

## SANIBEL CITY COUNCIL MEETING

DECEMBER 06, 2005

There was a reception and welcome for the Moore Haven High Students interested in Water Quality Issues.

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 Jennings gave the Invocation and led the Pledge of Allegiance.

### **PRESENTATION(S)**

**Proclamation honoring Steve Henry for 25 years of service to the citizens of Sanibel**  
Mayor Johnston read and presented a proclamation to Steve Henry for his 25 years of service to the City. He was also given a piece of Like Century crystal.

### **10 Minute Presentation by Moore Haven High School Students interested in water quality issues**

Moore Haven High School students gave a brief PowerPoint presentation.

Ms. Crystal Drake called Council's attention to the book left for each Councilmember on the dais.

Council commented on the following:

- Welcomed and thanked Moore Haven high school students for their presentation
- Looked to the youth to solve problems
- Look at the perspectives of all communities as it applies to the water releases of Lake Okeechobee
- Invitation to students to return for a tour of the island
- Destruction of sea grasses and sea animals
- Great need to work together to protect lives, jobs, estuaries, property and property rights

Jordan Thomas, student spoke to his grandfather living on the river in Moore Haven and experiencing the negative changes, as well as the negative impact on the agriculture community if the Lake Okeechobee releases were redirected.

Council recessed at 9:46 a. m.

Council reconvened at 10:02 a. m.

**Public Comments:**

Claudia Burns spoke to the public's ability to speak to Council. She also spoke to putting committee meeting public notices in the newspaper regarding the discussion of Australian Pines.

Ms. Zimomra stated that City Council directed the Vegetation Committee to study the Australian pine issue. She stated that all meetings are posted and City Council was the only policy makers and all committees were advisory.

Mr. Cuyler stated that every topic reviewed was important. He further stated that all meetings were noticed.

Discussion ensued regarding the various City Committees working on different issues, Wildlife Committee asked to study the possible endangerment of wildlife with the removal of Australian Pines.

Herb Rubin spoke to the dissolution of Keep Sanibel Clean Litter Committee, the adopt a road project in Sanibel, inspection of construction sites with information forwarded to the City Manager, inspection of commercial dumpsters with information forwarded to the City manager and inspection of right-of-ways.

Discussion ensued regarding following up during the appointment of committee members.

Louise Johnson spoke to publishing Council agenda in the newspaper and list the committee.

Kurt Stendahl spoke to C. O. T. I. requested that when considering legislation publish the cost of the legislation in the newspaper. He requested that Council have a discussion on a future agenda regarding his suggestion. He further spoke to 7 b, c, & d on the agenda and his speaking to the above mentioned.

Patty Sprankle spoke to the last appointment of Planning Commission members,

Charlotte Kowich spoke to horses on the beach and no ordinance against horses on the beach. She further spoke to horses from Naples being on the beach.

Karen Stori Johan asked Council to consider the vision of redevelopment and it working hand-in-hand with buildback.

Mayor Johnston noted that she had a request on the following:

**Status report regarding the investigation of legal action against the South Florida Water Management District and the Army Corps of Engineers**

Discussion ensued regarding not limiting discussion.

Mr. Cuyler gave the following report:

- Lee County reviewing the issue
- Contacted by other entities
- Lee County Attorney reporting back by December 20, 2005
- Allow Lee County to make a decision
- A coalition of Southwest Florida governmental agencies would be a strong front
- Recommendation to wait until Lee County made a decision

Discussion ensued regarding taking more aggressive action, having an immediate crisis, need a regional group interest, Mr. Cuyler stated that there was no doubt of Council's commitment to the issue and the need to go forward, and suggested waiting 2 weeks to see what Lee County decides, keep the pressure on SFWMD on for the next several years, Rob Jess, Executive Director of J. N. "Ding" Darling Wildlife Refuge announcing wanting to sue the SFWMD and working with State representatives, keep the pressure on SFWMD for the next several years, concern regarding Sanibel suing the SFWMD alone, bring a lawsuit against the Army Corps of Engineers for destroying manatee habitat, U. S. Sugar had many links to State officials and White House officials, 2 new appointees to be made to the SFWMD Board in March, 2006, make sure that all program solutions were followed through, need County support, the urgent need to stop 50,000 gallons of water per second being released from Lake Okeechobee, preservation of the tourism industry, Mr. Cuyler stated he was not looking to Lee County for the answer and Council would make that decision.

Public Comment:

Jack Luft spoke to Big Sugar gaining from the situation, and NAFTA discontinuing Mexican tariffs.

Peter Pappas spoke to the Moore Haven High School student presentation, and no remedy to the releases and coalition must include the State of Florida.

Henry Glissman spoke to the urgency, and the commitment of funds.

Bernie Lubetkin spoke to his concern of a possible lawsuit and was there a solution Council wanted to reach.

Dick Walsh spoke to his opinion of legal problems if Council went forward with a lawsuit, and need to know the opinion of gubernatorial candidates regarding Lake Okeechobee water releases.

Erick Lindblad, Executive Director SCCF spoke to PURRE's incorporation, retaining an attorney, experiencing severe impacts in the estuaries, need to develop a knowledge base that comes to all water meetings, and may be necessary to hire experts.

Discussion ensued regarding the loss of turtle and manatee grass, affecting the trout population, and Sanibel stands for its wildlife and being a sanctuary island.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to set aside \$1 million dollars for a potential lawsuit, direct the City Attorney to come back at the December 20, 2005 City Council meeting with the outline of a lawsuit, and contact other members of a possible coalition and advise that the money had been set aside for legal action.

Discussion ensued regarding Sanibel not suing the SFWMD alone, but be part of a coalition, continuing discussion with SFWMD, Sanibel taking the first step toward legal action against SFWMD, agricultural land surrounding Lake Okeechobee, opportunity to educate the gubernatorial candidates, Cape Coral passed a resolution, discussion with the Horizon Council, long history of big money thrown at Big Sugar, the need for Council to gather more facts, the goal of the SFWMD was to move water, and encourage the governor to make appointments to the SFWMD that understand the estuaries.

**Public Comment:**

Dick Walsh spoke to the possibility of maintaining a lawsuit before filing a suit before authorizing a suit, consider what relief Council was seeking and he suggested directing the City Attorney to determine if the City could stay in court.

Jack Luft agreed with Mr. Walsh.

Herb Rubin spoke to suing for immediate emergency action to soft the Lake Okeechobee water releases.

Henry Glissman spoke to the discontinuation of cell phones in council chambers; he contacted the gubernatorial candidates without a commitment for stopping the Lake Okeechobee water releases.

Councilman Jennings asked if Councilman Brown would amend his motion.

Councilman Brown did not amend or change the original motion.

Councilman Jennings made a motion, seconded by Mayor Johnston, to table the above-mentioned motion.

The motion failed 3 to 2 with Councilman Brown and Vice Mayor Denham voting in opposition.

The motion made by Councilman Brown failed 2 to 3 with Councilman Jennings, Councilman Rothman and Mayor Johnston voting in opposition.

Ms. Zimomra stated that the lobbyist would be coming in to town regarding Council briefings and passed the next ad regarding water quality. She further stated that if Council wanted to extend an invitation for a joint meeting coalition staff would need direction.

Discussion ensued regarding inviting the gubernatorial candidates to speak to Council, the need to educate the candidates and then get their opinion, writing a letter to the governor to invoke the emergency powers of the SFWMD, how to affect or change the SFWMD Board, and inviting Kurt Hercerlode speaking with Council.

Council agreed.

Kurt Hercerlode spoke to the following:

- 9 Board members on the SFWMD
- 2 seats up in March (Key West & Broward County)
- Mike Collins (Key West)
- Pamela Brooks Thomas (Broward County)
- Alice Carlson (Collier County) represents Southwest Florida
- Michael Wade (Hendry County)

Councilman Rothman made a motion, seconded by Councilman Jennings, to prepare a letter of invitation to each gubernatorial candidate and send follow-up information of Council's stand of the Lake Okeechobee water releases.

The motion carried unanimously.

Mayor Johnston made a motion, seconded by Vice Mayor to direct staff to prepare a letter to be sent to Governor Bush to impose the emergency powers of the SFWMD.

The motion carried unanimously.

Councilman Jennings made a motion, seconded by Councilman Brown, to direct the City Attorney to bring back a report in 2 weeks regarding a possible lawsuit.

The motion carried unanimously.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to send a letter the Mike Collins, Pamela Brooks Thomas, and Alice Carlson regarding their opinion of the Lake Okeechobee water release issue.

The motion carried unanimous.

### **Council Comments.**

Councilman Rothman made the following comments:

- Newspaper articles that the City decided not to purchase – would like to continue to go forward and get an appraisal for not more than \$5,000

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to hold the January 17, 2006 to begin at 6:00 p.m.

Discussion ensued regarding the motion.

The motion carried unanimously.

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to publish the City Council agenda in the newspaper of record.

Ms. Zimomra reminded Council removed the funds from the budget and if approved a budget amendment would be forthcoming in the amount of approximately \$60,000.

Discussion ensued regarding publishing the agenda, ability of residents to retrieve the information on the City's website, at the library, City Hall bulletin board and City Hall's front desk.

Public Comment:

Louise Johnston spoke in agreement of the motion.

Dick Walsh spoke against the motion.

Patti Sousa spoke against the motion.

Jack Luft spoke to a new website called sanibelnews.net which was meant to serve as a bulletin board.

Herb Rubin spoke in agreement of the motion.

Barbara Cooley spoke to no opportunity for public comment on information to candidates. She also spoke to the need to emphasize damage to the estuaries.

Claudia Burns spoke in agreement of the motion including publishing the Planning Commission agendas and City Committee agendas.

Kurt Stendahl spoke in disagreement of the motion.

Jack Luft spoke a second time regarding the Mayor's column and suggested including upcoming agenda items.

Vice Mayor Denham withdrew his second. The motion failed for the lack of a second.

Discussion ensued regarding directing the City Manager to bring back historical data of the cost of publishing the agenda.

Ms. Zimomra stated that it impossible for staff to go through an agenda and decide the important issues.

Discussion ensued regarding advertising in both papers, the possible costs of advertising the City Council, Planning Commission and City Committee agendas, withdrew the request for the City manager to bring back historical data at the December 6<sup>th</sup> meeting and over estimate the amount of people that operate a computer on the island.

Councilman Rothman disagreed with Vice Mayor Denham's title for raccoons of "nasty creatures."

Vice Mayor Denham apologized for the comment and stated he was giving caution in dealing with a dead raccoon.

**Public Comment:**

Louise Johnson spoke a second time to the change of community and no commitment of new residents.

**Planning Commission Report:**

John Veenschoten gave the following Planning Commission Report for November 22, 2005.

- Approved a resolution to allow an additional 12,00 square foot outdoor open deck at Doc Ford's for outside dining
- Approved a certificate of appropriateness for the Schoolhouse for Black Children and condition of the certificate was the appointment of a member from the Historical Preservation Community as a liaison/overseer
- Approved recommendations for an amendment of the buildback ordinance regarding non-conforming structures destroyed due to a natural disaster
- Consideration for a request for a development permit and preliminary plat approval of a 76 acre piece of land to a unified cluster development, consisting of 35 lots for single family-dwellings, tract for private roadways, and the motion passed to direct the Planning Staff to prepare a resolution of approval to include a list of conditions that would be necessary to approve the preliminary plat for the major subdivision; questions of the management of the preserve lands with further discussion
- Approved recommendations for an amendment of the timeshare ordinance

Discussion ensued regarding the vote of the subdivision, the vote was unanimous, Mr. Cuyler stated that an appeal could be made, and Ms. Zimomra stated that Dr. Loflin had been involved, and the management of the sensitive land was at issue, Mr. Cuyler stated that the number of units was authorized by the LDC, could approval be made without an agreement of who would maintain the preserve land, Mr. Cuyler stated that the Planning Commission could authorize, but if there was no agreement to manage the preserve land that would cause a problem.

**CONSENT AGENDA:**

Council pulled b,c,d,e, and j for discussion.

Vice Mayor Denham made a motion, seconded by Councilman Rothman to approve Consent Agenda items a, f, g, and h.

Council approved by consensus.

- a. **Approval of minutes - August 02, 2005 Regular Meeting, August 16, 2005 Regular Meeting, August 23, 2005 Special Meeting, and August 25, 2005 Special Meeting**
- f. **Request from the Sanibel Fire District to add City of Sanibel as a link to their new website**
- g. **Request from the Historical Preservation Committee to serve wine and champagne at the annual holiday party for docents and members Sunday, December 11, 2005 at the Historical Village 950 Dunlop Road**
- h. **Approval of Change Order No. 2 for the Sanibel-Captiva Road Project in the amount of \$11,648.45 and authorize the City Manager to execute same (additional asphalt costs and toll charges)**
- i. **RESOLUTION 05-172 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-016 AND PROVIDING AN EFFECTIVE DATE** (to roll-forward Beginning Fund Balance in the amount of \$125,000 for the Rabbit Road to Sanibel School portion of San-Cap Road Improvement project which was not completed prior to September 30, 2005. See attached memorandum from the Public Works Director requesting this Budget Amendment in order to appropriate funds for the completion of the project in FY 2006)

Ms. Zimomra read the title of Resolution 05-172

Councilman Rothman made a motion, seconded by Vice Mayor Denham, to adopt Resolution 05-172.

Public Comment:

None.

The motion carried unanimously.

- k. **RESOLUTION 05-171 DIRECTING THE PLANNING STAFF TO CONTINUE TO DEVELOP PROPOSED LAND USE REGULATIONS TO BE SUBMITTED TO THE PLANNING COMMISSION AND CITY COUNCIL IN ORDER TO ADDRESS THE LAND USE ISSUES RELATED TO THE COMBINATION OF SMALLER COMMERCIAL UNITS INTO LARGE COMMERCIAL UNITS, AND LAND USE ISSUES RELATED TO CERTAIN NON-RESIDENT ORIENTED RETAIL USES, WITHIN SPECIFIED COMMERCIAL AREAS OF THE CITY OF SANIBEL;**

**DIRECTING THAT THE PLANNING COMMISSION PROVIDE RECOMMENDATIONS WITH REGARD TO ANY SUCH LAND USE AND DEVELOPMENT REGULATIONS PROPOSED OR DEVELOPED BY THE CITY PLANNING STAFF; DECLARING AND REAFFIRMING THAT THE DEVELOPMENT OF SUCH REGULATIONS CONSTITUTES “ZONING IN PROGRESS” AND REQUIRING COMPLIANCE WITH INTERIM ARCHITECTURAL STANDARDS AND PROHIBITING THE COMBINING OF SMALL COMMERCIAL UNITS INTO LARGER COMMERCIAL UNITS, AND THE NEW ESTABLISHMENT OF CERTAIN NON-RESIDENT-SERVING RETAIL USES WITHIN SPECIFIED COMMERCIAL AREAS OF THE CITY AND THE NEW ESTABLISHMENT OF FORMULA RETAIL USES, UNTIL SUCH LAND USE REGULATIONS CAN BE DEVELOPED BY CITY STAFF, CONSIDERED BY THE PLANNING COMMISSION AND CONSIDERED BY THE CITY COUNCIL; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 05-171.

Vice Mayor Denham made a motion, seconded by Councilman Rothman to adopt Resolution 05-171.

Public Comment:  
None.

The motion carried unanimously.

- b. **Approval of a grant agreement (FDACS# 010509) with the Department of Agriculture and Consumer Services for an urban forestry grant for replanting the Periwinkle Way Corridor in the amount of \$124,973 and authorize the City Manager to execute said contract and RESOLUTION 05-167 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-016 AND PROVIDING AN EFFECTIVE DATE** (to appropriate the \$124,972.88 Urban and Community Forestry (U&CF) Grant for the Tarpon Bay Road to Dunlop section of the Periwinkle Way Corridor tree planting pursuant to (U&CF) Grant Application Number 05H-137 approved by Resolution 05-099 on June 21, 2005)
- c. **Approval of a grant agreement (FDACS# 010510) with the Department of Agriculture and Consumer Services for an urban forestry grant for replanting the Periwinkle Way Corridor in the amount of \$124,953 and authorize the City Manager to execute said contract and RESOLUTION 05-168 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-017 AND PROVIDING AN EFFECTIVE DATE** (to appropriate the \$124,942.50 Urban and Community Forestry (U&CF) Grant for the Dunlop Road to Dixie Beach Boulevard section of the Periwinkle Way Corridor tree planting project pursuant to U&CF Grant Application Number 05H-139 approved by Council Resolution 05-099 dated June 21, 2005)
- d. **Approval of a grant agreement (FDACS# 010511) with the Department of Agriculture and Consumer Services for an urban forestry grant for replanting the Periwinkle Way Corridor in the amount of \$124,953 and**

**authorize the City Manager to execute said contract and RESOLUTION 05-169 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2006-018 AND PROVIDING AN EFFECTIVE DATE** (to appropriate the \$124,952.63 Urban and Community Forestry (U&CF) Grant for the Dixie Beach Boulevard to Lindgren Boulevard section of the Periwinkle Way Corridor tree planting project pursuant to U&CF Grant Application Number 05H-140 approved by Council Resolution 05-099 dated June 21, 2005)

Ms. Zimomra read the titles of Resolutions 05-167, 05-168 and 05-169.

Discussion ensued regarding the tragedy of Hurricane Katrina and Periwinkle Way plants growing back naturally without replanting, and the crisis of deserted animals in the aftermath of Hurricane Katrina.

Dr. Rob Loflin, Natural Resources Director stated that this was money allocated by Congress to give to cities that had tree devastation and if not approved the money would go to another city.

Public Comment:

John Veenschoten agreed with Councilman Rothman.

Kurt Stendahl spoke to the money allocated to replant Periwinkle Way.

Ms. Zimomra noted that the source of funds was included and the Shared Use Path improvements were already scheduled and staff decided to dovetail the improvements with the Periwinkle Way improvements.

Jack Luft spoke to Periwinkle Way being a habitat for residents and supported the grants.

Councilman Brown made a motion, seconded by Councilman Jennings, to adopt Resolutions 05-167, 05-168 and 05-169.

The motion carried 4 to 1 with Councilman Rothman voting in opposition.

e. **RESOLUTION 05-170 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 05-170.

Councilman Rothman asked why disposal would not be through a sealed bid process.

Ms. Zimomra stated that this was a trade in and the amount of \$2,000 did not require a sealed bid process.

Chief Tomlinson stated that the new boat was bought through a manufacture that does not take trade-ins and the original company was take the old boat and refurbish in the amount of \$2,000.

Discussion ensued regarding purchase of a new boat, use a secondary market, new boat to high and in lieu of money changing hands the boat manufacture offered to take the boat as a trade-in and make certain that staff was using a fir method for trade-ins or purchases.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to adopt Resolution 05-170.

Public Comment:  
None.

The motion carried unanimously.

j. **RESOLUTION 05-174 DETERMINING THE REQUEST FOR AN ENTERTAINMENT LICENSE AT THE JACARANDA RESTAURANT LOCATED AT 1223 PERIWINKLE WAY; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 05-174. She noted that this was a request for an entertainment licenses and Council requested that the Police Department run the police calls for other establishments and there was only one for another restaurant.

Patrick Harder, Jacaranda spoke to having a fun environment.

Discussion ensued regarding spoke to the excessive amount of disturbances to the bar, aggressive atmosphere in the bar, need better management of the bar and service of alcohol, Ms. Zimomra stated the most recent battery report was October, 2005, Mr. Harder stated that the 2 people involved in the ruckus were banned from the bar, and implemented closing the bar sometimes at 12:30 a. m.

Councilman Rothman made a motion, seconded by Mayor Johnston, to ask the owner to come back to Council on December 20, 2005 with solutions.

Discussion ensued regarding the need for security, and change in schedule.

Public Comment:  
Barbara Cooley asked about amplified music out doors at the Jacaranda. She also spoke to the loud music at the American Legion recently and the need for a time limit cutting off loud music.

Ms. Zimomra stated that the current licenses did show a cut off time of 12:30 a. m., and allowed the Jacaranda to work under the old licenses until Council could approve the new license request.

Councilman Rothman amended the motion, accepted by Mayor Johnston, to allow the Jacaranda to continuation to operate under the old entertainment license and ask Mr. Harder to come back to City Council February 07, 2006 with a plan to address the issues.

Herb Rubin asked if the City had a practice of allowing a probationary process.

Ms. Zimomra stated that allowing the continuation of the old entertainment license was appropriate.

Jack Luft spoke to allow.

The motion carried unanimously.

## **OLD BUSINESS**

### **Final Approval of the design elements for the Periwinkle Way Corridor Design and Fund Raising Campaign**

Ms. Zimomra stated that Council was aware that three groups came together to raise funds for Periwinkle Way Corridor Restoration. She also stated that Vanasse Daylor was available to discuss amenities. She stated that the amenities were icing on the cake and would be fine without them, but during public input regarding planning the amenities were in the forefront of the discussion.

Bob Mitchell, Vanasse Daylor spoke to components of the Master Plan and the elements as follows:

- Amenities all a part of the Master Plan
- Need for functionality and not trendy
- Drinking fountain
- Bench
- Bike Rack
- Trash and Recycling receptacle
- Picnic Table
- 2 amenities already being used recycling/waste receptacle (raccoon proof) and bench
- Drinking fountain and bike rack green if metal or a natural color if stone would allow water for dogs and access for handicapped
- Identified the wayside areas
- Located placement of 5 fountains

#### **Public Comment:**

Herb Rubin spoke to the distancing between trash receptacles

Discussion ensued regarding bathrooms facilities along the Shared Use Paths, and part of the Master Plan to build a restroom.

Periwinkle Partnership include SCCF, Sanibel Beautification and Chamber of Commerce spoke to the following: (Ada Shissler)

- Bank of Island would be receiving donations and sending out tax forms
- 16 native plant gardens planned

- Brochure would be include in bank statements, City mailing, Chamber newsletter, rental packets and various websites
- Donors would receive a thank you letter and including a green pin
- Publish names of donor in newspaper
- Plagues located at gardens
- Permanent monument that references Hurricane Charley and participates
- Request a written directive from City Attorney outlining direction in the use Sanibel Beautification tax exempt status for the Periwinkle Partnership
- Request to cover printing costs of the brochure estimate of \$2,000

Ms. Zimomra stated that the brochures were in draft form, and the information regarding underground power lines was inaccurate.

Discussion ensued regarding the brochure, suggested enlarging how to join the Periwinkle Partnership.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to direct the City Attorney to give a written opinion outlining the use of the Sanibel Beautification tax exempt status for donation, send the brochure in City mailings and reimburse \$2,000 for printing the brochures.

Patty Sousa spoke to the Bike Club supporting Dr. Loflin's memos regarding the completion of all bike path utility and drainage project prior to the planting beginning July 1, 2006 and recommended inclusion of the consults suggestions.

The motion carried unanimously with Councilman Rothman absent.

Council recessed at 2:02 p.m.

Council reconvened at 3:03 p.m.

### **Final Approval of Transit Authority Position Paper**

Ms. Zimomra stated that MPO had been discussing the issue and upon Council's direction was the implementation of Council's review.

Councilman Rothman stated the following:

- Lee County looking to create a Transit Authority
- Lee County consultants Tindale Oliver & Associates
- 9 member Board
- Sanibel would have one person on the Board
- Could not lose representation

Mr. Ken Pfalzer, Deputy Planning Director spoke to the Transit Authority using the ad valorem tax base and if the City opted out it would continue to be a part of the tax bill.

Discussion ensued regarding previously sales tax issues coming to the electorate as a referendum not passing, no ability to opt out of a sales tax, concern of a Lee County controlled Transit Authority, carrying capacity of Sanibel beaches, could Sanibel have it's own transit authority, the need for control of the type of transit that might operate on Sanibel, control type of vehicles and proposed stops, independent Transit Authority gives more input for municipalities, Ms. Zimomra stated the Transit Summit was December 14<sup>th</sup>, adding the ability to veto over a transit system that may be proposed on Sanibel, the following to the Transit Authority Paper:

**“A Municipality has the right to veto any routes, facilities, stops, or type of vehicle that is proposed within that municipality that Council does not deem appropriate.”**

Councilman Rothman made a motion, seconded by Councilman Brown, to add the above-mentioned amendment to the Transit Authority Paper.

Public Comment:

Karen Storijohan spoke to the City not wanting to increase population.

Claudia Burns spoke to mass transit coming to Sanibel if a Transit Authority was established and the need of a representative if a Board were created.

Jack Luft spoke to internal circulators and making transportation easy for residents and visitors.

Mr. Pfalzer stated that in the proposed action plan was a schedule of events. He suggested that the first item Council may want to consider would be the implementation of an Interlocal Agreement, of which there was a draft in the packet Council had in front of them and was on the schedule of events for March or April of 2006.

Discussion ensued regarding the ability to veto any proposed policy, current policy statement reads, “Sanibel is supportive of a Transit Authority that contains a governing Board representation that is proportionment to funding contributions by local participants,” if supportive of sales tax change statement to reflect sales tax as a funding mechanism, 30% of funds would come from tourist, possibility of a surtax from tourist, propose an Interlocal Agreement, and direct City Attorney to use the Polk County Interlocal Agreement and draft one for Council's review.

Councilman Rothman amended the motion, accepted by Councilman Brown, that effective October 6, 2005 the Transit Authority Paper would reflect City Council's policy statement.

The motion carried unanimously.

Ms. Zimomra asked Council if they would like to have a letter sent to other municipalities transmitting the Transit Authority paper.

Council agreed.

### **Recreation Center Update**

#### **Update of Funding**

**Approval of the Interlocal Agreement between the City of Sanibel and Lee County Board of Education for financial assistance for the proposed Recreation Facility**

**RESOLUTION 05-146 OF THE CITY OF SANIBEL, FLORIDA, AUTHORIZING THE ISSUANCE, SUBJECT TO THE BOND REFERENDUM HEREIN PROVIDED FOR, OF NOT TO EXCEED \$\_\_\_\_\_ GENERAL OBLIGATION BONDS FOR THE CITY OF SANIBEL, FLORIDA, FOR PROVIDING FUNDS, TOGETHER WITH ANY OTHER AVAILABLE FUNDS, TO FINANCE OR REFINANCE A COMMUNITY-WIDE RECREATION/COMMUNITY CENTER WHICH IS PART OF THE CITY OF SANIBEL'S PARKS AND RECREATION FACILITY MASTER PLAN, INCLUDING THE ACQUISITION, EQUIPPING AND CONSTRUCTION OF SUCH RECREATION/COMMUNITY CENTER AND RELATED EQUIPMENT AND INFRASTRUCTURE; PROVIDING FOR AND CALLING A BOND REFERENDUM OF THE QUALIFIED ELECTORS OF THE CITY TO BE HELD ON \_\_\_\_\_, 2006; PROVIDING FOR OFFICIAL BALLOTS; PROVIDING FOR BOND REFERENDUM PROCEDURES; ESTABLISHING ITS INTENT TO REIMBURSE SUCH CAPITAL EXPENDITURES INCURRED WITH PROCEEDS OF SUCH GENERAL OBLIGATION BONDS; AND PROVIDING AN EFFECTIVE DATE:**

Ms. Zimomra read the title of Resolution 05-146.

Mr. Cuyler noted for Council that there were several blanks in the resolution that would need to be filled completed after discussion. He introduced George Smith, Attorney with Bryant Miller and Olive law firm the City's bond counsel.

Public Comment:

Jack Luft spoke to his agreement with the funding proposal for the Recreation Center.

Ms. Zimomra gave the highlights of the Interlocal Agreement between the City and Lee County Board of Education:

- Land lease for 99 years
- \$1.596 million dollars from Lee County Board of Education
- \$4.7 million dollars total funds from Lee County and the Board of Education

Steve Maxwell spoke to blanks in the resolution and the need for all the facts.

Bernie Lubetkin spoke to the need for enough contingencies for increase in costs.

Ms. Zimomra stated that the budget estimate was based on quotes of 50% drawings, comparative costs, may need to be reduced once bids were accepted.

Councilman Jennings made a motion, seconded by Councilman Rothman, to approve the Interlocal Agreement with the Lee County Board of Education.

The motion carried unanimously.

Discussion ensued regarding options to fund the remaining balance of the proposed recreation center, the plans would be open for discussion if approved, Council reviewed a matrix of options provided by Ms. Lynch, Finance Director, she explained each option, the project costs were developed for the September 7<sup>th</sup> Council meeting and presented by the architect, costs reflected the 50% drawings, 4% increase per month for materials included, until staff bids the 100% drawing there would be no way to know the total project costs, construction costs increases within factored within the 50% costs, the costs were guaranteed until January, 2006, bids would be taken immediately after the referendum, date if passed by the electorate, the \$530,864 for permit and impact fees had been anticipated in the budget, permits calculated on real costs, past practice for non-profit and private entity the fees had been waived, \$508,475 carried forward from FY 2004/05, \$1,000,000 budgeted in FY 2005/06, take all or a portion of the \$1,508,475 and hold in reserves for escalating construction costs, conserve tennis courts, issuance costs included in the figures, suggestion to take option 4 (a) as follows:

- Include the tennis court
- Waive the \$530,864 permit and impact fees
- Apply the \$1,508,475 currently in the reserve
- Do not reimburse the City's expenses
- Referendum would be for \$7,250,000
- \$58.26 per tax payer

Discussion ensued regarding applying \$508,000 to costs of increased construction and leave \$1,000,000 in reserves, bond costs included, take 1 c and reduce the \$1.5 to \$500,000.

Mr. Cuyler gave the following report regarding the referendum:

- 120 days per the Lee County Supervisor of Elections contract election date would be April 5<sup>th</sup>
- The next Tuesday, April 11<sup>th</sup> (Spring break) and the Supervisor recommends that the referendum be on a Tuesday
- Next Tuesday, April 18<sup>th</sup>

Discussion ensued regarding having the referendum election on Tuesday, April, 4<sup>th</sup>.

Councilman Brown made a motion, seconded by Councilman Rothman, to hold the referendum election on Tuesday, April 04, 2006.

Public Comment:

None.

The motion carried unanimously.

Discussion ensued regarding creating an educational brochure regarding the Recreation Center, how involved could Council be in any referendum question going to the electorate, Mr. Cuyler stated that any individual Councilmember could use their personal time and money to promote an issue complying with campaign laws, but he cautioned that making other Councilmembers aware of any involvement, and he further stated that Council could educate the public by providing the facts, but could not promote one side or the other on any issue, he further stated that an individual group could promote a point of view, Armand Ball's memo to Council regarding promoting the referendum issue, Mr. Cuyler to speak with Mr. Ball,

Council requested that Mr. Cuyler submit a written opinion regarding the involvement of Council, and Parks and Recreation Committee members in the Recreation Center referendum.

Councilman Jennings made a motion, seconded by Councilman Rothman, to provide a letter to be signed by each Councilmember to educate property owners and mail to property owners.

Public Comment:

None.

Ms. Zimomra stated that Council had previously sent out educational information on an issue (Pond Apple Park) coming before the electorate.

The motion carried unanimously.

Public Comment:

Claudia Burns asked if Council intended to include the tennis courts and Council answered yes.

Ms. Lynch brought back the following option:

- Includes the tennis courts
- Waives the \$530,864 permit and impact fees
- Applies \$508,475 to the reserves
- \$1,000,000 for increased construction costs
- Do not reimburse City for money previously spent
- \$8,350,000 million bond
- Annual debt service \$525,000
- Annual cost per property valuation \$12.83
- Annual cost to tax payer \$ 66.92

Discussion ensued regarding the \$500,000 budgeted in the FY 2005/06 budget.

Dick Muench spoke to his agreement of the referendum figures.

Councilman Jennings made a motion, seconded by Councilman Rothman, to adopt Resolution 05-146 including the referendum date of April 04, 2006, the cost of the referendum not to exceed of \$8,350,000 and authorize the City Attorney to speak with Bond Counsel and make the decision to delete, "Reimburse such capital expenditures incurred with proceeds as such general obligation bonds" in the title and body of the resolution if necessary.

The motion carried unanimously.

Council thanked the Lee County School for the allocating of funds.

Ms. Lynch spoke to bringing a budget amendment to Council in the amount of \$508,475 at the December 20, 2005 meeting and preparing a letter for the City Manager to sign to the Sanibel Fire District regarding waiving fees.

Council agreed.

Council recessed at 5:08 p. m.

Council reconvened at 5:22 p.m.

### **COMMITTEES, BOARDS COMMISSION**

Annual Review of the Capital Improvements Element of the Sanibel Plan

Jack Samler, Chairperson of Planning Commission gave the following report:

John Veenschoten gave the following recommendation:

- Continue the Capital Improvements Program for public facilities so that deficiencies in the level of service of those facilities do not occur.

Mayor Johnston asked if Council would move up the following items for discussion.

Council agreed.

### **Discussion of potential projects for State Housing Initiative Program (SHIP) funding - CHR**

Mike Cuscaden spoke to applying for a grant for State Housing Initiative Program (SHIP)

Ms. Zimomra stated that normally a proposal of this sort would come to Council before the grant application was submitted. She further stated that approval of applying for this grant was not an indication that Council was interested in this program.

Scott Marcelais, CHR Executive Director spoke to the following:

- Secure funds over a 3 year period and need to apply for funds for the next 3 years

Discussion ensued regarding obtaining grants if possible, EAR Council set a number of units, if 4 City units were sold the City would need to replace them, to many variables using income for Employee Assisted Housing, grant award within 90 days, but take affect in 2007, and Horizon Council had discussed Employee Housing.

Councilman Brown made a motion, seconded by Vice Mayor Denham, to approve the submittal of the grant application.

**Request from the Florida Fish and Wildlife Conservation Commission to include Lighthouse Park in the Great Birding Florida Trail**

Roger Clark, Lee County spoke on behalf of the State of Florida regarding the Great Florida Birding Trail. He further stated that the nominated sites for Lee County included Lighthouse Park due to bird migration.

Discussion ensued regarding Lighthouse Park already discovered by birders, suggested to include proper behavior to responsible birding, difficult to quantify the number of birders at any given place, and resisting attempts to compromise Sanibel's integrity.

Vice Mayor Denham made a motion, seconded by Councilman Jennings, to accept the proposal to add Lighthouse Park to the Great Florida Birding Trail.

**Public Comment:**

Karen Storijohan asked if Sanibel had any responsibility for parking and the answer was no.

The motion carried 3 to 2 with Councilman Brown and Councilman Rothman voting in opposition.

**NEW BUSINESS**

**RESOLUTION 05-175 SETTING FORTH THE CITY COUNCIL'S POSITION AND POLICY THAT CITY LAWSUITS AND PRIVATE LAWSUITS BE SEPARATELY MAINTAINED; AND PROVIDING AN EFFECTIVE DATE**

Councilman Brown read the title of Resolution 05-175.

Councilman Brown noted that at the time of the Causeway lawsuit the sitting Council was adamant in not joining a private lawsuit. He further spoke to the need to keep the governmental component separate from private lawsuits.

Discussion ensued regarding Council passing a resolution during the Causeway lawsuit regarding this subject and the answer was no, and only affects co-plaintiffs and clarifying the resolution as to non-profit organizations, shade sessions very restricted, and private entities do not need to abide by the Sunshine Law.

Mr. Cuyler spoke to the lawsuits during the Causeway lawsuits. He further spoke to City resources being requested and filing of perspective lawsuits if approach that Council would not join as a co-plaintiff to a law suit by a private individual, private for profit organizations or private not-for-profit organizations. He explained that the not-for-profit organizations do not refer to governmental agencies and could clarify in the resolution.

Discussion ensued regarding private organization not wanting to seek a lawsuit as a plaintiff with a governmental agency due to the Sunshine Law.

Public Comment:

Mike Valiquette spoke to the potential lawsuit by PURRE against SFWMD, and discussion with an attorney and PURRE may retain the attorney.

Councilman Brown made a motion, seconded by Councilman Rothman, to adopt Resolution 05-175.

The motion carried unanimously.

### **Council Policy and Procedures**

#### **Current Liaison Designations**

##### **Discussion**

Mayor Johnston noted that Council liaisons would be coming up for Council discussion at Council's next organizational meeting.

Discussion ensued regarding filling in blanks, discussions when Council members represent the Council on different issues, and noted changes to the current listing.

Public Comment:

Mike Valiquette spoke Councilman Rothman resigning for the Water Quality issues and if Council would appoint another person to attend.

Discussion ensued regarding Councilman Rothman being the Council spokesperson for Council regarding Water Quality.

Councilman Rothman left at 6:34 p.m.

Karen Storijohan spoke to Council being tired and suggested that if an invitation was issued to the Mayor the Mayor should go. She further stated that she agreed that Council agreed that Councilman Rothman would be the point person for Council regarding Water Quality.

### **CITY MANAGER'S REPORT**

#### **Informational items:**

##### **Hurricane Wilma Recovery Update**

Ms. Zimomra gave the following report:

- Completed Hurricane Wilma debris collection
- Completion of burning by January

**Draft Agenda for December 14, 2005 Joint City Council/Planning Commission Re-development Workshop:**

Ms. Zimomra called Council’s attention to the draft agenda in the agenda packet.

**Employee Appreciation Luncheon – Casa Ybel December 08, 2005 at 11:30 a. m.**

Ms. Zimomra reminded Council of the Annual Employee Appreciation Luncheon Thursday, December 08, 2005.

**Upcoming Interviews for Planning Commission Positions**

Ms. Zimomra called Council’s attention to the advertisement currently running in the paper and the one application submitted for appointment.

**Small Business Initiative Follow-up**

**Draft Mission Statement**

**Draft Survey**

**Proposed Small Business Roundtables**

**Friday, February 24, 2006 – SCA New Businesses 5:00 p.m. to 7:00 p.m.**

**Monday, March 13, 2006 – SCA Retail Businesses 5:00 p.m. to 7:00 p.m.**

**Thursday, April 06, 2006 – SCA Casual/Fine Dining 5:00 p.m. to 7:00 p.m.**

**Thursday, April 13, 2006 – SCA Accommodations 5:00 p.m. to 7:00 p.m.**

**Thursday, May 18, 2006 – SCA Banking/Finance 5:00 p.m. to 7:00 p.m.**

**Wednesday, June 14, 2006 – SCA Commercial Property Owners 5:00 p.m. to 7:00 p.m.**

The item was remanded to December 20, 2005 agenda.

**CITY ATTORNEY'S REPORT**

**City Attorney’s Annual Evaluation**

Vice Mayor Denham made a motion, seconded by Councilman Brown, to approve a 5.5% salary increase effective December 08, 2005 and 10% taxable income to the City Attorney’s Health Savings Plan.

**PUBLIC COMMENT**

None.

**COUNCILMEMBERS' REPORT**

Councilman Jennings requested to attend the Issue 06 conference being held December 15, 2005 with a cost of \$40.00.

Council approved.

There being no further business the meeting was adjourned at 6:40 p.m.

Respectfully submitted by,

Pamela Smith, CMC  
City Clerk