation. He introduced Trish Dorn and Clark Hawkins, LCEC.

- Underground lines cost assumed by the City of Sanibel
- Totally free from vegetation and roots
- Need for access to lines
- Less outages
- Underground cables approach the end of life there are more failures
- Storm surge must clear before work could begin
- Need for specialize equipment and crews to find fault and longer repair time
- Require excavation
- Cost significantly increased
- Repairs more expensive
- Rate cost include differential for underground service
- 11% difference of cost in favor of underground versus overhead
- Applicant would be responsible for cost of easements or destruction
- Provide a written scope of project for cost
- LCEC provide non-binding cost estimate
- Non-refundable deposit for line design of 5%
- Remaining cost of project would be paid up front
- City acquire easements and clear easements
- Develop a process to customers that would not want underground lines
- Improved aesthetics with underground lines
- Significant cost to place lines underground
- Cost for removal of overhead service and installation of underground service

Discussion ensued regarding lifetime of underground cable, which was approximately 30 years in conduit, root infiltration would impact conduit that could cause failures, difference in underground lines after a

hurricane would take longer to find electrical failures, issue of complete water submersion, part of island could have underground lines, typical easement would be 6 feet, agreement would prohibit vegetation within utility easement, allow some vegetation around enclosures to 3 feet and some enclosures requiring an 8 foot easement and depth of lines 24 to 36 feet and underground lines could have salt intrusion.

Public Comment:

Ed Seibert spoke to water pooling in storm drains and asked if that would require additional maintenance if there was water intrusion and the answer was yes. He also spoke to each household having the opportunity to choose or not underground lines.

Ms. Zimomra advised that Council would make the decision regarding underground lines by region not each household.

Mr. Hawkins stated that Marco Island was redesigning Collier Boulevard on the north and south side. He stated that Marco Island had requested some underground facilities and had provided the 5% deposit required.

Larry Schewber, Comcast stated that Comcast would need to be advised if the City decided to go in the direction as Marco Island from the cable perspective.

Mr. Walton, LCEC advised that LCEC would send out a mailing of any changes in the franchise agreement that might impact residents.

Notification from Comcast of change in services and charges.

Ms. Zimomra called Council's attention to service and rate changes. She noted that Larry Schewber, Vice President General Manager and Maureen Cestari, was available for questions.

Discussion ensued regarding consideration of having cameras in MacKenzie Hall and the Council meetings on television for residents that could not attend the meeting, Comcast would do a community assessment and talk about within the negotiations, public access channel established would allow anyone to use, leased access for a nominal fee, which would be channel 80, timeline of franchise renewal would be in the near future, separate franchise agreements for Lee County and the City, Lee County has a separate educational channel, individual pass through amount could go to subscriber, employee to man the camera, all issues would be included in franchise agreement and there was approximately 6,000 subscribers.

Council recessed at 2:07 p. m

Council reconvened at 3:00 p. m.

RESOLUTION 05-068 AUTHORIZING THE CITY OF SANIBEL'S ACQUISITION, BY GIFT, PURCHASE OR EMINENT DOMAIN, OF FEE INTEREST OF PROPERTY DESCRIBED HEREIN FOR A PORTION OF THE DINKINS BAYOU TO CLAM BAYOU TIDAL RESTORATION PROJECT; AUTHORIZING THE EXERCISE OF THE CITY OF SANIBEL'S POWER OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY FOR PUBLIC USE OR PURPOSE; DETERMINING THAT IF IT IS NECESSARY TO PERFORM A PUBLIC PROJECT BY CONSTRUCTING A CULVERT AND DRAINAGE FACILITY WITHIN THE DESCRIBED PROPERTY AND UNDER SANIBEL-CAPTIVA ROAD AS PART OF THE TIDAL RESTORATION PROJECT; SETTING FORTH THE PUBLIC PURPOSE AND PUBLIC NECESSITY OF SUCH PROJECT; DESCRIBING BOUNDARIES OF THE PROJECT; DETERMINING THAT THE ACQUISITION OF SUCH PROPERTY IS FOR A PUBLIC PURPOSE AND IS NECESSARY TO ACCOMPLISH THAT PURPOSE;

AUTHORIZING AND DIRECTING APPROPRIATE STAFF TO COMMENCE GOOD FAITH PRE-LITIGATION NEGOTIATION PROCESSES; AUTHORIZING LEGAL COUNSEL TO INSTITUTE CONDEMNATION PROCEEDINGS FOR PROPERTIES THAT CANNOT BE PURCHASED THROUGH PRE-LITIGATION NEGOTIATIONS; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 05-068.

Mr. Cuyler explained this resolution speaks to the construction of a culvert to Clam/Dinkins Bayou.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to adopt Resolution 05-068.

Discussion ensued regarding the easement being contested, the need for eminent domain, the need to re-institute water for the survival of the ecosystem.

Dr. Loflin, Natural Resources Director explained the scope of the project. He spoke to 4 major mangrove kills since his time on Sanibel due to the water level in the Bayou depriving mangrove roots of oxygen, salinity would be decrease killing sea life and an algae bloom kill's fish. He explained the connection was destroyed with the creation of San-Cap Road and fill was added blocking off Dinkins/Clam Bayou where the tidal system could wash out the bayou and restoration the tidal system. He further explained the following:

- Impoundment of storm water in the bayou
- Tried opening Clam Bayou artificially at the pass unsuccessfully repeated
- Restore the tidal flow throughout the west end of the island in partnership with Lee County and Captiva Erosion Pollution District
- Important fisheries would benefit
- City owns south side of road
- Individual own north side of road
- Captiva groin did not cause this problem, but significant erosion to Blind Pass

Discussion ensued regarding if the culvert would remain open, back-up solution with gates that could be closed if necessary, previous resolution adopted with a bad legal description, Dr. Loflin indicated this was the best location for the culvert; reviewed the location and this location makes the least impact of the mangroves, shortest and least environmental impact, channel width would be less than 60 feet with a mangrove line by replicating a tidal channel, may not eliminate a bypass to the gulf, but the reward was that the culvert would help.

Public Comment:

None.

The motion passed unanimously.

CITY MANAGER'S REPORT

Informational items:

Hurricane Recovery Update.

Ms. Zimomra stated that Vanasse Daylor consultant for the Periwinkle Way Restoration Project she recommended that there be a joint meeting of Council, Vegetation Committee and Planning Commission to review the plans, as well as inviting the Periwinkle Partnership. She noted that in Collier County had recently planted Live Oaks at a cost of \$7,000 per tree.

Tourism Development Council (TDC) funding request update.

Ms. Zimomra noted that there was approval for the grant and this Friday it would be on the TDC agenda for approval then to Lee County Board of Commissioners.

Legislative Update.

Ms. Zimomra stated that there was progress in the legislature regarding the request the City had made.

Lee County Metropolitan Planning Organization Applications for Proposals for Transportation Enhancements.

Ms. Zimomra noted that there was a program called TIP, which funded transportation enhancements and was done five years out. She stated it took time to put the grant together and it was possible Periwinkle Pines would be eligible.

Status report on City Council Goals.

Ms. Zimomra stated there would be a more definitive report.

City of Cape Coral Freedom Celebration.

Ms. Zimomra called Council's attention to the agenda packet information and asked if Council wanted to participate.

Councilman Jennings stated that he would like to attend the parade.

Council approved the attendance and rental of vehicle.

Report on Hazardous Waste Collection Day.

Ms. Zimomra stated that 275 vehicles took part in the hazardous day, and the cost was \$59 per vehicle.

Council asked that staff prepare for another hazardous collection day in 2006 and incorporate the costs in to the.

Receipt of report on employee housing compiled by CHR

Ms. Zimomra called Council's attention to the agenda packet information. She advised that approximately 1.5 years Council directed staff to conduct a report regarding employee housing.

Discussion ensued regarding CHR would be posing further information, should CHR deal with employee housing, employee turn over rate,

CHR Quarterly Report.

Ms. Zimomra called Council to the agenda packet information.

Discussion ensued regarding impact fees and there being strict rules governing impact fees.

5-Year Budget Committee Report.

Ms. Zimomra called Council's attention to the agenda packet information. She advised that there would be a presentation by the committee on May 17.

Discussion ensued regarding Councilmembers bringing forward budget ideas.

Historical Village Ribbon Cutting Ceremony – May 04, 2005 at 12:00 Noon

Ms. Zimomra called Council's attention to the ribbon cutting ceremony Wednesday, May 04 at 1200Noon.

Water Safety Day.

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

July 26, 2006 Special Budget Meeting.

Ms. Zimomra called Council's attention to the date set earlier for a budget workshop.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to hold a Special Budget Meeting July 26, 2005 at 9:00 a. m.

Ms. Zimomra noted that on May 11 and 12 Span C would have only one-lane traffic. She stated that the press release would be posted on the webpage.

Ms. Zimomra passed an e-mail to Council asking for their participation at the Day of Prayer Thursday, May 05, 2005 at MacKenzie Hall.

Vice Mayor Denham and Councilman Jennings stated they would be in attendance.

Ms. Zimomra passed to Council the program for John Dillon, deceased Planning Commissioner memorial on May 24, 2005.

CITY ATTORNEY'S REPORT.

None.

Discussion ensued regarding surplus toll money coming to the City should be in 2010 if at all, when financing was established the public record would give the relative information. City's bond counsel looking at Lee County's bond counsel information, bond validation meeting. Mr. Cuyler explained a meeting with the County Attorney that he would be attending to further continue a working relations with Lee County.

COUNCILMEMBERS' REPORT.

Southwest Florida Regional Planning Council.

Vice Mayor Denham stated he thought it useful when a Councilmember attended meeting to do a one-page report for the next agenda packet. He stated there was discussion of the transportation system in Lee County and the lack of money to fund the system. He spoke to each Councilmember reviewing the budget and sharing any information at Council meetings. He also wanted City staff to look at impact fees. He spoke of his concern regarding the recreation center issue and wanted time on an agenda for discussion.

Ms. Zimomra stated that Council would be receiving a status report of the proposed facility at the May 17 Council meeting.

Vice Mayor Denham spoke to communicating constituency meetings each Councilmember may be having.

Council didn't find it necessary to report constituent meetings.

Councilman Jennings asked that Council consider supporting a proclamation honoring the deceased BOH Brothers employee. He also spoke to going out to lunch at Council meetings.

Councilman Rothman spoke to his concerns regarding the proposed Recreation Center. He also spoke to the Donax Plant concerns regarding noise level. He requested for all items that are mandatory items for the budget.

Ms. Zimomra recommended providing a chart showing same services for FY 2005-06 budget with cost per household and menu of new initiatives.

Mayor Johnston spoke to the incredible amount of paper that was generated and could there be a better way to function.

Ms. Zimomra noted that there were cities that have a paperless agenda and staff could look at that initiative.

PUBLIC COMMENT.

George Sousa thanked Council for the Hazardous Waste Collection Day and was run very efficiently.

Ms. Zimomra stated that August 17 through 21 the Florida League of Cities Conference.

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

There being no further business the meeting was adjourned at 4:43 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk

**SANIBEL CITY COUNCIL MEETING
MAY 17, 2005**

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

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

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

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to find extenuating circumstances and allow Councilman Brown to participate by phone.

The motion passed unanimously.

PRESENTATION(S).

Proclamation expressing condolences and sympathy from the Sanibel City Council and the family of Kent A. Crappell, BOH Brothers crane operator.

Mayor Johnston read the proclamation and noted it would be mailed to the family.

Proclamation expressing best wishes from Sanibel City Council to John T. Collins for a speedy recovery from injuries received during the Causeway crane accident on Friday, April 29, 2005.

Mayor Johnston read the Proclamation and noted it would be mailed to Mr. Collins.

Proclamation proclaiming the week of May 21 through May 27, 2005 as Lee County Safe Boating Week.

Mayor Johnston read the Proclamation and presented it to Lt. Greg Stanley, Fish and Wildlife Commission.

Public Comments:

Wayne Ponader representing C. O. T. I. spoke to the Florida Statute that regulates segways the need to prohibit the use of segways on the Shared Use Paths.

Hazel Schuller spoke to permitting commercial use in the gulf ecozone of beach chairs and the City violating the Sanibel Plan by intensifying use in the gulf beach zone (page 194 Sanibel Plan). She also spoke to prohibiting the rental of segways on Shared Use Paths (page 130 Sanibel Plan).

Claudia Burns spoke to the temperature in MacKenzie Hall.

Steve Oberbeck spoke to using the Recreation Center.

Louise Johnston spoke to prohibiting segways on the Shared Use Paths.

Council Comments.

Councilman Jennings spoke to the graduation the Sanibel 8th grade, Island Night on June 07 and creating a hand out of the proposed Recreation Center and alternatives to pass out at Island Night.

Councilman Brown asked to the City receiving a letter from Mr. Wingard, Deputy Director for Lee County Department of Transportation (DOT) regarding DOT not having a contingency plan for the Causeway.

Ms. Zimomra reminded Council of 2 letters that the City had recently sent to Lee DOT regarding bikes on the Causeway and a contingency plan for the Causeway.

Councilman Brown spoke to a barge/ferry service and a practice run in July from the mainland to Sanibel. He also spoke to the second letter from Lee County of bikes on the Causeway and they would be mingled with vehicular traffic. He also spoke to segways and addressing criteria set out by the legislature.

Vice Mayor Denham spoke to bikes on the Causeway and grants awarded to the City. He also spoke to the \$14 million cost the City incurred from Hurricane Charley, the monies that would not be recovered being approximately \$4 million. He further spoke to the revenue stream being reduced by approximately \$1.7 million dollars due to various Causeway activities.

Mayor Johnston congratulated City staff for receiving the Innovation and Communication Technology award from the Florida City and County Managers Association.

Ms. Zimomra gave credit for the award to Bert Smith, Information System Director and Mike Claney of the Information System Department.

Mayor Johnston asked if Council would like a staff report on segways.

Discussion ensued regarding a future agenda item on segways and the need for a staff report.

Mr. Cuyler, City Attorney stated to the conditional use petition submitted by Billy Kirkland had gone to the Planning Commission. He further stated that any decision that Council made regarding segways in the future would be speaking to the safety of segways and the only impact the discussion would have on Mr. Kirkland's operation would be in the context of segways in general as opposed to the conditional use permit unless the Planning Commission decision was appealed to City Council.

Councilman Rothman spoke to the award received by City staff at the Governor's Hurricane Conference for recovery efforts during Hurricane Charley.

Mayor Johnson noted that Harold Law, Building Official led a Building Code workshop.

Ms. Zimomra noted that all 4 Councilmembers attended the Governors Hurricane Conference as had Councilman Brown had also attended the same conference in the past. She also noted that it speaks well to the continuity and commitment of being hurricane prepared and that all 4 Councilmembers would take a week to attend the conference and work with the staff to make certain the City would be ready for the 2005 season.

Planning Commission Report.

Dr. Phillip Marks gave a brief report of the May 10, 2005 Planning Commission meeting on the following issues:

- ❖ Variance request from Billy Rentals to operate segway tours
- ❖ Commercial zoning in progress

Mayor Johnston noted that there was a Joint City Council/Planning Commission meeting scheduled for Thursday, May 12 at 9:00 a. m.

Discussion ensued regarding the commercial zoning in progress issue coming back to Council.

Mr. Cuyler stated that he did not know the timeline for the zoning progress issue coming back Council.

First 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.

Council scheduled the second reading and public hearing for June 07, 2005 at 9:30 a. m.

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.

Council scheduled the second reading and public hearing for June 07, 2005 at 9:30 a. m.

CONSENT AGENDA:

Council pulled items (a) April 25th and May 03 minutes, (b), (i), (j), (m) and (n) from the Consent Agenda.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to approve April 5th and April 19 City Council minutes.

The motion passed unanimously.

- a. Approval of minutes – April 05, 2005 Regular Meeting, April 19, 2005 \
- b. Regular Meeting, April 25, 2005 Budget Workshop and May 03, 2005 Regular Meeting.

- b. **RESOLUTION 05-073 AMENDING RESOLUTION NO. 97-97, AUTHORIZING THE CITY MANAGER TO ACCOUNT FOR PROPERTY ACQUISITIONS OF \$1,000.00 OR MORE AND WHICH HAVE A NORMAL EXPECTED LIFE OF ONE YEAR OR MORE AS GENERAL FIXED ASSETS; TO DELETE FROM THE CITY'S INVENTORY OF FIXED ASSETS ALL ITEMS WHICH WERE ACQUIRED FOR LESS THAN \$1,000.00; TO AUTOMATICALLY INCREASE THE VALUATION THRESHOLD FOR FIXED ASSETS**

WHEN SECTION 274.02, FLORIDA STATUTES, IS AMENDED TO INCLUDE AN INCREASE IN THE VALUATION THRESHOLD; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 05-073.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Resolution 05-073.

The motion passed unanimously.

- c. **RESOLUTION 05-074 ACCEPTING WASTEWATER COLLECTION AND TRANSMISSION SYSTEM EASEMENTS FROM SANIBEL PROPERTY OWNERS FOR THE SANIBEL SEWER SYSTEM EXPANSION PROJECT, PHASE 3B; AUTHORIZING THE CITY MANAGER TO RECORD SAME IN THE OFFICIAL RECORDS OF LEE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-074.

Vice Mayor Denham made a motion, seconded by Councilman Brown, to adopt Resolution 05-074.

The motion passed unanimously.

- d. **Purchase of a van from Rivers Bus Sale, Inc., in the amount of \$46,148 to replace a rental van. Funds in the amount of \$53,000 were approved in the FY 2004-05 Recreation Department Capital Improvement Program (CIP) budget**
- e. **Approval of the Interlocal Agreement with Lee County and the NPDES Co-Permittees regarding permit fee allocations.**
- f. **Approval of Agreement for Consulting Services with Sea System, Inc., for physical monitoring of coastal erosion and accretion for a fee of \$42,000.00. (funded by a grant Tourism Development Council (TDC) in the amount of \$25,000 and \$17,000 from the Beach Parking Fund)**
- g. **Award removal and replacement of existing Rabbit Road Pedestrian Bridge Contract to Marine Contracting Group, Inc., in the amount of \$79,848.00 and authorize City Manager to execute contract. (funded by the Public Works Department Capital Improvement Program (CIP))**
- h. **Award Beach Walkover Repair and Replacement contract to Kelly Brothers, Inc., in the amount of \$405,140.00 and authorize the City Manager to execute contract. (funded by Tourism Development Council grant (TDC) in the amount of \$50,000, \$335,000 from FEMA & State re-imbusement and \$20,000 from Beach Parking Fund)**
- k. **Approval of Change Order No. 1 – ET MacKenzie of Florida, Inc., to increase the contract time in the amount of one hundred and twenty-five days (125) and approve delivery of all project pipe to the project site on or about April 30, 2005.**

Councilman Jennings made a motion, seconded by Councilman Rothman, to approve Consent Agenda items (d), (e), (f), (g), (h) and (k).

The motion passed unanimously.

- i. **RESOLUTION 05-079 ACCEPTING A PROPOSAL FROM SOON COME, INC./DICKEY BROS. FOR THE OPERATION OF AN EXOTIC VEGETATION BURN SITE ON THE U.S. FISH AND WILDLIFE SERVICE PROPERTY COMMONLY KNOWN AS THE "GAVIN SITE" PURSUANT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SANIBEL AND THE U.S. DEPARTMENT OF THE INTERIOR PREVIOUSLY APPROVED BY CITY COUNCIL ON MARCH 1, 2005; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-079.

Councilman Brown made a motion, seconded by Councilman Rothman, to adopt Resolution 05-079,

Discussion ensued regarding the operation and smoke.

Ms. Zimomra stated that a permit would be needed from the Department of Protection (DEP). She also stated that the site had been operated as an open burn site in the past, but proposed site would be an iron curtain incinerator regulated by DEP.

The motion passed unanimously.

- j. **RESOLUTION 05-080 ACCEPTING A BID FROM ECOSCAPE, INC. FOR THE POST-HURRICANE TREE AND SHRUB PLANTINGS AT THE FOUR MAIN BEACH PARKS ON SANIBEL (I.E., CAUSEWAY PARK, LIGHTHOUSE PARK, GULFSIDE PARK, AND BOWMAN'S BEACH PARK); AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 05-080.

Vice Mayor Denham made a motion, seconded by Councilman Brown, to adopt Resolution 05-080.

Dr. Rob Loflin, Natural Resources Director spoke to the following:

- ❖ A design was completed
- ❖ Positive results from 4 grants, which include \$100,000 South Water District, \$200,000 Florida State Wildlife Program, \$385,000 State legislature and \$400,000 from Tourism Development Council (TDC)
- ❖ Establishment of the native plant community and wildlife habitat
- ❖ Planting would begin June or July during the rainy season.

Discussion ensued regarding the timeline of the planting, and which beach accesses to plant first, City Manager would negotiate a contract, some grant money available next year, the initial planting would begin this year with additional planting next season to fill in any gaps.

Dr. Loflin spoke to the need for clean up of debris clean up on conservation lands and re-designating fire lines. He also spoke to the debris on large tracts of private properties.

Discussion ensued regarding another full-time employee for the Natural Resources Department.

The motion passed unanimously.

- l. **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. Cuyler explained that the City had received a letter of protest from Florida Recycling Services (FRS), and a hearing was scheduled for the June 07 City Council meeting.

- m. **RESOLUTION 05-077 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-030 AND PROVIDING AN EFFECTIVE DATE.** (to appropriate a grant of \$867,000 of a \$1.125 million from Federal Highway (FHWA) through Department of Transportation for the "first push and pull of debris removal" expenses related to Hurricane Charley)

Ms. Zimomra read the title of Resolution 05-077.

Councilman Brown made a motion, seconded by Councilman Rothman, to adopt Resolution 05-077.

The motion passed unanimously.

- n. **RESOLUTION 05-078 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2005-031 AND PROVIDING AN EFFECTIVE DATE.** (FDLE grant for equipment installation in vehicles)

Ms. Zimomra read the title of Resolution 05-078.

Councilman Jennings made a motion, seconded by Councilman Rothman, to adopt Resolution 05-078.

The motion passed unanimously.

OLD BUSINESS:

Discussion and direction to staff regarding inclusion of underground power lines and increase of franchise fee in the Lee County Electric Cooperative (LCEC) Agreement.

Ms. Zimomra spoke to the following:

- ❖ Continuation of discussion from the May 03 City Council meeting
- ❖ Advantages of placing power lines underground
- ❖ Technical advantages and disadvantages
- ❖ Impact of aesthetics
- ❖ Long-term feasibility of putting power lines underground
- ❖ 30 year agreement expired shortly after Hurricane Charley, which was extended to June 30, 2005
- ❖ Multi-year agreement desired
- ❖ Current agreement gives flexibility to power lines underground
- ❖ Staff recommendation was to continue the flexibility to put power lines underground
- ❖ Staff does not recommend an agreement that would put all power lines underground
- ❖ Franchise fee of 3% in current contract (Marco Island increase franchise fee to 5%, Cape Coral franchise fee 3% and Fort Myers over 5%)
- ❖ 3% franchise fee generates approximately \$400,000

Discussion ensued regarding the placement of underground lines being installed for aesthetic reasons in certain areas, only putting power lines underground for special projects, franchise fees could not be deducted from income tax, increase of franchise fees passed on to customers, franchise fees an alternative revenue, water table a factor with underground power lines, cell tower discussion would not be included in the franchise agreement, and Mr. Cuyler stated that in a previous discussion LCEC noted that they would be willing to entertain a proposition, individual Council briefings regarding cell towers, Council had the

option to increase/decrease franchise fees at any time and the possibility of dropping the franchise fee, and a policy issue for Council to raise taxes to make up for a franchise fee if eliminated.

Council consensus was to leave the franchise fee at 3%.

Ms. Zimomra stated that there was an on-going discussion with City Council regarding the proposed recreation center. She briefly spoke to each upcoming item under the Recreation Center:

- ❖ Various Councilmembers requested a re-design and alternative costs for the proposed Recreation Center
- ❖ Architect would bring back June 07
- ❖ Look in to the feasibility of grants
- ❖ Timeline for referendum
- ❖ Renewing contract for modular restrooms
- ❖ Fill generated from the Phase 3B sewer expansion project

Recreation Center Issues:

Discussion and direction to the Staff regarding Design Modifications.

Discussion ensued regarding one Council member's unofficial survey regarding the need of a new recreation center, cost to remove certain items, process of recreation center was not advertised enough, the need to have a child's pool, no issue that recreation facility needs replacing, the question was the recreation design and concern of different levels of flooring at the recreation center.

Ms. Zimomra stated the discussion was not to delete certain items from the proposed recreation center, but a request for direction from Council for a comprehensive list of alternatives that would be forwarded to the architect for evaluation of the design and bring back to Council at a later City Council meeting.

Discussion ensued regarding a long litany of publicly noticed meetings regarding the recreation center, dollar amount if elements of projects were reduced, significant hurricane debt and the need for a referendum and possible items to remove or reduce pool, lockers/showers, remove of multi-purpose teen/craft room, and reduction of gym.

Public Comment:

Frances Sheldon spoke to public notices, cost of recreation center, visited a facility in Ann Arbor, Michigan costing \$18 million and proposal needed several designs.

Discussion ensued regarding public notices of meetings of the proposed Recreation Center.

Mr. Armand Ball, Chairman Parks and Recreation Committee has had numerous meetings, posted meeting on the bulletin board, articles in the paper about the proposed recreation center.

Ms. Zimomra stated that every action taken by Council was noticed in the paper, public notices are posted for all committee meetings and City Council meetings on the City bulletin board and the City website.

Mr. Armand Ball, Chairman of the Parks and Recreation Committee stated that the committee has had articles in the newspaper inviting public comment on recreation issues, as well as the proposed recreation center, the Parks and Recreation Committee had scheduled monthly meetings on the 4th Wednesday of each month at 3:00 p.m.

Ms. Zimomra also noted that the City calendar published every year gives the schedule of each monthly meeting of all City committees.

Discussion ensued regarding noticing the public regarding any issue coming to City Council and numerous noticed public meetings.

Richard Strong asked about the poll that Vice Mayor Denham took and Vice Mayor Denham answered it was his private poll. He further spoke to younger people buying land on Sanibel.

Julie Schwartz spoke to public notices and mailings for the Periwinkle Way Restoration Project versus little information for the proposed Recreation Center. She also felt the proposed Recreation Center was against the vision statement. She stated she would prefer a lap pool and a family pool.

Sonia Smith, CASI spoke to the cost that comes with the current proposed recreation facility design.

John Friedman spoke against the proposed recreation facility.

Steve Oberbeck spoke to the previous recreation center plans, uses the recreation center every day and Council should explain the reason that none or part of the center could not be refurbished. He also asked if there was a legal binding agreement from Lee County and the Board of Education for capital and operation costs.

Mr. Cuyler and Ms. Zimomra spoke to the following:

- ❖ Staff in the process of negotiating a long-term contracts with Lee County Board of Education and Lee County Commissioners
- ❖ Letter from Lee County staff making a commitment based on the participation rate of non-island residents (children from Captiva, after-school program) 29% of Capital, Council authorized City staff to pursue an agreement, which would come back to Council for approval
- ❖ Letter from Lee County School Superintendent making a similar offer for operational costs with an agreement circulating between staffs that would come before Council for approval

Discussion ensued regarding the cost of sending out a flyer, which could be done in-house with a map showing the current proposal and /or giving the flyer out at Island Night.

Steve Oberbeck spoke a second time to waiting to send out an informational flyer on the proposed recreation center.

Dr. Jack Emery asked if the percentage of proposed participation by the County would be on the made on the number of pupils. He asked if the percentage of funds would guarantee the percentage of recreation time for off-island participates. He further spoke to posted hours at the pool for school use. He recommended having one multi-purpose pool that would be 25 meters by 25-yard central pool.

Ms. Zimomra answered the percentage was based on a survey of participates (called a blended rate), which was previously presented to Council. Ms. Zimomra stated the Interlocal Agreement would address, as the current Interlocal Agreement, certain hours the school would have preference in recreation facility usage, just as the City would have certain hours of preference. She further stated that the Interlocal Agreements were a partnership; County owns the land and the City owns the Recreation Facility.

Ms. Helene Phillips stated that she knew of no times due to posted hours at the pool for school use that had ever impacted the public's opportunity to use the pool. She stated for the most part the hours affect the gymnasium.

Mr. Cuyler stated that the proposed draft of the Interlocal Agreement does not give the school priority use of the pools.

Discussion ensued regarding continuing the discussion at approximately 3:00 p.m. of the proposed recreation facility.

Council recessed at 12:00 p. m.

Council reconvened at 12:15 p. m.

Mayor Johnston announced that Council would hold the Executive Session beginning at 12:15 p. m. and the following persons would be in attendance.
Council convened in to Executive Session at 12:15 p. m.

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, Director of Administrative Services
Wayne Helsby, Labor Counsel (Allen, Norton & Blue) (by phone)**

Council convened in to open session at 1:28 p.m.

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to excuse Councilman Brown from the rest of the Council meeting.

The motion passed unanimously.

Council decided to discuss the following:

RESOLUTION 05-081 AUTHORIZING THE SALE OF CITY-OWNED REAL PROPERTY APPROVED FOR SALE BY PUBLIC REFERENDUM; FINDING THAT THE SALE SERVES AN APPROPRIATE AND PROPER PUBLIC PURPOSE; DECLARING SAID PROPERTY TO BE SURPLUS PROPERTY AND AVAILABLE FOR SALE; AUTHORIZING THE EXECUTION OF PURCHASE AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 05-081.

Mr. Cuyler spoke on the Petel property as follows:

- ❖ Previously approved by City Council and the electorate to sale 2 parcels of land (Petel Tract) to the U. S. Fish and Wildlife
- ❖ Petel tract contiguous to J. N. Ding Darling Wildlife Refuge and would remain in the Environmental Sensitive Land District
- ❖ Resolution approving a sale of one tract and donation of the other parcel for the same amount of money
- ❖ U.S. Fish and Wildlife attorney request one agreement with the same stipulations rather than two agreements
- ❖ Resolution 05-081 would authorize staff to proceed with the execution of the sale agreement
- ❖ U. S. Fish and Wildlife have prepared a management plan to take care of the property
- ❖ Sale price of \$750,000

Vice Mayor Denham made a motion, seconded by Councilman Rothman, to approve Resolution 05-081.

Public Comment:
None.

The motion passed unanimously.

CITY MANAGER'S REPORT:

Informational items:

Hurricane Recovery Update:

Ms. Zimomra stated to the following:

- ❖ City's contractor have been working along Periwinkle Way removing exotics, trimming and propping up of leaning native trees under the direction of Dr. Rob Loffin, Natural Resources Director
- ❖ Fence being replaced at the City's recycling site
- ❖ Meetings with each island paper regarding the upcoming hurricane seminars
- ❖ 2005 hurricane passes available

Follow-up status of refunds to customers of the old Sanibel Bayous sewer system who pre-paid connection fees.

Ms. Zimomra called Council's attention to the agenda packet information regarding the pre-paid connection fee refunds.

Status of Joint CC/PC meeting May 19, 2005.

Ms. Zimomra called Council's attention the agenda packet information regarding the Joint City Council/Planning Commission meeting scheduled for Thursday, May 19, 2005 at 9:00 a. m. She passed out the agenda packet.

Status of Joint CC/PC/Vegetation meeting June 27, 2005.

Ms. Zimomra called Council's attention the agenda packet information regarding Joint City Council/Planning Commission/Vegetation Committee Meeting on June 27, 2005 at 9:00 a. m. to review the Periwinkle Way Planting Plan.

Budget Schedule Update.

Ms. Zimomra reminded Council that Council had adopted a budget calendar. She called Council's attention to the following dates:

June 7th a discussion would take place on the following:

- ❖ Non-departmental generated issues
 - Shared Use Paths
 - Historical Village
 - Transportation Planner
 - Strategic Planning Committee
 - Pay for Performance
 - Expanding Grant Writing
 - Staff and/or Council Generated Revenue Proposals
 - ❖ Full Accounting of Indirect Cost or User Fees
 - ❖ Impact Fees
 - ❖ Occupational Licenses
 - ❖ Increased Franchise Fees

June 21st discussion would take place on the following:

- ❖ Hurricane Debt
- ❖ Recreation Center (money in FY 2004-05 budget)
- ❖ Implementation of Space Needs Study (on-going)
- ❖ Employee Housing Study
- ❖ Reserves for Union Negotiations
 - Departmental generated issues (not yet established)

Discussion ensued regarding adding initiatives or revenue issues, allowing staff time to complete research, and possibility of having a bike rental tax to go forward to help with bike path maintenance

Participation on Island Night, June 07, 2005:

Ms. Zimomra called Council's attention to the agenda packet information and announced Island Night would be June 07, 2005. She stated that historically the City helped sponsor Island Night with a \$100 donation. She stated it allows Council to be in the parade, in the past Council had helped with concessions. She asked that Council advise Council of their participation.

Discussion ensued regarding renting a vehicle to participate in the Island Night parade. Council by consensus to agreed to participate in the parade.

Florida League of Cities Meeting, August 18 thru August 20, 2005 in Orlando, Fl.

Ms. Zimomra called Council's attention to the agenda packet information and asked if Council would be interested in attending the League of Cities Conference August 18 through August 20, 2005. She advised Council that registrations and hotel room had already been reserved.

Vice Mayor Denham commented he would be attending.

Ms. Zimomra advised that the Tourism Development Council (TDC) had approved the following:

- ❖ \$795,000 total for Sanibel
- ❖ \$ 60,000 for replacing existing dune walkovers
- ❖ \$440,000 beach maintenance
- ❖ \$ 35, 000 monitoring beach erosion
- ❖ \$ 20,000 monitoring water quality
- ❖ \$110,000 upgrade bathrooms at Bowman's Beach
- ❖ \$ 40,000 Turner Beach bathroom improvements
- ❖ \$ 90,000 Causeway Beach park improvements (area connecting Pond Apple Park property, Chamber bathrooms and the road crumbling into the bay

She stated that the next step was approval by the Lee County Board of County Commissioners.

Council discussed the following item:

COMMITTEE, BOARDS COMMISSIONS:

Recommendations from the Historical Preservation Committee:

Mr. Sam Bailey and Alex Warner from the Historical Preservation Committee gave a presentation regarding budgetary recommendations for the Historical Museum, which are as follows:

- ❖ Electricity for the Old Schoolhouse (Spoth Fund)
- ❖ Sewer connection and rest room construction for the Old Schoolhouse and a water connection and drain for a sink in the Tea Room
- ❖ Hiring a part-time employee under Parks and Recreation to assist the Historic Society and Village Museum personnel

Councilman Jennings made a motion, seconded by Vice Mayor Denham, to have City Staff research costs for the budgetary recommendations submitted by the Historic Preservation Committee and to authorize the City Manager to meet with the Tourist Development Council (TDC) regarding funding for the budgetary items and bring back to Council regarding the request for a part-time person.

The motion passed unanimously.

Public Comment:

Dorothy Miller spoke on job description on a full-time director of the Historic Museum.

NEW BUSINESS

RESOLUTION 05-076 OF THE CITY COUNCIL OF THE CITY OF SANIBEL MAKING A DETERMINATION OF THE PROPRIETY AND ADVISABILITY OF FUNDING A PORTION OF THE SANIBEL SEWER SYSTEM COLLECTION SYSTEM PROJECT BY SPECIAL ASSESSMENT; SAID PROJECT TO BE REFERRED TO AS THE "SANIBEL SEWER SYSTEM PHASE 3B EXPANSION PROJECT"; MAKING A FINAL DECISION TO LEVY THE SPECIAL ASSESSMENT; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 05-076.

John Hefty, Utility Director discussed the improvements and the special assessments requested by the Resolution 05-076.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to accept Resolution 05-076.

Public Comment:
None.

The motion passed unanimously.

RESOLUTION 05-075 OF THE CITY COUNCIL OF THE CITY OF SANIBEL SITTING AS THE SANIBEL EQUALIZATION BOARD; EQUALIZING AND APPROVING A SPECIAL ASSESSMENT FOR THE SANIBEL SEWER SYSTEM PHASE 3B EXPANSION PROJECT; PROVIDING FOR PREPARATION AND FILING OF A FINAL ASSESSMENT ROLL FOR SAME; PROVIDING FOR CONFIRMATION OF THE PROJECT AND ASSESSMENT; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 05-75

Mr. Cuyler spoke on legalities.

Councilman Rothman made a motion, seconded by Mayor Johnston, to accept Resolution 05-75.

Public Comment:
Vern Frankwich spoke on the amount of the sewer bill.

Rebecca Cobb spoke to the new sewer line be added to the Sanctuary sewer system, and the possibility of subdividing lots after sewer was put in.

Council recessed at 2:30 p.m.

Council reconvened at 2:36 p.m.

COMMITTEE, BOARDS COMMISSIONS:

Presentation of the final report by the Five-Year Budget Projection Review Committee.

Chairman T. O'Neill and Committee members C. Ketteman, M. Miller, and F. Leonard of the Five-Year Budget Committee spoke on the Final Report and gave the following recommendations:

Public Comment:

Jan Hyatt spoke to the Five Year Budget Committee Final Report and the Below Market BMRH contract with the City.

Jack Emery spoke on the Five Year Budget Final Report as it contends with the proposed Recreation Center.

Councilman Jennings made a motion, seconded Councilman Rothman, to accept the Five Year Budget Committee Final Report.

The motion passed unanimously.

The Council recessed at 3:33 p.m.

The Council reconvened at 3:42 p.m.

Discussion ensued regarding discussion of the Five Year Budget Committee recommendations as follows

- ❖ Increase the City's annual budget by \$900,000 per year for fiscal year 2006,2007,2008 and 2009 to cover the net cost of Hurricane Charley and begin to increase the City's hurricane disaster reserve fund by \$100,000 per year to a balance of \$2 million
- ❖ Revise operating fund capital spending under the Council-approved 5-Year Capital Improvement Plan
- ❖ Commission a redevelopment study
- ❖ Expand the "Compensation for Performance Plan" for exempt employees
- ❖ Appropriate \$200,000 annually for the next five years to support housing and commuting solutions for attraction and retention of City employees
- ❖ If the City Council decides to build a new recreation center, finance the project with voter-approved general obligation bonds
- ❖ Establish an ad hoc citizen committee, a Strategic Planning Committee having the charge of developing alternative long-range fiscal plans for the City capable of sustaining the Sanibel plan 10-15 years into the future
- ❖ Allocate \$50,000 annually to expand grant writing capacity
- ❖ Establish a task force to determine whether BMRH administrative support services should continue to be outsourced or instead performed in-house by City staff and to prepare for competitive bidding of such services upon expiration of the present contract in 2007
- ❖ Perform a Financial Feasibility Study prior to increasing the BMRH Program Goal

Ms. Zimomra stated that those recommendations with fiscal aspect would be taken during the budget discussions. She stated that those not having fiscal implications would be a policy question for Council such as:

- ❖ Establishing a Strategic Planning Committee
- ❖ Establish a task Force to determine whether BMRH support should continue
- ❖ Perform a Financial Feasibility prior to increasing the BMRH program goal

Discussion ensued regarding recommending staff come back with a timeline for staff support of any recommendation, overlap of Planning Commission and an ad hoc Strategic Planning Commission, concern of closing FY 2004-05 books and preparation of FY 2005-06, and schedule the discussion of the above-mentioned 5-Year Budget Committee recommendations at a future meeting and Capital Improvement Budget discussion.

Council requested the Library Board be invited to either the June 7 or June 21 Council meeting to discuss impact of the Sanibel Library being a separate district.

CONTINUATION OF OLD BUSINESS

Recreation Center Issues:

Discussion and direction to the Staff regarding Design Modifications.

Public Comment:

Karen Storjohann spoke to being surprised that the state does not require a gym for schools. She asked what other items the state did not require and the City provided?

Helene Phillips, Recreation Director stated the school only uses the gym. She further stated that other programs used by the school have been created by the City's Recreation Department.

Discussion ensued regarding County funding as it applies to non-residents using the facility, the school did use the tennis courts before new school construction, school does have a multi-media room, which doubles as a cafeteria, City ball fields sit on County land and County and City have a long standing partnership.

Steve Overbeck spoke on scaling down the design of the proposed Recreation Center.

Mayor Johnston spoke on reducing or re-design design modifications of the following items:

- ❖ Redesign of Pool area
- ❖ Locker area and showers
- ❖ Multipurpose Room and teen room/craft area
- ❖ Delay in Tennis courts
- ❖ Reduction in gym size

Pool Design:

Discussion ensued regarding a proposed conference/computer room, no changes in the security features in new design, no changes in the environmental design, describe the pool to be less extensive with one lap stroke competitive pool and one family pool, Vice Mayor Denham visited lap pool/family pool in Bradenton, consider keeping the existing pool and the new pool area in a different location.

Armand Ball spoke to the proposed building being built above flood plain, which would be higher than the existing pool causing children to go up and down stairs.

Discussion ensued regarding redesigning the pool area to keep the existing pool.

Helen Phillips, Recreation Director spoke to the concept behind the proposed pool area was to give something for everyone at any age, new pool 25 yard pool (basically the same as the existing pool), leisure pool would have a zero depth entry, the activity pool would be zero depth for young middle school children, splash pad would be use by toddlers, which all would encourage families to come together.

Discussion ensued regarding the leisure pool would be 4 feet in depth, splash pool no depth, activity pool two feet in depth and the opening of the pool area could be staggered according to use.

Public Comment:

Frances Sheldon spoke to reducing the shower/locker/restroom area

- ❖ Council by consensus directed staff to asked the architect to design a two-pool concept using the current pool. Councilman Jennings preferred the current design.

Public Comment:

Jack Emery spoke to having a pool that would be 25 yards by 25 meters.

Discussion ensued regarding the present pool being 75 feet by 45 feet and allowing the architect to take Council direction and create a design modification.

Locker/Shower area

Discussion ensued regarding separating dressing children from adults, family restroom, ask architect to make an appropriate size under reduction, concern had been expressed on privacy in the changing area, interest in security and privacy.

- ❖ Council by consensus directed the architect to show appropriate size reduction in the locker area maintaining security and privacy in the changing area.

Multipurpose/Teen Room

Discussion ensued regarding removing the multi-purpose room and teen room, but leaving the decking so that in the future the rooms could be added back in, numerous complaints that teen did not have an activity room, senior would use the same room for activities, keep conference/computer as a multi-use room, seniors could use the craft room, 700 members in the senior program, turning away seniors from classes, proposed complex was for everyone, not just teens and could gym be used for line dancing and other activities.

Public Comment:

Steve Overbeck spoke on actual usage and patterns of the proposed Recreation Center.

- ❖ Council by consensus directed staff to ask the architect the cost by removing the teen and multi-purpose room, but keeping the decking.

Tennis Courts:

- ❖ Council by consensus decided to delay construction of the tennis courts.

Discussion ensued regarding reducing the size of the gym, staging area for construction materials would be the proposed location of the tennis courts, ask the architect to footnote any challenges and maximum cost for redesign of above-mentioned items would be \$20,000.

Gym:

- ❖ Council by consensus Request that the architect show cost of reducing the gym.

Report on Status of Grant Applications:

Ms. Zimomra stated the following were recommendations from the grant writer:

- ❖ Establish a nonprofit entity with a committed board to seek private funds
- ❖ Organize a citizen's advisory committee to advocate for the project
- ❖ Commit a "green" building strategy that will meet community's needs while minimizing the ecological impact and maximizing the efficiency of running the building
- ❖ Select a credentialed architect and builders who are experience in energy efficient technology, certification requirements, and sustainability practices that will make this project of interest to a variety of funders

Discussion ensued regarding a naming campaign for the proposed Recreation Facility; Ms. Zimomra stated that Council did not object to applying for all grants for environmentally sustainable design that would be the first objective.

- ❖ Council by consensus approved working on Environmentally sustainable grants and /or Greenways issues.

Referendum requirements:

Discussion ensued regarding timeline for a possible referendum for the proposed Recreation Center, deadline to have a referendum on the November ballot and cannot go to the elector until costs were decided including County cost participation, timeline for the proposed referendum and modifying timelines for construction, etc.

Renewal of modular restroom contract:

Council by consensus approved the renewal of the modular restrooms contract.

Discussion and direction to the Staff regarding the purchase of fill from the sewer expansion phase3b project for the proposed recreation center:

Council by consensus approved the purchase of fill from the sewer expansion Phase 3b for the proposed Recreation Center.

Council discussed distributing flyers on the proposed Recreation Center and by consensus agreed to distribute the flyers at Island Night on June 7, 2005

Public Comment:

Frances Sheldon spoke on distributing the Recreation Center flyers at the Library and Baileys.

The Council agreed by consensus that Recreation Center flyers should be distributed at the Library and Baileys.

Request for Council direction to City staff to investigate development of a more strict noise policy, including measurement standard, as it refers to noise emanating from the Donax Wastewater Treatment Facility:

Discussion ensued regarding investigating a strict noise policy.

The Council agreed by consensus to direct staff to develop a change of scope for the noise policy. The change of scope would be discussed at the June 7, 2005 Council meeting.

Public Comment:

Tom De Benedictis spoke on silencing the noise at the Donax Plant.

CITY ATTORNEY'S REPORT.

None.

COUNCILMEMBERS' REPORT.

PUBLIC COMMENT.

None.

There being no further business the meeting was adjourned at 5:41 p.m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk

**JOINT MEETING
THURSDAY, MAY 19, 2005**

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

Councilman Rothman gave the Invocation.

Members present: Mayor Johnston, Vice Mayor Denham, Councilman Jennings, Councilman Rothman, Vice Chair Valiquette, Commissioner Bilhiemer, Commissioner Veenschoten and Commissioner Phillip Marks.

Councilman Jennings made a motion, seconded by Councilman Rothman, to excuse Councilman Brown due to illness.

The Planning Commission excused Commission Lapi, Commissioner Sprankle and Commissioner Samler by consensus.

Commissioner Valiquette led the Pledge of Allegiance.

Presentation by the Planning Department on the current buildback policy and related major issues.

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

- The current build back policy
 - Prohibits the reestablishment of most nonconforming uses (LDC Section 126-211) exception would be a resident single family dwelling
 - All nonconforming building to be reconstructed in its pre-disaster footprint, but does not expressly exempt compliance with limits on density and expressly requires compliance with height limits (LDC Section 126-212)
 - Establish standards for reconstruction that includes requiring compliance with a height limit of 45 feet above mean sea level (LDC Section 126-215)

He spoke to the following Land Development Code (LDC) sections:

- Section 26-211 - When a structure, which was devoted to a use not permitted in the district in which it is located; that is, a nonconforming use, is destroyed or substantially damaged by accidental fire or other natural and disastrous force the use to which such structure was devoted may not be re-established, except where the use is a non-resort residential use in the Gulf Beach Zone or the Bay Beach Zone
- Section 126-212 – When a nonconforming structure was destroyed or substantially damaged by accidental fire or other natural and disastrous force, such structure may be reconstructed within its pre-disaster gross square footage, but conforming in all other respects to the land development code requirements, including height requirements, in effect at the time of reconstruction. In case of a historic structure, as defined in Chapter 94 or described in Chapter 98, reconstruction is permitted as provided in this section, and in addition, in any manner which preserves the integrity of the structure as a historic structure
- Section 126-131 – Within the City there exists lots, structures, and which were lawful when established, but which have become prohibited or restricted under the terms of the Sanibel Plan or the LDC, or amendments. It is the intent of the LDC to permit these nonconformities to continue until they are eventually removed, but except as to most nonconforming issues, not to require them to be removed as the result of a disaster, and to allow reasonable restrictions. It is the further intent of this LDC that a nonconformity shall not be enlarged upon, expanded, intensified, or extended, nor be used as a basis for adding other structures or uses prohibited within the district

- Section 126-215 – Notwithstanding any provision to the contrary, nothing contained in this section shall authorize the reconstruction of a structure in violation of, noncompliance with, or in excess of, as the case may be, any of the following:
 - Federal flood regulations or Chapter 94 of this land development code
 - Applicable building, health and safety codes
 - State coastal construction control lines
 - Other applicable federal, state or local regulations
 - A height exceeding forty-five (45) feet above mean sea level
 - Setbacks open bodies of water, or the pre-disaster footprint, whichever is closer; but in no event, closer than ten (10) feet from an open body of water

Discussion ensued regarding build back and redevelopment studied at the same time, redevelopment a long range project, long range plan for redevelopment and issues in current LDC, and nonconforming structures, density and height.

Mr. Cuyler stated that the City does have a current build back regulation.

Discussion between City Council members and Planning Commission members regarding buildback/redevelopment.

Discussion ensued regarding if Captains Walk was destroyed could it be built back and the code authorizes that only a certain number could be built back due to the density and the question was raised that could Council legally adopt an ordinance that would allow any structure to be rebuilt if destroyed by a disaster.

Council decided to discuss height:

Discussion ensued regarding that build back could occur up to 45 feet and 3 levels, language in EAR and charter amendments, Mr. Cuyler stated that the Charter amendment provided for a vote of the electorate to increase height or an exception that a building height could be increased if destroyed to meet the flood elevation requirement, current policy no more that 3 levels above flood, only 3 condos unit meet the flood regulations, flood elevation established by FEMA was increase to additional 3 feet, three stories would require relief to the 45 feet ad, 4 story structures would also need relief, action by Council to increase height and falls under the exclusion it would not have to be voted on by the electorate, any timetable of a destroyed structure could receive a permit, and no one had requested a permit to re-build in advance of any possible disaster.

Mr. Pfalzer stated that build back was to re-build the building exactly as it was initially built in the same footprint and the permit could be issued quickly. but if additions were within the requested permit it would take longer to issue

Mr. Cuyler stated that Council would want to avoid special circumstances coming to Council for approval and any new regulations would need to be very specific.

Discussion ensued regarding if Council took the action to increase height and meets to standard the request would not go before the electorate, Mr. Cuyler explained that Council could adopt regulations to increase height, only properties affected by height would be multi family common ownership, height would be categorized as 35 feet above grade and 45 feet above mean sea level, policy issue to be addressed if regulations were adopted to allow increased height, staff use list to have a folder of each property on Sanibel that would state how each specific property could be re-built, current build back allows a building in the current footprint, but could not re-establish the resort use, state would not want to allow build back, but possibly would due to legal action, jurisdiction of beach was the State and City, Bert Harris a part of statute that if an ordinance substantially reduces burdens some property owner then a suit could happen, current regulations allow a structure to be built back even if it was seaward, but would lose resort use, if there were a group of buildings and part were destroyed, could the rest be torn down and all rebuilt, only those destroyed naturally could be rebuilt under the new regulations, a program that would encourage owners to provide the planning department with specific information, and a mailing to encourage residents

to provide the planning department information to help them rebuild if necessary and property owner responsibility to contact the city to prepare a file.

Public Comment:

Larry Schoop spoke to the definition of redevelopment and charter amendment of density. He stated that the charter amendment on density would give City Council broad discretion and the ability to allow density at the current level for properties. He also stated that City Council could approve in excess of those regulations in the plan if connected with redevelopment

Mr. Cuyler advised that existing density means existing physical densities in excess of those established in the Sanibel Plan where the purpose is:

Vice Mayor Denham read the following:

"Nothing in Section 3.10 (2) shall preclude City Council from permitting residential densities in excess of those in the Sanibel Plan where the purpose is:

- 1) Provide incentives for Below Market Rate Housing;
- 2) To permit redevelopment of existing parcels up to the number of existing dwelling units on May 04, 2004 provided the redevelopment is otherwise in conformance with the Sanibel Plan and the Land Development Code

Jim Henmaneck spoke to his representing a client suffering a hardship; 1124 Seagrape Lane duplex built in 1962; resort housing district, lot 104x150 feet; blend geozone 49% gulf beach ridge & 51% uplands requirement 17,000 square feet to develop, offer to buy contingent on buyer ability to tear down structure to re-build, and home across the street built in 1995 that appears to be in the same geo-zone.

Mr. Pfalzer spoke to the above-mentioned situation:

- ❖ Situation was regarding the application of the density map
- ❖ LDC allows development up to the number of units permitted by the density map
- ❖ 1124 Seagrape Lane the LDC does not allow a unit
- ❖ The Code does give exceptions for existing parcels that were parcels at the time the City incorporated
- ❖ Any lot in a modern platted subdivision was entitled to a unit provided it wasn't owned in common with the adjoining property
- ❖ Outside a modern subdivision, which was the case with Seagrape Lane or Buttonwood Lane the requirement of a minimum lot size
- ❖ 1124 Seagrape Lane too small for development in the zone it was located to be entitled for development
- ❖ Currently duplex located on property
- ❖ LDC allows the use to continue
- ❖ Ongoing discussion of use on 1124 Seagrape Lane if it could be built back
- ❖ Currently could build back in the pre-disaster footprint
- ❖ Discussion of lawfully existing density
- ❖ If property vacant or building torn down, a new dwelling would be required to meet the minimum lot size
- ❖ Could convert the duplex to a single-family dwelling in same footprint
- ❖ Under current code could not re-develop property for residential use
- ❖ Council could relax and allow application no amendment would be required because the owner would be allow to re-develop up to the number of existing number of dwelling units
- ❖ Issue of 1124 Seagrape Lane was re-development not buildback

Discussion ensued regarding that if duplex at 1124 Seagrape Lane could be built back in the existing footprint as a single family dwelling, Captain Walk could be re-built in the same footprint, how City could

help property owner; option not allow to take out of context of re-development, could not re-build voluntarily, policy question for Council, state mandate to reduce density on barrier islands, and if destroyed could re-build a single family dwelling in the same footprint.

Mr. Cuyler stated that he was not sure 1124 Seagrape Lane could be taken out of the context of re-development due to the policy issue involved. He further stated that in the past a decision was made that a unit of density could not be rebuilt voluntarily.

Discussion ensued regarding 2 definitions of density; 1) lot size and 2) in terms of number of units; state mandate to permit the reduction in the number of units on a barrier island, 1124 Seagrape Lane wanted to decrease to decrease the physical density and increase the permitted density, permitted density was zero, similar pieces of property that do not have a permitted unit, under build back could build back in the same footprint, redevelopment context a unit could not be torn down and a new building rebuilt, usual concept of non-conformity was if regulations had changed a unit was built back in accordance with the new regulations, if the regulations allow a unit, a unit could be rebuilt, if regulations do not allow a unit there would be no permitted unit, Bert Harris does not apply because the regulations had been in place for so long, was property owners notified that property rights were changed due to the City incorporating, Bert Harris passed in 1995 and specifically states that ordinances that predate the statute would not be affected.

Jim Hemmanek spoke a second time regarding not knowing about the building restrictions until it was put up for sale.

Discussion ensued regarding the responsibility for information was upon the property owner, down side of non-conforming issue was that a building could not be re-developed, could property owner apply for a variance, and staff had previous discussion regarding 1124 Seagrape Lane.

Louise Johnson spoke to a policy being instituted that no home could be re-built. She stated that the founding fathers decided density and many property owners lost density due to the policy. She also spoke regarding the idea of non-conformance would be brought into conformance. She further spoke to printing agendas in the newspaper.

Discussion ensued regarding the possibility of homes being lost, shared risk of living on a barrier island, density reduced on the island, original goal of dwellings was approximately 6,000 and raised to approximately 10,000, intent of founding fathers if beach zone residents destroyed to be eliminated and Mr. Cuyler stated that when the original plan was established there was no Bert Harris act; Bert Harris allows a property owner to make a claim to be found by the court to unduly burden a property owner, the owner may be entitled to a monetarily value; laws in affect for 20 yrs and the 10 units of Captains Walk were built on a piece of property under current policy and Captains Walk could rebuild 5 units (density) not the current 10 units.

Discussion ensued regarding looking at each individual case and if owners could ask for relief, but would not necessarily be granted.

Barbara Cooley spoke to more than 1 unit being extensively damaged during Hurricane Charley.

Hazel Schuller asked what was the definition of units because a rented house could be rented by bedroom and the occupational license charged per bedroom at a charge of \$15 per bedroom.

Council recessed at 11:00 a. m.

Council reconvened at 11:10 a. m.

Council decided to discuss Density:

Mr. Pfalzer called Council and the Planning Commission attention the document showing the number of nonconforming density (attached). He spoke to the multi-family sector as follows:

- ❖ Non-resort
- ❖ Resort
- ❖ Motel/Hotel
- ❖ Time Share

Mr. Pfalzer stated that there were 3 categories resort, timeshare was by definition where people on locks on individual units, but for a specific time. He further stated that the motel/hotel use was a resort use, but usually owned by an individual, corporation or consortium, and considered an undivided ownership. He explained that a resort multi-family condominium where each unit was individually owned and may have common areas.

Discussion ensued regarding the difference in resort and residential dwellings, motel/hotel undivided ownership, condo unit multi-ownership and dealt with individual, gulf beach zone resort could not be re-built as resort/condominium, but as residential, examples – single-family un-buildable lots that had homes built on them that density was an issue, 60 to 150 multi-family structures had a density more than was currently allowed, if a building had 10 units and was destroyed and the density map only allowed 5 to be built back, which 5 should be built back, Mr. Cuyler explained that the building could be built back, but the code does not address the specific units that could be built back, but if the build could be built back then it would be built back in terms of current density, which would be only 5 units or another interpretation would conform to the existing density of 10 units, presumed in a build back scenario that over 50% interpretation the building could buildback all units, but was not clear in the current Code, whether units were builtback according to today's current density (5 units) or 10 units at today's current physical density, building could be built back on the same footprint, if a unit were lost in a re-built back disaster situation, then the unit would be built back no matter the density in a non-conforming area, the issue may be what the use of the building would be; and two different issues; policy Council wants to establish versus what the existing regulations say.

Mr. Pfalzer gave a hypothetical situation: "A person and business associates own a 100 unit hotel with undivided ownership and if all units could not be built back then there would be the lose of units."

Council reflected that the motel/hotel issue was different than the resort/condo. Another hypothetical issue; "A condominium was built and never occupied as someone home, but only rented out for commercial rental purposes," some hotel/motel units were owned individually, there were 35 to 50 single-family dwellings that were built on a 14,000 square foot lot above the permitted density, but now requires 20,000 square foot lot, and if destroyed could not be built back in accordance with current code, Sanibel Shores called a modern platted subdivision would not have minimum standard lot size, problems exists outside the modern platted subdivision approved by the City such as Sanibel Highlands, San-Cap Rd, Wulfert Peninsula and Sanibel Estate, possible amendment could be made to say, "a single unit could be built back even though their lot does not conform," single family swelling would be applied, but if the dwelling was a duplex there in lies the problem, sense of Council to direct staff that there would be a unit for build back, if a dwelling was built back, the building would have to be built back in accordance with the flood regulations and intent of code was to allow a building to be built back under build back, not re-development.

Density – Resort – Condominium

Discussion ensued regarding build back and density as it applies with Sundial, final phase built under court settlement, earlier phase exceeds density, West Wind Inn existing 104 units and under build back they would be allowed to build back 30 units.

Mr. Cuyler explained that condominium was a form of ownership, and could be a residential ownership or transient ownership.

Discussion ensued regarding a hotel/motel could be on by a single owner, corporate ownership or individual owner of each individual owner with common areas where a rental pool operates the rental use, zoning does not look at ownership, but use.

Mr. Cuyler stated that Council could look at situations and see how the policy addresses certain issues. He also stated that Council could adopt a policy including a building with 20 units: 10 residential and 10 rental and it was decided that all were residential then that would be Council's decision or Council could consider each situation and make a decision.

Discussion ensued regarding pre-disaster definition that classified each structure, how to define the structure as pre-disaster, partnership ownership, zoning perspective looking at number of units, resort area, code could be interpreted that if a building were destroyed all units could be built back with all existing units, if there was a 100 unit density hotel, and use was residential it would built back to pre-disaster density.

Councilman Jennings left at 11:50 a. m.

Discussion ensued regarding what needs to go in the code and the city's responsibility, difference between build back and re-development, condominiums have an obligation to confirm the way they are configured. re-development regulations in place up to ownership with redevelopment with possible incentives from City; 2 options buildback regulations as they existed, re-development as exist today, and conform to current regulations.

Mr. Cuyler summed up Mr. Pfalzer's questions for Council:

- ❖ How to deal with non-conforming uses currently prohibited
- ❖ Density
- ❖ Height requirement of 45 feet

Public Comment:

Robin Humphrey spoke to Sundial being individually owned and should make a distinction of an association being residential and form of ownership at Casa Ybel, and Cottage Colony. She spoke to the difference of ownership. She suggested that condominium association should be residential unit.

Stacy Goode spoke to Sundial Association ownership separate than Sundial resort.

Non-conforming Use –

Mr. Pfalzer stated there were only 2 categories of use:

- ❖ Resort
- ❖ Non-resort

He stated that there were a few commercial development located outside the commercial use districts. He also stated that if there was the need to build back, the dwellings could be built back, but the use would not be permitted. He stated Council might want to look at the 175 units that are non-conforming use outside of the commercial zone. He also spoke to the 500 units within the resort housing district in the Gulf Beach Zone that were forward of the Coastal Construction Control Line (CCCL). He gave the following numbers of non-forming units:

- ❖ 100 units that were not single-family dwellings in the single-family district
- ❖ 5 commercial units non-conforming uses
- ❖ 175 resort uses outside the district
- ❖ 500 units in the Gulf Beach Zone forward of the CCCL
- ❖ 700+ units that could not re-establish their use

Discussion ensued regarding that the elimination of resort use would happen over time, intent of the original Sanibel Plan to have the residential community increased, time share triggered the code to control time sharing, and no resort units have been built on Sanibel in 20 years.

Mr. Pfalzer suggested that Council might want to deal with build back in certain areas and look further at re-development.

Discussion ensued regarding maintaining short term rentals in the EAR, unit size could be a problem when a unit was rebuilt in the same-footprint, problem with grandfathering resort housing dwellings, historically the use continued as resort housing when grandfathered in when the code was adopted, board agreed that during buildback only when a building was to be rebuilt it would have the same use, but not during redevelopment, because it would not retain the use, and earlier discussion that would allow a motel/hotel zone.

Mr. Pfalzer spoke to a condominium unit wanted to rebuild and could petition Council to change the use. He stated all references in the code were provided and under buildback the structure would continue to be non-conforming, but redevelopment would bring structures into conformance. Council could consider changing the code to encourage the direction of redevelopment.

Public Comment:

Dave Schuldenfrei spoke to the difficulty of separating use.

Discussion ensued regarding buildings destroyed in the gulf beach zone could not be rebuilt.

Mr. Cuyler stated that from the legal perspective the bundle of rights versus physical rights.

Karen Stori Johanan asked for definition of footprint and if the building had to be in the same spot on the property.

Discussion ensued regarding that a building had to be built back in the exact same footprint, if footprint removed the review process would be different and it would be considered re-development, there was something in the code that would give the property owner the ability to move the dwelling to a different place or direction in the same footprint.

Larry Schopp spoke to the session being very helpful.

Discussion ensued regarding separation of pre-disaster resort housing, include commercial properties and define current density, clarification of definitions and categories, future joint meetings, and bring an outline of an ordinance to Council June 21, 2005 Council meeting.

Ms. Zimomra reminded Council and the Planning Commission of the memorial for John Dillon scheduled for May 24, and the June 27th joint Council/Planning Commission and Veggie Committee.

There being no further business the meeting was adjourned at 12:46 p. m.

Respectfully submitted by

Pamela Smith, CMC
City Clerk

Discussion ensued regarding



MEMORANDUM

DATE: August 01, 2005
TO: Fellow Council Members
FROM: Councilman Steve Brown
SUBJECT: Amendments to Resolution 05-097

Please find attached a draft of proposed amendments that are underlined for Resolution 05-097. Please do not contact me as these amendments will be discussed in open session at the Tuesday, August 2nd City Council meeting.

SRB/ps

**CITY OF SANIBEL
RESOLUTION NO. 05-097**

**A RESOLUTION EXPRESSING THE
APPRECIATION OF THE SANIBEL CITY
COUNCIL FOR THE SANIBEL BICYCLE CLUB'S
PLEDGE OF FINANCIAL SUPPORT FOR THE
DEVELOPMENT OF A SHARED USE PATH
MASTER PLAN; AND PROVIDING AN EFFECTIVE
DATE**

WHEREAS, Sanibel Bicycle Club members Patti Sousa and Doug Dietrich appeared before the City of Sanibel City Council on July 19, 2005; and

WHEREAS, the Sanibel Bicycle Club made a pledge of \$25,000 for a shared used path master plan if the City partners and contributes up to \$75,000; and

WHEREAS, a sliding scale will be utilized, i.e., Sanibel Bike Club collects \$60,000 then the City would contribute \$40,000; and

WHEREAS, the consensus of the Sanibel Bike Club and Community at large is that the Shared Use Paths are unsafe; and

WHEREAS, since the Sanibel Bicycle Club made this pledge the Sanibel City Council desires to express its appreciation; and

WHEREAS, at it's Council Meeting Thursday, July, 19th City Council agreed to match the Sanibel Bicycle Club with a grant up to \$75,000 depending on the need and cash collected up to \$100,000; and

WHEREAS, justification for the plan encompasses planning, maintenance, fund raising and public input

NOW THEREFORE, BE IT RESOLVED, by the City Council, City of Sanibel, Lee County, Florida, **THAT**:

SECTION 1. The City of Sanibel City Council expresses is sincere appreciation to the Sanibel Bicycle Club for its pledge of up to \$25,000 to support the development of a shared use path master plan.

SECTION 2. Effective date.

This resolution shall take effect immediately upon passage.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Lee County, Florida, this 2nd day of August 2005.

AUTHENTICATION:

CARLA BROOKS JOHNSTON
Mayor

PAMELA SMITH
City Clerk

Approved as to form:

KENNETH B. CUYLER
City Attorney

Council Members Vote:

Johnston _____
Denham _____
Brown _____
Jennings _____
Rothman _____

Date filed with City Clerk: _____

Shared Use Path Proposal

I support this resolution and welcome the Bike Club's financial support for the development of a Shared Use Path Master Plan.

However, I would like to make the following comments:

- I do not support the Periwinkle bypass shared use path route and therefore I do not support the acquisition of land behind the businesses and homes from the Sanibel Steak House to Casa Ybel Road.
- Most of these businesses do not want to sell and do not want a path behind their businesses and homes. There would be a number of expensive practical problems to overcome, such as rear entry to their property, security and privacy of their property, and in my opinion it is an inappropriate use of eminent domain and I would not support that process.
- The \$150,000 in the proposed 05/06 budget is just a small down payment for what would be an extremely expensive project. I would propose removing that item from the budget, focusing all of available City monies on repair, maintenance and safety of existing paths.
- The bypass is being sold as an alternative route from Periwinkle to Casa Ybel Road. That route already exists—Donax to Middle Gulf to Casa Ybel.
- Many of the people who use the area of Periwinkle that is of safety concern are there in large part to visit, and use the businesses and properties in that area. I believe they will still use their bikes to get to those properties whether or not there is an alternate route to Casa Ybel. This may not prove to be an adequate solution to road safety concerns.
- The proposed bypass is over environmentally sensitive land, close to the Sanibel River, destroying habitat and interfering with wildlife, and this should be avoided.
- When the city is in a position to take on path extensions there are other less expensive, equally attractive routes to consider requiring little if any private land acquisition and very limited interference with sensitive land. One suggestion would be Island Inn Road west from Tarpon Bay Road to the West Gulf Drive shared use path, making Sanibel Gardens Park accessible, and the back end of the Bailey Tract. This is but one suggestion: I am sure there are others.

I am very much in support of increasing City monies for repairing and improving our existing shared use paths.

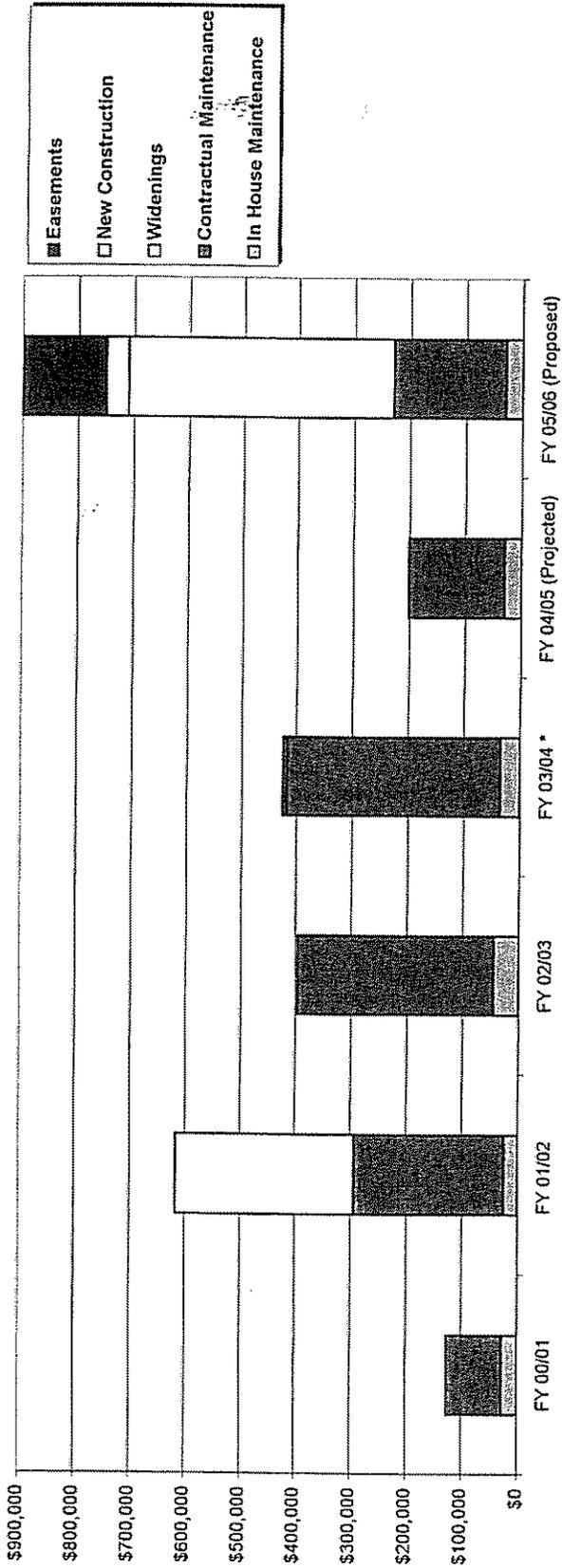
Mick Denham

Proposed FY 05-06 Shared Used Path Costs
REVISED 7/25/05

In House Maintenance	=	\$30,000
Contractual Maintenance	=	\$200,000
• \$100,000 – Fund 301		
• \$100,000 – Beach Parking		
Path Construction (Bailey Road)	=	\$40,000
Widenings	=	\$480,000
• \$180,000 – Rabbit Road		
• \$100,000 – Casa Ybel Road (Beach Parking)		
• \$100,000 – Periwinkle Way (Palm Ridge to Tarpon Bay)		
• \$100,000 – Tarpon Bay Road (Periwinkle Way to San-Cap)		
Easements (Sanibel Steakhouse – Casa Ybel)	=	<u>\$150,000</u>
	Total =	\$900,000

Shared Use Path Costs

July 2005



	FY 00/01	FY 01/02	FY 02/03	FY 03/04 *	FY 04/05 (Projected)	FY 05/06 (Proposed)
In House Maintenance	\$27,200	\$24,300	\$45,900	\$35,300	\$30,000	\$30,000
Contractual Maintenance	\$100,000	\$270,000	\$350,500	\$382,000	\$172,400	\$200,000
Widening	\$0	\$323,000	\$0	\$0	\$0	\$480,000
New Construction	\$0	\$0	\$0	\$0	\$0	\$40,000
Easements	\$0	\$0	\$0	\$9,000	\$0	\$150,000
Total	\$127,200	\$617,300	\$396,400	\$426,300	\$202,400	\$900,000

* In House Costs Estimated

Average Annual Maintenance Cost/Mile of Shared Use Path (FY99 - FY04) = \$11,860/Mile/Year
 Estimated Construction Cost/Mile of Shared Use Path = \$200,000/Mile
 (\$100,000/Mile was used in 2003)