

**SANIBEL CITY COUNCIL MEETING
MAY 18, 2004**

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

Member present: Mayor Harrity, Vice Mayor Walsh, Councilman Jennings and Councilmember Workman.
Councilman Brown was absent due to illness.

Councilmember Workman gave the Invocation and led in the Pledge of Allegiance.

PRESENTATIONS:

RESOLUTION 04-049 OF THE CITY COUNCIL OF SANIBEL EXPRESSING THEIR SINCERE CONDOLENCES TO THE FAMILY OF DR. TREADWAY PARKER, A MEMBER OF THE WILDLIFE COMMITTEE, ON HIS PASSING, A LOSS TO THE ENTIRE COMMUNITY OF SANIBEL ISLAND; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 04-047.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 04-049.

The motion passed unanimously

Mayor Harrity read and presented Resolution 04-049 to Mrs. Parker the spouse of Mr. Treadway Parker.

Mr. Vern Frankwich spoke to the passing of Mr. Treadway Parker.

Council also gave their condolences to Mrs. Parker.

PROCLAMATION HONORING THE CITY OF SANIBEL VETERANS IN ALL WARS AS WELL AS MEMORIALIZING THE DEDICATION OF THE NATIONAL WORLD WAR II MEMORIAL.

Vice Mayor Walsh read the proclamation and recognized veterans in the audience.

PROCLAMATION RECOGNIZING MAY 22-28, 2004, AS NATIONAL SAFE BOATING WEEK.

Mayor Harrity read and presented the Safe Boating Week proclamation to the Marine Advisory Committee and Sanibel Captiva Power Squadron.

Legislative update by Representative Jeff Kottkamp:

Representative gave the following update:

- Adopted a balanced budget of \$15 million dollars
- Increase funding of education in Lee County
- Adjusted cost of living saving \$1 million dollars
- Relieve gas tax in August
- Sales tax holiday for back to school supplies and clothing
- Elections – absentee ballot does not need the signature of a witness
- Working on the issue of changing the manner of amending the State constitution (54 amendments this year)
- Funded the medically needed program & Kidcare (lifting some insurance mandates to make more affordable)

- Working to control Internet pharmacies
- Funding numerous environmental projects
- Change statute regarding medication with confidentiality requirements
- Create database for money going to local fire fighters
- Public Records exceptions
- Law Enforcement ability to have City legal counsel in certain cases
- County referendum to provide 4.25% tax to fund Trauma Center

Discussion ensued regarding increase building in Lee County, increase of services needed to meet seasonal tourism, traffic congestion and consideration to provide a method to overturn legislation rather than additional constitutional amendments.

Council thanked Representative Kottkamp for his time and presentation as well as his representation in Tallahassee.

Council recessed at 9:35 a.m.

Council reconvened at 9:45 a. m.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to excuse Councilman Brown.

Council agreed by consensus.

Public Comments:

Cliff Fitzgerald spoke to a letter he brought to City Hall Friday, May 14th regarding the Causeway.

Henry Glissman proposed that City debt not exceeding 25% of taxes paid by an individual.

Doug Dietrich spoke to recommendations made by the Traffic Committee and 2 other alternative; 1) improve the (L) turn lane headed east on Periwinkle Way; and 2) make Periwinkle Way 2 lanes going off the island.

Discussion ensued regarding the proposed left lane.

Ms. Zimomra reminded Council and the audience that Kittleson and Associates did not recommend a round about.

John Harris urged Council to appeal Judge Seals decision regarding the Causeway.

Council Comments.

Vice Mayor Walsh thanked Council for the Veterans proclamation, as well as recognizing veterans in the audience.

Councilmember Workman spoke to the Sanibel School production of the Music Man.

Councilman Jennings thanked all Veterans for the sacrifices made. He also asked Council to speak directly in to the microphones. He further reminded the audience and Council of Islands Night, June 02 sponsored by the Sam Bailey.

Mayor Harrity also spoke to City Veterans, Taste of the Islands and that the tickets for Islands Night were free.

Planning Commission Report.

Ms. Carla Johnson gave a brief report of the May 12, 2004.

Second Reading and Public Hearing(s):

ORDINANCE 04-005 AN ORDINANCE ESTABLISHING A SYSTEM FOR THE LICENSING, REGISTRATION AND REGULATION OF CONSTRUCTION CONTRACTORS; SETTING FORTH DEFINITIONS; PROVIDING CERTAIN EXEMPTIONS FROM THE PROVISIONS OF THIS ORDINANCE; ESTABLISHING A CONTRACTORS' REVIEW BOARD AND SETTING FORTH THE COMPOSITION, REQUIREMENTS AND AUTHORITY THEREOF; SETTING FORTH CONTRACTOR LICENSING REQUIREMENTS; PROVIDING FOR EXAMINATION OF CONTRACTOR LICENSING APPLICANTS; SETTING FORTH A PROCEDURE TO OBTAIN A CONTRACTOR'S LICENSE; PROVIDING FOR THE STATUS OF LICENSES; PROVIDING FOR RECIPROCITY WITH OTHER CONTRACTORS' LICENSING JURISDICTIONS; PROVIDING FOR QUALIFYING AGENTS; PROVIDING FOR RESTRICTIONS, PROHIBITED ACTIVITIES, AND CONTRACTOR DISCIPLINE; PROVIDING FOR APPEALS; PROVIDING FOR ADDITIONAL REMEDIES; SETTING FORTH TYPES AND CATEGORIES OF CONTRACTORS LICENSES; PROVIDING FOR EMERGENCY SPECIAL LICENSE PROVISIONS; PROVIDING FOR THE ESTABLISHMENT OF LICENSE AND RELATED FEES, AND CHANGES TO SUCH FEES, BY RESOLUTION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Ordinance 04-005.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Ordinance 04-005.

Mr. Cuyler called Council's attention to the following:

- Implementation date of enforcement would be March, 2005
- Establishment of fee changes would be adopted by resolution

Mr. Harold Law, Building Official spoke to the following:

- License from other local jurisdiction not valid in Sanibel
- Sets up a license board to reciprocate license from other jurisdictions
- Fine parameters

Public Comment:

None.

The motion passed unanimously

ORDINANCE 04-006 PROPOSING AN AMENDMENT TO ARTICLE III, "LEGISLATIVE" TO ADD A NEW SECTION 3.10.5 TO THE SANIBEL CITY CHARTER (AS CODIFIED) TO BE ENTITLED "ORDINANCES INCREASING PERMITTED IMPERMEABLE COVERAGE, VEGETATION REMOVAL OR DEVELOPED AREA"; PROVIDING THAT ORDINANCES TO INCREASE THE PERMITTED MAXIMUM LAND AREA TO BE (1) COVERED WITH IMPERMEABLE SURFACES, (2) CLEARED OF VEGETATION AND/OR (3) USED AS DEVELOPED AREA, AS ESTABLISHED IN THE LAND DEVELOPMENT CODE AS OF MAY 4, 2004, SHALL BECOME EFFECTIVE

ONLY UPON APPROVAL BY A MAJORITY OF THE ELECTORS AT THE NEXT GENERAL ELECTION OR A SPECIAL ELECTION CALLED FOR SUCH PURPOSE; ESTABLISHING AN ELECTION DATE PURSUANT TO SECTION 7.01(A) OF THE SANIBEL CITY CHARTER (AS CODIFIED) FOR THE ELECTORATE TO VOTE UPON THE PROPOSED AMENDMENT TO THE SANIBEL CITY CHARTER; PROVIDING FOR THE CONDUCT OF THE ELECTION BY THE LEE COUNTY SUPERVISOR OF ELECTIONS; PROVIDING BALLOT LANGUAGE; PROVIDING FOR NOTICE OF ELECTION AND CANVASSING OF RESULTS; PROVIDING FOR ELECTION AND EFFECTIVE DATE OF AMENDMENTS UPON REFERENDUM APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Ordinance 04-006.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Ordinance 04-006.

Mayor Harrity made a motion, seconded by Councilman Jennings, to table discussion of Ordinance 04-006 until August 03, 2004.

Mr. Cuyler explained that a motion to table took precedence.

The motion failed due to a tie vote of two to two with Vice Mayor Walsh and Councilmember Workman voting in opposition to the motion, and Mayor Harrity and Councilman Jennings voting in favor of the motion. Councilman Brown was excused.

Vice Mayor Walsh explained that Ordinance 04-006 would give the voters the ability to vote at the next general election. He further explained the reason for the ordinance.

Discussion ensued regarding voters deciding by vote at the March, 2005 election, Council's decision to schedule the 5 public hearings from the May 04 Council meeting on different dates, how would Ordinance 04-006 affect build-back, understanding when structures were destroyed that they would not be able to build back according to the Land Development Code and any amendments brought forward would always necessitate approval of the voters if initial referendum approved.

Public Comment:

Mike Gillespie agreed with proposed ordinance.

Larry Shoppe spoke to natural disaster and build back.

John Harris agreed with the proposed ordinance.

Louise Johnson agreed with the proposed ordinance.

Dave Schuldenfrei Frye spoke against the proposed ordinance.

Sonja Smith, CASI spoke to the Planning Commission subcommittee recommendation for non-conforming structures and build back.

Jon Liljequist agreed with proposed ordinance.

Jack Samler agreed with the concept, but opposed to referendum.

Henry Glissman agreed with proposed ordinance.

Discussion ensued regarding representative government, the reason for the referendum to give voters to opportunity to have a voice and make decision regarding development (build back),

The motion failed due to a tie vote of two to two with Mayor Harrity and Councilman Jennings voting in opposition, and Vice Mayor Walsh and Councilmember Workman voting in favor of the motion. Councilman Brown was excused.

Mr. Cuyler explained that a tie vote caused Ordinance 04-006 not to be adopted.

ORDINANCE 04-007 PROPOSING AN AMENDMENT TO ARTICLE III, “LEGISLATIVE”, TO AMEND SECTION 3.10.2, “ORDINANCES INCREASING RESIDENTIAL DEVELOPMENT DENSITY”, OF THE SANIBEL CITY CHARTER (AS CODIFIED); PROVIDING THAT ACTIONS TO INCREASE RESIDENTIAL DEVELOPMENT DENSITY AS ESTABLISHED IN THE SANIBEL PLAN AS OF MAY 4, 2004, MAY BE TAKEN BY THE CITY ONLY BY ORDINANCE APPROVED BY A MAJORITY OF QUALIFIED CITY ELECTORS AT THE NEXT GENERAL ELECTION OR A SPECIAL ELECTION CALLED FOR SUCH PURPOSE; PROVIDING AN EXCEPTION FOR THE ROUNDING UPWARD OF FRACTIONAL ALLOCATIONS OF FIFTY-PERCENT (50%) OR MORE TO THE NEXT WHOLE NUMBER; PROVIDING AN EXCEPTION FOR DENSITY INCREASES TO PROVIDE INCENTIVES FOR BELOW MARKET RATE HOUSING PROGRAM; PROVIDING AN EXCEPTION TO PERMIT REDEVELOPMENT OF EXISTING PARCELS UP TO THE NUMBER OF EXISTING DWELLING UNITS ON MAY 4, 2004, PROVIDED THE REDEVELOPMENT IS OTHERWISE IN CONFORMANCE WITH THE SANIBEL PLAN AND LAND DEVELOPMENT CODE; ESTABLISHING AN ELECTION DATE PURSUANT TO SECTION 7.01(A) OF THE SANIBEL CITY CHARTER (AS CODIFIED) FOR THE ELECTORATE TO VOTE UPON THE PROPOSED AMENDMENT TO THE SANIBEL CITY CHARTER; PROVIDING FOR THE CONDUCT OF THE ELECTION BY THE LEE COUNTY SUPERVISOR OF ELECTIONS; PROVIDING BALLOT LANGUAGE; PROVIDING FOR NOTICE OF ELECTION AND CANVASSING OF RESULTS; PROVIDING FOR ELECTION AND EFFECTIVE DATE OF AMENDMENTS UPON REFERENDUM APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Ordinance 04-007.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Ordinance 04-007.

Mayor Harrity made a motion, seconded by Councilman Jennings, to table discussion until August 03, 2004.

The motion failed due to a tie vote of two to two with Vice Mayor Walsh and Councilmember Workman voting in the opposition, and Mayor Harrity and Councilman Jennings voting in favor of the motion. Councilman Brown was excused.

Discussion ensued regarding the reasons for the proposed ordinance.

Mr. Cuyler explained that Ordinance 04-007 allowed for a super majority to be adopted.

Public Comment:

Barbara Cooley spoke to Lee County’s plans to develop Sanibel.

Claudia Burns spoke to responsibility of stewardship of the island and agreed with the proposed ordinance.

Louise Johnson spoke to difference aspects of the proposed ordinance.

Mike Gillespie agreed with the proposed ordinance.

Jack Samler agreed with concept, but opposed to referendum.

Council asked Mr. Cuyler to explain the Client/Attorney Session.

Mr. Cuyler stated Mayor Harrity would announce the reason for the Client/Attorney Session along with those reported to be.

Sonja Smith spoke against the proposed ordinance.

Dave Schillman Frye spoke against the proposed ordinance.

Jon Liljequist spoke to examples of Councilmembers changing their minds after elected and in favor of the proposed ordinance.

Larry Shoppe spoke regarding build back.

Discussion ensued regarding the possibility of condominiums being destroyed in front of the Coastal Construction Control Line, Mr. Cuyler stated that condos would be required to build back behind the Coastal Construction Control Line or in line with other structures, how would present ordinances stand if there was devastation, Mr. Cuyler stated that government regulations would be dealt with on the local and/or federal regulations, and voters should make the decision to include in charter.

The motion failed with a tie vote of two to two, with Mayor Harrity and Councilman Jennings voting in opposition, and Vice Mayor Walsh and Councilmember Workman voting in favor of the motion. Councilman Brown was excused.

Mayor Harrity explained that the next item was Ordinance 04-011, but a Client/Attorney Session was scheduled for 11:30 a. m. with at conclusion of 2:00 p. m.

Council recessed at 11:46 a. m.

Council reconvened at 12:05 p. m.

Mayor Harrity announced the following:

**ATTORNEY/CLIENT SESSION
2:00 P. M.**

The City Attorney desires advice and consultation with the City Council pursuant to Section 286.011 (8), Florida Statutes, regarding City of Sanibel v. Lee County and the Board of Lee County Commissioners, its governing body, Case #04-134 CA-H. The Attorney-Client Session shall not be open to the public. The Attorney-Client Session shall be held on Tuesday, May 18, 2004 at 11:30 A. M. upon temporary adjournment of the regular City Council meeting that day, such meeting and the Attorney-Client Session to be held at MacKenzie Hall, 800 Dunlop Road, Sanibel, Florida. In attendance at the Attorney-Client Session shall be only the following persons:

**Marty Harrity, Mayor
Dick Walsh, Vice Mayor
Steve Brown, Councilman
Jim Jennings, Councilman
Judy Workman, Councilmember
Kenneth B. Cuyler, City Attorney
Judie Zimomra, City Manager
Michael F. Nuechterlein, Esq., Carlton Fields Law Firm
Richard B. Campbell, Esq.**

Fort Myers Court Reporting Representative

Council convened in to the Client/Attorney Session at 12:07.

Council reconvened into open session at 2:04 p. m.

Council announced that the Client/Attorney Session would be continued until 8:00 a. m., Wednesday, June 19, 2004.

First Reading and Public Hearing:

ORDINANCE 04-011 AMENDING THE SANIBEL CODE, PART II, SUBPART B. LAND DEVELOPMENT CODE, CHAPTER 126. ZONING, ARTICLE XVI. PLANNED UNIT DEVELOPMENT, DIVISION 2. WULFERT POINT PROPERTY, AMENDING SECTION 126-1449. MASTER DEVELOPMENT PLAN, IN ORDER TO PERMIT THE GOLF COURSE PRACTICE FACILITY TO BE LOCATED ON A PLATTED SINGLE FAMILY RESIDENTIAL LOT, THAT BEING LOT 78, PHASE 3 OF THE SANCTUARY AT WULFERT POINT; AND THE CLUBHOUSE AND RELATED FACILITIES TO BE LOCATED ON A PLATTED ZERO-LOT LINE SINGLE FAMILY RESIDENTIAL LOT, THAT BEING LOT V1, PHASE 2A OF THE SANCTUARY AT WULFERT POINT; AND SECTION 126-1450 DENSITY, TO AMEND THE MAXIMUM NUMBER OF DWELLING UNITS TO REFLECT THE DENSITY REDUCTION ASSOCIATED WITH THE CONVERSION OF THE PERMITTED USE OF LOT 78, PHASE 3 FOR GOLF COURSE USE AND LOT V1, PHASE 2A FOR CLUBHOUSE SITE USES; AND SECTION 126-1451. PERMITTED USES, IN ORDER TO PERMIT A SHORT GAME PRACTICE AREA AS PART OF THE GOLF COURSE AND RELATED FACILITIES AD A BEAUTY/SPA USE AS PART OF THE CLUBHOUSE AND RELATED FACILITIES; AND SECTION 126-1452. REQUIRED CONDITIONS, IN ORDER TO PERMIT THE MAXIMUM FLOOR AREA OF THE ATTACHED AND DETACHED CLUBSITE STRUCTURES TO BE INCREASED AND TO REQUIRE 20'DEEP VEGETATION BUFFERS ALONG THE PROPERTY LINES OF LOT 78, PHASE 3 AND LOT V1, PHASE 2A THAT ABUT RESIDENTAIL USES; AND SECTION 126-1454. GENERAL CONDITIONS, IN ORDER TO PERMIT ADDITIONS TO THE CLUBHOUSE AND THE DEVELOPMENT OF THE SHORT GAME PRACTICE AREA TO BE ISSUED AS SHORT-FORM DEVELOPMENT PERMITS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Ordinance 04-011.

Mr. Cuyler advised Council that this was a first reading and public hearing due to permitted/prohibited uses in the code and would be a quasi-judicial proceeding. He further advised that Council needed to advise of 1) ex parte disclosure; and 2) site visit(s). The following were disclosed:

Mayor Harrity	spoke to various members of the Sanctuary and visited the proposed site
Councilmember Workman	visited/toured site and spoke to individuals regarding plans of proposed facilities; conversation with Ms. Maryanne Bell at the Sanctuary. spoke to an employee by the name of Kim Wrenn due to her excitement regarding the proposed facilities
Councilman Jennings	spoke to members of clubhouse, employees and property grounds manager; visited property appraiser office
Vice Mayor Walsh	spoke with Mr. Barber at a Current Events meeting

Ms. Smith swore in the following persons:

- Mr. Robert Pritt, Attorney with Roetzel and Andress representing the Sanctuary Golf Club
- Mr. V. James Haggart, Attorney representing David Barber
- Mr. Ned Welk, General Manager of Sanctuary Gold Course
- Mr. Jim Wallace, Wallace Architects
- Mr. Kyle Sweet, Golf Course Superintendent of Sanctuary Golf Course

- Ms. Heather Hawkins, Attorney with Henderson Franklin representing the applicant
- Mr. Bruce Rogers, Planning Director
- Mr. Ken Pfalzer, Planning Department

Mr. Cuyler explained that the hearing would proceed as follows:

- Applicant provide a presentation
- Staff provide comments
- Public Comment
- Opposition presentation

Mr. Cuyler explained that Council would not be making a decision due to the requirement of a second reading and second public hearing. He further noted that the Planning Commission approved the request with the exception of the conversion of residential lot 78.

Ms. Heather Hawkins, P. A., gave the following presentation:

- Application to amend the Land Development Code (LDC)
- Sanctuary and Wulfert Point developed through a Planned Unit Development (PUD), which was codified
- Remodel clubhouse to keep up current needs
- Conversion of 2 residential lots to recreational use lots: 1) clubhouse facility; and 2) short gain practice facility

Discussion ensued regarding the Planning Commission hearing and their decision, which approved the application, without the use of the residential lot for a short practice green.

Ned Welk, Sanctuary Golf Course General Manager gave the following presentation regarding history:

- Sanctuary Golf Club 12 years old
- 4th anniversary of a member owned golf club
- 352 full equity members
- 58 social member (non-golfing)
- All members live on Sanibel or Captiva (91% Sanibel residents & 9% Captiva residents) property owners
- Letter of endorsement from the Sanctuary Homeowners Association

Jim Wallace, Wallace Architect

- Limited to zero for staff and personnel
- Inadequate kitchen facilities for large functions
- Inadequate HVAC system
- Limited space for member events
- Cap on usable square footage in original PUD
- Proposed project would not exceed the original footprint of the clubhouse
- Total 50,000 square footage including lower and main floor
- Project would use much of the porch space
- Retain vegetation
- No increase of impermeable surface
- 28,000 square feet on the lower level, which was used for cart storage
- Proposal to sub-divide lower level between cart storage and club support areas for staff including locker rooms, shower facilities and dining area
- Expand kitchen to lower level to provide for prep and cold storage
- Re-organize remaining space for maintenance, additional cart storage
- Lower level would be flood proofed

- Extension of footprint would be needed to add a service elevator on building side not to be seen by public
- Main level of clubhouse would maintain roof lines
- Utilize porch area to expand administration business area
- Slight expansion of mixed grill and formal dining within current footprint
- Maintain a minimum portion of porch as not to change the overall character
- Request PUD be altered from current 24,000 square footage of usable floor area to 28,000 square footage on lower level, 24,000 square footage on main level, 10,000 off-site to include a tennis facility, pool area and snack bar (tennis, pool snack bar areas existing)

Discussion ensued regarding usable floor space.

Kyle Sweet, Sanctuary Golf Course Superintendent

- Use Lot 78 (residential lot) as a short gain practice area
- Lot 78 size would accommodate a short game chipping bunker area
- Accommodate maximum play of 30 yards and would situate play away from lot
- Install an additional 20 foot native vegetation buffer and would include Wulfert Road side back edge of golf course
- Drainage and irrigation of area would tie into existing drainage and irrigation system off of the third hole
- Department of Environmental Protection erosion rules followed during construction
- Impermeable surface would be a cart path for people to stop carts while practicing

Discussion ensued regarding lot 78 being a residential lot, play on short gain practice area would be away from Mr. Barber's, and in the direction of the tennis courts, additional vegetation buffer of 20 feet on Sanctuary lot, safety issues if lot 78 was used for short gain practice area and reducing density of Sanctuary.

Mr. Robert Pritt asked that he be allowed to make a final comment.

Mr. Cuyler noted that the Planning Commission record would be made part of the City Council record.

Ken Pfalzer, Assistant Planning Director stated as follows:

- Change in density if lot 78 were approved for use by the Sanctuary, no need for vegetation buffer if lot stays residential use
- Staff in agreement of applicant presentation as presented
- Wulfert PUD amended 10 times
- 1st amendment requested by association
- Homeowner association in favor of proposal
- Notice of hearing mailed to all members of community association and property owners
- Staff found proposed changes were internal to the site
- Currently course on 1 side of Wulfert Road
- Home sites all adjacent to golf course
- Objection by adjacent property owner to change status of residential lot 78
- Planning Commission support change to PUD, but lot 78 remain residential
- No objections in status Lot B1

Discussion regarding Planning Commission unanimously approved request with exception of changing lot 78 from residential.

Bruce Rogers, Planning Director commented as follows:

- Legislative matter and not entitled to anything to requested changes
- Staff support application for improvements to clubhouse due to no undue burden place on homeowners or general public
- Staff does not support conversion of lot 78 and does disadvantage the adjoining property owner
- Potential disadvantage of converting lot 78 from residential due to the potential of ill struck golf balls
- Potential danger for vehicular/golf cart conflict

Jim Hager, P. A. representing Mr. Barber (owner of lots 79 and 80)

Discussion ensued regarding if new evidence could be introduced at today's hearing and the 2nd public hearing and Mr. Cuyler answering yes, and if Councilman Brown would be able to vote in the determination of the final decision.

- Lot 78 platted as a single family dwelling
- Mr. Barber's home site on lot 80 and purchased lot 79
- Proposed re-zoning incompatible (spot zoning)
- Sanctuary authorized by PUD to have 80 acres of land for gold course purposes with only 70 acres currently committed for the current golf course
- Planning Commission unanimously rejected request for re-zoning
- 10 foot utility easement used for buffer by vegetation on Lot 78
- Kyle Sweet stated vegetative buffer along Wulfert Road would satisfy City code as required for residential lots along the public right-of-way
- Map not showing 20 foot conservation easement around cart path, but vegetation would continue along the back area and would satisfy easement

Discussion ensued regarding the Sanctuary Golf Course allocating originally 80 acres for a golf course with using only 70 acres currently, essential that practice facility be near the club house due to golfers using practice facility before starting golf game, Wulfert Road a public road and travel through Sanctuary, but an area the road goes to Dinkins Lake and Dinkins Lake Road and increase travel to pre-existing area, not as many homes on Dinkins Lake Road, Baltrice Court south of Wulfert Road traffic would not interfere with cart crossing, driving range across Wulfert Road, access to short game facility would not cross Wulfert Road, when did the Sanctuary buy lot 78, and yes the lot was purchased in 2002, danger of golf balls to general public, driving range tee small bunker and chipping area, which was inadequate due to vegetation, small putting green and short game area on other side of road, staff concern by converting lot 78 would provide longer practice shots and increases the potential of errant golf balls, currently a small bunker and chipping area (short game area) are located at the south side of Wulfert Road and if relocated the current area would become a tee space or putting green, primary objection was conversion of a residential lot directly adjacent to a single family dwelling in to a practice area and the noise associated with people congregating within a few feet of a single family dwelling.

Robert Pritt, P. A. stated the following:

- Mr. Cuyler advised the Planning Commission that private deed restrictions were not relevant to request
- Private deed restrictions could be changed by majority of homeowners
- Objection of a neighbor not binding
- An application of the facts to the adopted law
- Called Council's attention to pages 6 and 7 of the staff report
- Proposal to reduce density by 2 units

Mr. Cuyler encouraged Council to remain impartial and set the second public hearing.

Council scheduled the second reading and public hearing for July 20 at 9:30 a. m.

Councilman Jennings asked if an ordinance vote ended up a tie vote what type of remedy would there be since full council was not sitting. He also asked if the issue could be brought back at the next Council meeting

Mr. Cuyler stated that general business could be brought back, but it would depend upon the item.

Councilman Jennings asked that the CASI item be brought forward for discussion.

Council disagreed by consensus.

CAUSEWAY ISSUES:

Status report on the letter to Captain Shapley, U.S. Coast Guard, regarding the application and permit for the Causeway bridges.

Mr. Cuyler stated the letter was ready.

Review of scope of work and estimate for traffic analysis of Causeway Boulevard to be performed by Kittelson & Associates.

Ms. Zimomra stated at Council's request a scope of work was brought forward and funding available in the existing Planning Department budget.

Mr. Rogers explained that Council's decision was to have Kittleson and Associates to look at Causeway Boulevard and build in to coordination with Lee County. He stated he had discussed this item with Paul Wingard, Lee County and that Lee County would cooperate by sharing information with Mr. Freeman. He also explained he had call Mr. Freeman and spoke to him regarding Doug Dietrich's morning comments to look at the Periwinkle Way intersection.

Discussion ensued regarding giving consideration to the Traffic Committee Report, look at Periwinkle Way intersection, May 3rd proposal was to look at the intersection and Causeway Boulevard with a cost of \$35,500, little delay to study Causeway Boulevard and Periwinkle Way intersection and Mr. Cuyler that scope of work could be completed under the current proposal.

Ms. Zimomra suggested that Council approve the first phase and bring a budget amendment back to Council if necessary to fund the second phase at the next Council meeting.

Discussion ensued regarding the time line for completion of proposed project.

Vice Mayor Walsh made a motion, seconded by Mayor Harrity, to approve the first phase to study Causeway Study by Kittelson and Associates.

The motion passed unanimously.

CONSENT AGENDA:

Councilmember Workman asked that (c), (e) and (f) be pulled from the Consent Agenda.

Councilmember Workman made a motion, seconded by Mayor Harrity, to adopt (a), (b), (d), (g), (h), (i) and (j).

The motion passed unanimously.

a. Approval of minutes for April 30, 2004 Joint Council/Planning Commission meeting and May 04, 2004 Regular meeting.

b. Recommendation from Public Works Director to reject bid for Casa Ybel drainage project.

- d. **Approval of a contract for the Sanibel-Captiva Road improvements from Rabbit Road to west of Sanibel School to Better Roads, Inc. in the amount of \$532,531.25**
- g. **Approval of an agreement with Crowder-Gulf joint venture for disaster recovery services**
- h. **Annual Report on the FY 2002-2003 Investment Activity**
- i. **Approval of Change Order No. 2 associated with Phase IIIA Sanitary Sewer Project with ET MacKenzie of Florida, Inc.**
- j. **Approval of Change Order No. 3 regarding a proposed reconciliation of quantities and settlement agreement of all outstanding claims as necessary to obtain final closeout with United Engineering Corporation for Phase IIC Sanitary Sewer Expansion Project, and direction to the City Attorney to prepare any documentation for the Mayor's signature necessary to implement the Council's approval.**

- c. **RESOLUTION 04-048 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2004-025; AND PROVIDING AN EFFECTIVE DATE.** (funding the Sanibel-Captiva Road project).

Ms. Zimomra read the title of Resolution 04-048. She explained that this transfer of funds was for the San-Cap Road project.

Mr. Gates Castle, Public Works Director explained the project.

Public Comment:
None.

The motion passed unanimously.

- e. **RESOLUTION 04-050 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2004-026; AND PROVIDING AN EFFECTIVE DATE.** (appropriate \$14,000 for renovating the interior of the packinghouse at the Historical Village from the \$16,549 revenue raised by the Vintage Fashion Show special docent project.)

Ms. Zimomra read the title of Resolution 04-050.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 04-050.

Public Comment:
None.

The motion passed unanimously.

- f. **RESOLUTION 04-055 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2004-027 AND PROVIDING AN EFFECTIVE DATE.** (Shell Harbor Canal Dredging)

Ms. Zimomra read the title of Resolution 04-055.

Councilmember Workman made a motion, seconded by Mayor Harranty, to adopt Resolution 04-055. Discussion ensued regarding the percentage breakdown.

Mr. Castle stated that City had budget \$70,000 with a balance of \$140,000, and two-thirds would be paid by the property owners.

The motion passed unanimously.

RECREATION/CAPITAL PROJECT UPDATE:

Recreation Center Update

Correspondence of 05/07/04 from Dr. Browder, Lee County School District Superintendent.

Ms. Zimomra stated that the school district would share in the operating cost of the recreation center.

Revised Timeline for Recreation Center Project.

Ms. Zimomra called Council's attention to the time line and that the proposed Recreation Facility would be completed in 2006.

RESOLUTION 04-054 OF THE CITY OF SANIBEL, FLORIDA ESTABLISHING ITS INTENT TO REIMBURSE CERTAIN EXPENDITURES INCURRED WITH PROCEEDS OF A FUTURE TAX-EXEMPT FINANCING; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 04-054.

Mr. Cuyler stated the bond financing attorneys prepared the resolution.

Councilmember Workman made a motion, seconded by Councilman Jennings, to adopt Resolution 04-054.

Discussion ensued regarding not permitting issuance of a bond, but the preparation, estimates to construct the proposed Recreation Facility would be approximately \$10 million dollars, but with steel increase the estimate could increase, if bond issuance would be sometime in the fall or winter, legislation would come before Council and only financing the Recreation Center, no past discussion to include facilities in the City's long term debt, past discussion for a parks master plan, master plan was a 20 year timeline, EAR discussion would be looking at recreation needs, next phase of design and issuance of debt and adjustment to the master plan to eliminate some recommendations and increased others.

Public Comment:

None.

The motion passed unanimously.

RESOLUTION 04-056 APPROVING BUDGET/TRANSFER 2004-028; AND PROVIDING AN EFFECTIVE DATE. (Budget and appropriate \$200,000 for the design of the new Recreation Center).

Ms. Zimomra read the title of Resolution 04-056.

Councilmember Workman made a motion, seconded by Vice Mayor Walsh, to adopt Resolution 04-056.

Ms. Lynch explained that \$200,000 design for recreation center included; 1) \$18,784 remainder of the Dobbs property acquisition savings from purchase of the Dobbs; 2) \$81,216 from Tennis courts; and 3) \$100,000 from the Environmental Sensitive Land Acquisition fund, which equals the \$200,000 that would be moved in to line item.

Discussion ensued regarding what land had been purchased and the memo in the agenda packet regarding land acquisition.

Public Comment:
None.

The motion passed unanimously.

**Pavilion, Tennis Courts and Skatepark Update:
Staff Recommendation:**

Ms. Zimomra reminded Council that at the joint Recreation/School joint site referring to the master site plan there was a Pavilion, Tennis Courts and Skatepark. She called Council's attention to the memo in the agenda packet from each Department Director and the Parks and Recreation Committee. She explained that today was the deadline to advise the contractor if Council wanted to proceed with the Pavilion. She further stated that it would require a change order due to pricing of steel and the recommendation was to proceed with Pavilion, transfer funds and the school would pay for the asphalt surface. She further stated the Tennis Court would be included, as part of the design of the Recreation Facility and within a month a Skatepark design would come to Council.

Discussion ensued regarding the increase for the Pavilion being 20%, school district paying for the Pavilion surface, significant cost difference between asphalt and concrete, there would be a surface coating similar to asphalt over the concrete similar to a tennis court.

RESOLUTION APPROVING BUDGET AMENDMENT/TRANSFER NO. 2004-029 AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 04-057.

Councilmember Workman made a motion, seconded by Councilman Jennings, to adopt Resolution 04-057.

Mr. Cuyler explained that there was a change order in the amount of \$50,577

Councilmember Workman and Councilman Jennings amended the motion to include the approval of the Change Order in the amount of \$50,577.

Public Comment:
Claudia Burns spoke to the past tennis program.

The motion passed unanimously.

**Memorandum from Parks & Recreation Advisory Committee:
Budget Transfer for Pavilion.**

As discussed and approved above.

RESOLUTION 04-053 APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF LEE COUNTY, FLORIDA AND THE CITY OF SANIBEL FOR THE OPERATION, MAINTENANCE AND USE OF DISTRICT OWNED LANDS AND CERTAIN CITY CONSTRUCTED OR COST SHARED AND CONSTRUCTED RECREATIONAL FACILITIES, CURRENTLY AT THE SANIBEL SCHOOL PROPERTY, OR WHICH MAY BE LOCATED ON SUCH PROPERTY IN THE FUTURE, IN ORDER TO SATISFY THE JOINT RECREATIONAL NEEDS OF THE GENERAL PUBLIC AND STUDENTS

ATTENDING THE SANIBEL SCHOOL; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 04-053.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 04-053.

Discussion ensued regarding the Interlocal Agreement with the Board of Education not including the pool.

Public Comment:
None.

The motion passed unanimously.

Roadside Park Improvements

Discussion of bids received for Roadside Park (1442 Periwinkle Way) Arsenic Clean-up.

Ms. Zimomra explained that staff had received bids for the clean-up with cost being \$70,000 and the larger portion of property owned by Island Water Association (IWA). She advised that the IWA Board met and would be testing for arsenic, too. She explained that the Mosquito district had offered to pay for a portion of the cost of the arsenic clean-up.

Mr. Opt, Mosquito District Director explained that they would like to be an equal partner with the City to remove the arsenic.

Council thanked Mr. Opt in assisting the clean-up effort.

Approval of a contract with C.R.E.W.S. Construction Services, Inc., for arsenic removal at Roadside City Park (1442 Periwinkle Way) at a cost of \$69,105.

Councilman Jennings made a motion, seconded by Councilmember Workman to approve the contract with C. R. E. W. Construction Services, Inc.

Public Comment:
None.

The motion passed unanimously.

Installation of a temporary unlit Volleyball Court at City Park, 2221 Periwinkle Way.

Ms. Zimomra explained that the recommendation from Parks and Recreation Committee was to put a temporary volleyball court on the former Dobbs property.

Discussion ensued regarding hours of operation, type of court, security and the court being temporary.

Council by consensus agreed to the proposal.

OLD BUSINESS

Review of Evaluation Appraisal Report (EAR) major issues and Timeline.

Ms. Zimomra reminded Council that the recommendation was to continue to look at the timeline and subjects of discussion.

Mr. Rogers explained that the Planning Department would send to the State for concurrence a list of major issues, but upon completion it would come back to Council.

Mr. Pfalzer explained the following:

- 1985 time ran out before conclusion
- 1997 identify major issues
- Conclusion in 2005 for State approval

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to approve the recommendation.

Vice Mayor Walsh amended his motion to include an additional major issue of traffic under (1a) Periwinkle Way intersection. Councilmember Workman agreed.

Public Comment:
None.

The motion passed unanimously.

NEW BUSINESS

Request from The Sanibel School to widen Sanibel-Captiva Road to provide turning lane.

Staff memorandums from Planning Director, Public Works Director and Chief of Police.

Ms. Zimomra recommended writing the School and sharing Island Water Association's (IWA) concerns.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to approve writing the letter.

Public Comment:
None.

The motion passed unanimously.

RESOLUTION 04-046 AUTHORIZING THE PARTIAL SATISFACTION OF LIENS FOR AMOUNTS ASSESSED IN ERROR ON PROPERTIES IN SANIBEL SEWER EXPANSION PROJECT PHASES 2B, 2C AND 3A; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 04-046.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 04-046.

Public Comment:
None.

The motion passed unanimously.

Request from Casa Ybel Sanibel Island Resort for additional Special Event Permits for the remainder of 2004 calendar year.

Ms. Zimomra reminded Council that any one site could have only 6 events per year according to the Sanibel Plan.

Discussion ensued regarding Special Events being held without permits issued, code violations not addressed and new management willing to work with City staff to address violations.

Ms. Awilda Rivera, new General Manager requested an additional 8 Special Events permits for the remainder of 2004.

Discussion ensued regarding complaints of noise.

Mr. Rogers stated that he had met with Ms. Rivera and the re-issuance of violations was submitted to Casa Ybel. He stated that he had no reason to believe that she would not follow through with correcting the past violations. He recommended granting four (4) additional permits, allow Ms. Rivera to address past violations and Ms. Rivers could request the additional Special Permits if needed.

Discussion ensued regarding Council's ability of granting additional special events, not using the resort as a commercial use and have the size of weddings that would be inside the resort and allowing four additional permits at this time for the following dates:

September 18
October 02
October 09
October 16

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to allow four (4) additional Special Event Permits, Planning Department to report violation compliance and make a recommendation for four additional event permits for the remainder of the year after the October 16 date.

Discussion ensued regarding the noise generated by weddings and noise resolution, communicating with wedding parties the type of weddings that compliments the island, discontinuing music at 9:30 p. m. due to the ordinance ceasing all noise at 10:00 p.m. and working with DJ's amplification of music.

Public Comment
None.

The motion passed unanimously.

Request from the Sanibel Music Festival to hold seven (7) classical music concerts at the Sanibel Congregational Church during the month of March, 2005.

Mrs. Flo Walsh spoke to Council and requested to have the 2005 Music Festival series starting in March, 2005 at the Congregational Church without impeding on the church's six Special Event permits. She gave the following dates for the proposed festival.

March 01
March 05
March 08
March 12
March 15
March 19
March 22

Vice Mayor Walsh made an ex parte disclosure that he spoke with his wife, Flo Walsh regarding the music festival.

Mayor Harrity made a motion, seconded by Councilmember Workman, to approve the seven Special Events permit dates for the Music Festival.

Public Comment:

None.

The motion was passed unanimously.

CITY MANAGER'S REPORT

Informational items:

City Council Goals Workshop:

Ms. Zimomra reminded Council that the workshop was scheduled for June 16, 2004, 9:00 a.m.

Planning Department – List of pending special projects:

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

CHR's quarterly financial statement:

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

Timeline for Committee Annual Reports.

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

Building Department Trends:

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

Report by Clinton Dawes, Department of Biology, University of South Florida concerning Drift Algae in the Charlotte Harbor area.

Clinton Dawes gave a brief report.

Utilities Department Pay Adjustments to remain competitive.

Florida Clean Marina Award being presented to Sanibel Marina - May 20th.

Ms. Zimomra called Council's attention to the agenda packet information. She advised Council of the timeline.

Councilman Jennings stated he wanted to attend.

City Committee Recommendations matrix with Staff input.

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

Draft letter to residents regarding the July 15th referendum:

Ms. Zimomra passed the letter to Council for their signatures and advised the letter would be mailed out before the mail ballot was taken.

Mission B.R.I.T.E. Program (Sanibel School)

Ms. Zimomra advised that the City would carry the Mission B. R. I. T. E Program forward.

Cape Coral County Feasibility Study:

Discussion ensued regarding Council not taking a position of being included in the Cape Coral study.

Approved permit received from U.S. Army Corps of Engineers for Barge Facility at the Sanibel Public Boat Ramp.

Ms. Zimomra explained that staff had received a permit to build a barge facility at the City boat ramp if it becomes necessary.

Invitation for City Council to participate in the Independence Day Parade – July 3rd

Ms. Zimomra asked Council to decide if they would have a car in the parade.

Invitation for City Council to participate in Island Night Events and Parade – June 02, 2004:

Ms. Zimomra advised Council that they could participate in the Island Night parade.

Councilman Jennings stated that he would be like to be in the Island Night parade.

2004 End of Session Legislative Report from Governmental Affairs Consultant, Poole McKinley & Blosser:

Ms. Zimomra advised Council of the agenda packet material.

Council asked that City consultants follow-up with Representative Kottkamp.

Tourism Development Council Report:

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

Status of Lindgren and Periwinkle Way Flagpole illumination.

Ms. Zimomra stated receiving positive comments on the illumination of the flagpole.

CITY ATTORNEY'S REPORT.

None.

COUNCILMEMBERS' REPORT.

None.

PUBLIC COMMENT.

None.

Vice Mayor Walsh made a motion, seconded by Councilmember Jennings, to recess the Attorney/Client Session until 8:00 a. m., Wednesday, May 19, 2004.

The motion was passed unanimously.

There being no further business the meeting was adjourned at 6:00 p. m.

Respectfully submitted by,

Pamela Smith, CMC
Deputy City Clerk