

**SANIBEL CITY COUNCIL MEETING
JULY 20, 2004**

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

Members present: Mayor Harrity, Vice Mayor Walsh, Councilman Brown, Councilman Jennings and Councilmember Workman.

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

PRESENTATIONS:

Presentation of Proclamations to Independence Day Community Picnic Donors

Mayor Harrity presented proclamations to donors and volunteers for the Independence Day Community Picnic.

He also presented certificates of appreciation to City staff Lieutenant Jamie Phillips, Ron Orr, Recreation Superintendent and Crystal Mansell, Executive Assistant to the City Manager for their exceptionally efforts at the Independence Day picnic.

Each Council member gave their individual thanks to the numerous volunteers, City staff, City Manager and donors for their participation in the Independence Day Community picnic.

Public Comments:

Erik Jorgensen spoke in favor of Australian Pines.

Hazel Schuller spoke regarding Doc Ford receiving a four star rating from the News Press.

Jim Pickens spoke against the proposed bike path to be built behind Sanibel Steakhouse. He also spoke to the impact of nesting birds and nesting gopher tortoises.

Council asked that staff look for alternatives for the placement of the proposed bike path.

Doug Dietrich thanked the City for the weather alert system and encouraged residents to purchase one. He also thanked staff for bike path improvements. He spoke to his hopefulness that the County and City would meeting and work in concert to resolve the Causeway issue.

Sam Bailey spoke in favor of the Australian Pines. He spoke against over development and preserve Sanibel.

Councilman Brown spoke to the City trying everything possible to work with Lee County to resolve the Causeway issue.

Henry Glissman spoke to keeping the Australian Pines. He also spoke positive results in raising

Ed Seibert spoke to the Australian Pines between Periwinkle Way and Casa Ybel being over the power lines and the need to be trimmed.

Erik Jorgensen spoke a second time in favor of keeping the Australian Pines.

Jack Samler spoke in favor of power lines being put under ground.

Council Comment:

Councilmember Workman spoke to what the City is currently doing when removing Australian Pines.

Councilman Brown spoke to receiving negative e-mails at home regarding City business. He further spoke to keeping Sanibel as it has been handed down from time.

Mr. Cuyler advised Council that e-mails received at home that are City business was a procedural questions and would bring back a recommendation.

Vice Mayor Walsh thanked Council and residents for their kindness after the death of his sister. He also spoke in favor of buried power lines. He spoke to Council maintaining the island that has been handed down from past generations.

Discussion ensued regarding agenda item discussion should be held at the time the item was introduced.

Mayor Harrity asked for a vote from Council to have discussion regarding agenda items at the time the agenda items appear on the agenda.

Council voted three to two that conversation regarding agenda items need to be taken at the time of the agenda item discussion.

Councilman Jennings agreed that Sanibel should stay the way that it is presently.

Mayor Harrity spoke to maintaining the Land Development Code, doing business as it has always been done and the need to talk about Australian Pines.

Council recessed at 10:11 a. m.

Council reconvened at 10:20 a. m.

Planning Commission Report:

Mr. Mike Valiquette gave an overview of the July 13, 2004 Planning Commission meeting.

Discussion ensued regarding buildback and redevelopment as a separate process, a letter sent by a Ft. Myers Beach to municipalities involved in the Evaluation Appraisal Report (EAR) reporting process, some density increases with the Below Market Rate Housing and decrease at the Sanctuary and if Department of Community Affairs was looking to Lee County for emphasis being placed on evacuation policy for barrier islands

Mr. Ken Pfalzer spoke to issue lists being received by the Department of Community Affairs and an e-mail, no increase of density in the last 15 years, stayed within guidelines of LDC and submitted report by March, 2005 with 18 months to implement and that the state concerned with evacuation process.

First Reading:

ORDINANCE 04-012 PROPOSING AN AMENDMENT TO ARTICLE III, "LEGISLATIVE", TO ADD A NEW SECTION 3.18 TO THE SANIBEL CITY CHARTER (AS CODIFIED) TO BE ENTITLED "COMPREHENSIVE BUILDBACK AND REDEVELOPMENT STUDY PROCESS"; PROVIDING THAT THE CITY COUNCIL SHALL ESTABLISH AND CONDUCT, COMMENCING IN THE 2004-2005 FISCAL YEAR, A COMPREHENSIVE BUILDBACK AND REDEVELOPMENT STUDY PROCESS WHICH SHALL INCLUDE RESEARCH, REVIEW AND RECOMMENDATIONS BY CITY STAFF, TOGETHER WITH SUCH OTHER EXPERTS, IF ANY, DEEMED NECESSARY

OR APPROPRIATE BY CITY COUNCIL, REVIEW, CONSIDERATION, AND RECOMMENDATIONS BY THE CITY OF SANIBEL PLANNING COMMISSION AT NOTICED PUBLIC HEARINGS, AND CITY COUNCIL CONSIDERATION, WITH INPUT AT ALL LEVELS, TO DETERMINE THE NEED FOR, AND APPROPRIATE TYPE OF, LAND USE REGULATIONS APPLICABLE FOR BUILDBACK AND REDEVELOPMENT; PROVIDING THAT SUCH REGULATIONS ARE NECESSARY TO ADDRESS BUILDBACK AND REDEVELOPMENT ISSUES WHICH WOULD BE APPLICABLE AFTER DESTRUCTION OF STRUCTURES OR PROPERTIES BY A HURRICANE OR OTHER NATURAL DISASTER, AND TO PROVIDE FOR REPLACEMENT OF FUNCTIONALLY OR COMMERCIALY OBSOLETE BUILDINGS WHICH DETERIORATE OVER TIME AND SHOULD OR MUST BE REPLACED; PROVIDING THAT SUCH LAND USE REGULATIONS, IF DETERMINED TO BE NECESSARY AND APPROPRIATE, WILL ADDRESS ALL NECESSARY LAND USE CONSIDERATIONS AND WILL PRIMARILY FOCUS ON CRITICAL LAND USE ISSUES SUCH AS HEIGHT, DENSITY, INTENSITY, AND IMPERMEABLE AND DEVELOPMENT COVERAGE; 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 04-012.

Council set the second reading and public hearing for August 03, 2004 at 9:30 a. m.

Second Reading and Public Hearing:

ORDINANCE 04-010 PROPOSING AN AMENDMENT TO ARTICLE III, "LEGISLATIVE" TO ADD A NEW SECTION 3.17 TO THE SANIBEL CITY CHARTER (AS CODIFIED) TO BE ENTITLED "*CITY-AUTHORIZED MAJOR CHANGES TO HIGHWAY 869 (CAUSEWAY ROAD, PERIWINKLE WAY, PALM RIDGE ROAD AND SANIBEL-CAPTIVA ROAD)*;" EXPLAINING THE SIGNIFICANCE AND IMPORTANCE OF LEE COUNTY HIGHWAY 869 TO THE CITY OF SANIBEL; PROVIDING THAT ANY MAJOR CHANGE TO HIGHWAY 869 DIRECTED OR AUTHORIZED BY CITY COUNCIL, INCLUDING MAJOR CHANGES ALLOWED OR PERMITTED BY REVISIONS TO ANY CITY-COUNTY INTERLOCAL AGREEMENT ADDRESSING HIGHWAY 869, MAY BE TAKEN ONLY BY ORDINANCE APPROVED BY A MAJORITY OF THE ELECTORS AT THE NEXT GENERAL ELECTION OR A SPECIAL ELECTION CALLED FOR SUCH PURPOSE; PROVIDING THAT MAJOR CHANGES SHALL INCLUDE, BUT NOT BE LIMITED TO, ADDITION OF STREETLIGHTS, ADDITION OF TRAFFIC SIGNALS, AND NEW TURNING LANES EXCEEDING 100 YARDS IN LENGTH; 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 04-010.

Council asked if roads 867 and 869 were the same roads.

Staff answered that they were the roads leading into Sanibel.

Vice Mayor Walsh spoke to bringing Ordinance 04-010 to voters for a decision on March 01, 2005.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Ordinance 04-010 with such changes as may be required to the road number.

Mr. Cuyler advised that the road numbers were correct.

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

Councilman Brown made a motion, seconded by Councilmember Workman, to continue discussion on Ordinance 04-010.

Mr. Cuyler advised that Council could continue discussion at their discretion.

The motion passed 4 to 1, with Vice Mayor Walsh voting in opposition to the motion, and Mayor Harrity, Councilman Brown, Councilman Jennings and Councilmember Workman voting in favor of the motion.

Discussion ensued regarding the majority of registered voters approval of the land sale to Ding Darling, Council responsibilities to make tough decisions, most decisions require a super majority, Ordinance 04-012 brings issues together, super majority only necessary for density increases, realtors bringing forward an ordinance, Road 869 included in an Interlocal Agreement, defeated item proposed allowing voters to approve proposals rather Council making the decisions, government by referendum not a good idea and what citizens were involved in writing the 5 ordinance Vice Mayor Walsh brought before Council.

Council decided to hold the hearing on Ordinance 04-011 until 2:15 p. m.

Council decided to discuss the following:

CAUSEWAY ISSUES:

Report of the monthly Lee County Causeway Reconstruction and Replacement Progress meeting July 05, 2004.

Mr. Jim Isom called attention to the agenda packet information. He stated that Lee County anticipated the Coast Guard releasing the permit between October and the end of the year.

Discussion ensued regarding the Coast Guard accepting the Environmental Report.

Staff update of Coast Guard public notice relative to the reconstruction of the Sanibel Causeway.

Mr. Jim Isom explained that the Coast Guard issued a request for 30-days for public comment period.

Discussion ensued regarding the previous objections made to Lee County and objections would be for any issues of concern and not limited to environmental concerns.

Public Comment:

Rob Jess, Manager of J. N. Ding Darling Wildlife Refuge stated that the U. S. Fish and Wildlife still have the same objections and those objections were forwarded to the Coast Guard, but it seems the Coast Guard was circumventing those objections to go forward with a decision.

Discussion ensued regarding requiring an Environmental Impact Statement, a major issue could be increased traffic in Lee County, as well as to Sanibel and Captiva, only parts of the river were study rather than the whole river, area of decline due to eastern-most island in place since the draw bridge was built, Council asked Rob Jess to provide data behind the decision to remove the eastern-most island, \$45 million in tolls to Lee County and only \$3 million in repairs to Causeway bridges, Rob Jess stated that U. S. Fish and Wildlife would file a question and Council writing a letter and request an EIS

Councilmember Workman made a motion, seconded by Vice Mayor Walsh, to write a letter of objection to the Coast Guard and include the EIS and provide data from the U. S. Fish and Wildlife by 080304

The motion passed 4 to 1 with Councilman Jennings voting in opposition, and Mayor Harrity, Vice Mayor Walsh, Councilman Brown and Councilmember Workman voting in favor of the motion.

Councilman Brown made a motion, seconded by Vice Mayor Walsh to ask the Coast Guard to consider an Environmental Impact Study for repairing the drawbridge versus replacement of Span A.

Discussion ensued regarding building a bridge versus replacement of Span A and the need to be practical and lessen the environmental impact.

The motion failed 4 to 1 with Mayor Harrity, Vice Mayor Walsh, Councilman Jennings and Councilmember Workman voting in opposition of the motion, and Councilman Brown voting in favor of the motion.

Council recessed at 11:48 a. m.

Council reconvened at 11:58 a. m.

Mayor Harrity announced that Council would be going in to the Attorney/Client Session and the following persons would be included in the session:

ATTORNEY/CLIENT SESSION:

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, July 20, 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
Fort Myers Court Reporting Representative
Council reconvened in to open session at 1:25 p. m.

Mayor Harrity further announced that at 1:25 p.m. Council would go back in to open session to re-convene the second closed session regarding Union Negotiations and the following persons would be included:

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

Council came back in to open session at 2:45 p. m.

Mr. Cuyler asked that the following item be added to the agenda:

Under City Manager Report add Direction to City Attorney regarding the lawsuit.

Mr. Cuyler explained that the nest agenda item was a quasi-judicial hearing.

Council made the following ex-parte disclosures:

Councilman Brown	Member of Sanctuary Heard locker room talk and aware of club point of view Less than 1% owner of club
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Mr. Cuyler advised that Councilman Brown was a member with a total of 350 member and 1% criteria interest of any special benefit and there was an Attorney General opinion that Councilman Brown could vote according to the above-mentioned criteria.

Councilmember Workman	Spoke with Kim Wrenn
Councilman Jennings	None
Vice Mayor Walsh	Spoke greeting to both Counsel
Mayor Harrity	None

ORDINANCE 04-011 AMENDING THE SANIBEL CODE, PART II, SUBPART B. LAND DEVELOPMENT CODE, CHAPTER 126. ZONING, ARTICLE XVI. PLANNED UNIT DEVELOPMENT, DIVISION2. 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 RESIDENTIAL 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 explained that it was determined since the PUD was amended within the LDC that City staff decided to hold two public hearing. He further explained that the Planning Commission recommended adoption of all request with the exception of short gain course, as well as the objection from property owner.

Discussion ensued regarding Council's possible decisions.

Councilman Brown related that he was not present at the first hearing.

Vice Mayor Walsh made a motion, seconded by Mayor Harrity, to adopt Resolution 04-011 with exception of the portion dealing with the short practice range.

Heather Hawkins spoke to the following issues:

- Golf course use of developed 80 acres and 90 acres total in PUD

Kyle Sweet spoke

- 79.77 acres declared to Planning Commission
- irrigated course turf and PUD – several (9 acres) consist of non-irrigated area and map did not include 9 acres
- do not have room to have short practice area

Discussion ensued regarding no vacant lots owned by the club, other vacant lots are not adjacent to clubhouse,

Heather Hawkins spoke to the issue of the practice facility fitting on the proposed lot and would not interfere with easement or the proposed environmental buffer. She further stated the conceptual drawing was being completed.

Discussion ensued regarding number of people that could use the practice field at one time, and would accommodate 6 to 7 people at one time, chipping and putting to be used, no more noise expected from a

group of golfers would normally make on a putting green, lot 78 currently an undeveloped lot, plan to leave an additional undeveloped 20-foot easement between residential property and practice green, club met with Mr. Barber regarding the proposed short course and offered an additional 20-foot buffer to encourage reduction of noise and visibility, lot 78 purchase because it was closest to the club with no particular intention, but with possible development of Lot 78 at a later date, agreed for direction of shots away from Mr. Barber's property, but toward driveway, if golf course put additional 20-foot buffer would that make a difference, proposed cart way and bunker to left; location of standing people would be between bunkers, short drive and chip to green or chip from second bunker would not go beyond 20-foot buffer, cartway vegetation buffer would be installed to replicate the vegetation on Wulfert Road, medium to taller shrubs and trees toward the interior, all activity would be away from lot with additional vegetation and deed vegetative easement to Mr. Barber.

Bob Pritt, Attorney with Reitzell and Address stated that if the request were approved by Council the lot would not be used for a residential purpose.

Discussion ensued regarding the location of people teeing off and changes in voice pitch, tee box directly behind Mr. Barber's residence, tee reduced due to question raised and club selected by the Audubon Society as an award winning golf course (Audubon Sanctuary Golf Course Award), course built as a tub to collect all golf course networking drainage system and current drainage system would accommodate current design.

Mr. Jim Hager, Attorney for David Barber spoke to the following:

- Mr. Barber owner of Lots 79 and 80
- Mr. Barber bought Lot 79 at full market value before Sanctuary purchase lot 78
- Sanctuary paid \$350,000 for Lot 78
- Barber paid over \$330,000 for Lot 79
- Suggestion that he was consulted of only what the Sanctuary intended to do
- Did not agree with Sanctuary's proposed use
- Sanctuary owns 9 additional acres that practice green could be put, but not as convenient
- Already have a short range putting area
- Putting range being used as a short practice area
- At the end of practice area about 50 yards undeveloped
- Assurance that Lot 78 could not be used as a residential area
- Lot 78 portion used for storage and not confident it would never have structures
- No discussion that easement would/could be deeded to Mr. Barber

Council asked if it would be prudent to table a decision until Mr. Haggart could speak with Mr. Barber regarding the Sanctuary deeding the 20-foot easement.

Discussion ensued regarding driving range practice tee yardage, club owns 350 yards from white tees, road way easement at end of driving range, moving tee up where the lesson tee was located at the south eastern point, netting around driving range perimeter, chipping area (short game area) inadequate, green 1,000 square feet, bunker 1,100 square feet, could only accommodate 1 to 2 people at a time, increased availability to accommodate use and attending Planning Commission meeting and tour of proposed course.

Council recessed at 4:03 p. m.

Council recessed at 4:08 p. m

Ms. Hawkins asked for a vote on the non-controversial items.

The motion passed unanimously

Council recessed at 4:15 p. m.

Council reconvened at 4:30 p. m.

COMMITTEES, BOARDS AND COMMISSIONS

Historical Preservation Committee:

Staff report on the status of request to resign from Mr. Harry Bertossa.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANIBEL ESTABLISHING THE CLASSIFICATION OF “EMERITUS MEMBER” APPLICABLE TO ALL ADVISORY COMMITTEES TO THE CITY COUNCIL IN ORDER TO PROVIDE FOR THE ABILITY OF THE CITY COUNCIL TO APPOINT A NON-RESIDENT MEMBER TO ANY SUCH COMMITTEE WHERE THE CITY COUNCIL DETERMINES THAT SUCH MEMBERSHIP IS IMPORTANT TO THE FUNCTIONING OF THE COMMITTEE AND THAT THE SKILLS OR PAST EXPERIENCE OF SUCH EMERITUS MEMBER ARE VALUABLE AND IN THE BEST INTERESTS OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 04-073.

Mayor Harrity made a motion, seconded by Councilman Brown, to adopt Resolution 04-073 and appoint Mr. Bertossa as an Emeritus member of the Historical Preservation Committee without voting rights.

Public Comment:

None.

The motion passed unanimously.

Marine Advisory Committee:

Request that City co-sponsor Safe Boating Day, February 05, 2005.

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

Council agreed by consensus to partner with the Marine Advisory Committee for Safe Boating Day in February, 2005.

Planning Commission:

Submittal of 2004 Annual Review of the Capital Improvements Element of the Sanibel Plan prepared by the Capital Improvements Element Review Committee.

Mr. Jack Samler gave an overview of the Planning Commission’s report regarding Capital Improvement Element of the Sanibel Plan.

Vegetation Committee:

Resignation from Dick Young.

Council accepted Mr. Young’s resignation with regrets and thanks.

Ms. Zimomra explained that there was three updates of cost, design and financing of a new facility.

OLD BUSINESS:

Recreation Center Update

Report on Update of Construction Cost Estimate.

Ms. Zimomra explained that there would be an update on the cost of the facility, City Council asked for a design review regarding a “green building”, and options for financing of the facility. She also explained that construction cost was based on the previous approved concept. She further explained that the sustainable design was included in the conceptual design.

Henry Woodroffe, Woodroffe Architect stated the following:

- Natural lighting and add motorize shading devices (exterior, interior) \$25,000 pay-out would take 10 to 15 years
- Site – coquina shell except for drop-off loop already paved (deduct \$35,000)
- Wall insulation/gymnasium and roof at R-30 not adding the recommended additional wall coating in gym

Ms. Zimomra stated the need today would be to look at the cost to possibly include at the millage rate later in the agenda.

Discussion ensued regarding payback on roof a lot quicker than walls, long term use best for recreation facility and heat collected in the ceiling, which takes a long time to dissolve and additional \$185,000.

Mr. Woodroffe continued:

- Total amount of project recommended \$11,305,000
- Low e recommended and enhances insulation value
- Mechanical install chilled water air cooled system for long term flexibility and energy savings
- Windows – use natural ventilation
- Electrical – high energy efficiency pool pumps in lieu of standard pumps, as well as energy saving ballasts and light bulbs
- Plumbing self-flushing and low water use plumbing fixtures, a waterless urinal and high energy efficient water heaters

Ms. Zimomra stated the remaining items was the tennis court, tennis court lighting and pool area lighting. She further stated the price to obtain fill was include, but there was the possibility of obtaining fill from the sewer expansion project therefore splitting the cost savings.

Discussion ensued regarding steel increase 40% and cement increased 30%, Council had never previously approved tennis courts, but as an option to the recreation facility, skate park facility separate from recreation facility and tennis courts approved in principle,

Vice Mayor Walsh made a motion, seconded by Mayor Harrity, to approve the recommendation for the tennis court, tennis light, pool light and other portions for an additional \$445,000 increasing the project budget by \$445,000.

Discussion ensued regarding additional lifeguard for evening pool hours, hours of operation of new pool facility and the wall system would be brought back to Council for cost.

Public Comment:

Sam Bailey spoke to his appreciation of the interest Council has taken in the Recreation Program.

The motion passed unanimously.

Mr. Woodroffe stated that the ranking of the construction manager for the proposed recreation facility would be on the August 17.

Report on Sustainable Design Options:

As discussed above.

Report on options for Financing Construction of Facility:

Ms. Lynch, Finance Director stated the following:

- Revenue Bonds pledged a specific stream of revenue
- Communication Services Tax could be re-designated
- ½ cent sales tax could be re-designated
- General obligation bond would carry full faith of city favorably
- Bond anticipation notes

Taking revenues out of GF an based on const cost. .2006 to .2100 – displays a revenue stream an

Discussion ensued regarding base points would be less than one point, proceeding with the best possible way to finance the recreation facility would be include within the budget and increase of \$105 per year on residents tax bill increase to add the recreational facility.

Councilman Jennings made a motion, seconded by Councilmember Workman, to accept the recommendation including in the revenue bond option.

Public Comment:
None.

The motion passed unanimously.

Council recessed at 5:20 p. m.

Council reconvened at 5:30 p. m.

Council decided to discuss the following:

RESOLUTION 04-067 EXPRESSING THE INTENT OF CITY COUNCIL TO DECLARE A SPECIAL ASSESSMENT TO FINANCE A PUBLIC IMPROVEMENT AS AUTHORIZED BY THE HOME RULE PROVISION OF THE FLORIDA CONSTITUTION, GENERAL LAW AND THE SANIBEL CHARTER FOR THE PURPOSE OF SANIBEL ESTATES CANAL AREA VEGETATION TRIMMING, SAID PROJECT TO BE REFERRED TO AS THE "SANIBEL ESTATES CANAL AREA VEGETATION TRIMMING ASSESSMENT DISTRICT"; ADOPTING THE PROCEDURES SET FORTH IN CHAPTER 170, FLORIDA STATUTES; PROVIDING FOR A DESCRIPTION OF THE NATURE AND LOCATION OF THE IMPROVEMENT, THE MANNER OF LEVYING AND COLLECTING ASSESSMENTS, SPECIFYING THE PORTION OF THE ASSESSMENT TO BE PAID BY THE CITY TO ACCOUNT FOR GENERAL PUBLIC BENEFIT ACCRUING FROM THE PROJECT, THE ESTIMATED COST AND THE DESCRIPTION OF THE LANDS UPON WHICH THE ASSESSMENT SHALL BE LEVIED; AND PROVIDING AN EFFECTIVE DATE:

Ms. Zimomra read the title of Resolution 04-067.

Mr. Cuyler explained the following:

- Residents have been trimming mangrove
- Residents approach City for special assessment district
- City would pay a third with homeowners paying two-thirds
- Property owners assessed
- Assessment per year and provide for the annual trimming

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to adopt Resolution 04-067.

Public Comment:

None.

Discussion ensued regarding each property owner being notified of the assessment, declaring the intent to have the assessment and notify residents.

The motion passed unanimously.

RESOLUTION 04-074 DIRECTING THE PLANNING STAFF 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 THAT THE DEVELOPMENT OF SUCH REGULATIONS CONSTITUTES “ZONING IN PROGRESS” AND PROHIBITING THE COMBINING OF SMALL COMMERCIAL UNITS INTO LARGER COMMERCIAL UNITS, AND THE NEW ESTABLISHMENT OF CERTAIN NON-RESIDENT ORIENTED RETAIL USES WITHIN SPECIFIED COMMERCIAL AREAS OF THE CITY, 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 04-074.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 04-074.

Mr. Cuyler explained that individual notices have not been sent out. He further explained that Resolution 04-074 would prohibit a development permit request for owners of one or more units be made into one larger unit would be denied. He also explained that staff would begin to create regulations, which would go before the Planning Commission then to City Council and a notice of pendency would be published.

Discussion ensued regarding if this resolution should be included in the EAR.

Mr. Rogers, Planning Director reminded Council that at a previous Council discussion there was no negative connotations for allowing the business community to discourage or prohibit the smaller unit from being forced out by larger unit primarily targeting tourists. He further explained that there was no discussion that the same thing may be occurring at other locations. He advised Council could review and amend the resolution. He also advised Council could consider re-development a larger pie with sufficient urgency and adopt zoning in progress regulations and work on this item rather than the bigger picture.

If Resolution 04-074 adopted:

- Affect the private market
- Businesses may not be able to open due to location restrictions

- If someone owns 2 commercial units, occupied by tenants and lease up, remaining business may want to include the vacant store front in to their store and it may be denied according to location

Mr. Rogers noted that he spoke to other municipalities who has similar ordinances for small businesses making it against larger chain stores and he recommended placing a limitation on the number of square foot by combining commercial units and if someone wanted to exceed the footage number then a hearing could be held case by case

Discussion ensued regarding retaining small shops for the future welfare of the community, accept recommended change so that someone could ask for a hearing before Council, Resolution 04-074 does not affect all commercial properties within Sanibel, Mr. Cuyler included a provision to make a priority of staff to complete this project and limit any commercial business to 3,000.

Councilman Brown made a motion, seconded by Councilman Jennings, to continue discussion at the August 03, 2004 Council meeting.

Public Comment:
None

The motion passed 4 to 1 with Councilmember Workman voting in opposition, and Mayor Harrity, Vice Mayor Walsh, Councilman Brown and Councilman Jennings voting in favor of the motion.

Council decided to discuss the following items:

Sewer Issues:

Presentation by Hartman and Associates for the annual update of the Sewer Financial Feasibility Study.

Ms. Tara Hollis, Hartman and Associates gave a brief PowerPoint presentation.

Discussion ensued regarding including an additional increase of 2% to add the ability to have a restricted contingency fund for items not budgeted, increase for 2004-05 would be increased from \$33.44 to \$37.45, facilities properly insured if a lose occurs, rate increases constant for the next 5 years, using SRF funding for sewer expanses and SRF loan may not qualify depending on expense.

Councilmember Workman made a motion, seconded by Vice Mayor Walsh, to excuse Councilman Jennings at 6:58 p. m.

The motion passed unanimously.

Council by consensus decided to continue discussion at the September 11, 2004 regular meeting and allow time for advertisement.

Presentation and discussion by Camp, Dresser and McKee, and other consultants regarding the noise and odor elimination process at the Donax Reclamation Sewer Plant.

Mr. Don Lindmann gave a brief PowerPoint presentation.

Noise sources:

- New aerobic digester positive displacement
16-foot concrete walls constructed on 3 sides
fibroplank and acoustical blankets installed inside walls, at entry points, and on digester tank
- Existing equalization tank single stage centrifugal blowers

- New piping and a specialized air pressure valve have virtually eliminated this noise source
- New compressor in compressor building
 - New acoustical louvers to deaden sound
 - Acoustical blankets placed within the building
 - Emergency standby generators, new and old
 - Replacement of both housing with highly improved sound attenuating units
 - New odor control units to be monitored
 - East odor control unit
 - Installed acoustical walls around 3 walls
 - Fibroplank and acoustical blanket materials within
 - Sound attenuating cover was placed over fan
 - West odor control unit
 - 2 walls placed on either side
 - maintenance work completed to better balance unit operation
 - sound attenuating cover was place over fan
 - Communications with homeowners throughout process
 - Snapshot of current noise abatement status
 - Odor control measures taken at headworks area
 - Odor control measures taken at headwork area
 - Snapshot of odor control status
 - Level of City commitment or noise and odor control

Discussion ensued regarding not noise activity showed 50-51 decibels and key locations 1310 Junoia Street 56 decibels and plant off the same decibels, no records available of decibels pre-new plant, 99% completion and found 1 pump in need of noise abatement, give a public workshop to residents this fall to show the improvements, past public hearing for residents regarding the proposed improvements to the Donax Reclamation Facility and could not go below the natural ambience.

Next steps:

- Study the effectiveness of the iron sponge due to fetid odors
- \$525,000 spent so far

Recommendations:

- Heat resistant blankets to be wrapped around piping to replace what is hanging from catwalks
- Warranty replacement for acoustical blankets, and framing to be installed at key locations
- Install acoustical blankets with framing for the reclaimed water pumps by the rotary derum thickner

Discussion ensued regarding the replacement of the iron sponge approximately \$250,000 budgeted in the FY 2004-05 budget.

Follow-up:

- Implement final actions for odor and noise abatement
- Continue to communicate with residents
- Conduct a final meeting for residents regarding neighbor-friendly improvements at the facility

Recommendation regarding Change Order 3 and proposal from ET MacKenzie for construction of Phase III B sewer expansion project.

Mr. Hefty, Utility Director spoke to the Phase IIB, which include Rabbit Road to Blind Pass area.

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to approve the recommendation.

Public Comment:
None.

The motion passed unanimously, with Councilman Jennings excused.

Award from South Florida Water Management District for \$50,000 from “The Water Supply Savings Incentive Program.

Ms. Zimomra announced the award of a \$50,00 grant to the Utility Department for utilization to encourage commercial establishments to hook-up to the re-use system.

Mr. Hefty recognized Sandy Larsen.

NEW BUSINESS:

RESOLUTION 04-065 ADVISING THE LEE COUNTY PROPERTY APPRAISER OF THE PROPOSED OPERATING MILLAGE RATE, THE ROLLED-BACK RATE, THE PROPOSED AGGREGATE MILLAGE RATE, THE MILLAGE LEVY FOR THE SEWER VOTED DEBT SERVICE, AND THE LAND ACQUISITION VOTED DEBT SERVICE AND THE DATE, TIME AND PLACE AT WHICH A PUBLIC HEARING WILL BE HELD TO CONSIDER THE TENTATIVE OPERATING MILLAGE RATE FOR TAX (CALENDAR) YEAR 2004 AND TENTATIVE BUDGET FOR THE CITY OF SANIBEL 2004-05 FISCAL YEAR; AUTHORIZING AND DIRECTING THE CITY MANAGER TO PROVIDE CERTIFICATION OF SAME; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 04-065.

Discussion ensued regarding setting the millage rate at 2.3238 and the need for 2 additional positions (Natural Resources and a Community Educator and Finance Department employee) already in proposed budget.

Renee Lynch, Finance Director filled in the blanks as follows:

- Operating millage rate 2.5000
- Rolled-back rate 1.6500
- Aggregate millage rate 2.5000
- Sewer voted debt service 0.2268
- Land Acquisition 0.0625

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to adopt Resolution 04-065 and include the above-mentioned millage rates.

Public Comment:
None.

The motion passed unanimously, with Councilman Jennings excused.

CONSENT AGENDA:

Council pulled (b), (c), (d), (f), (g), (k) and (j) from the Consent Agenda.
Council by consensus approved Items (a) and (i).

a. **Approval of minutes January 06, 2004 Regular Meeting, January 20, 2004 Regular Meeting, February 03, 2004 Regular Meeting, February 17, 2004 Regular Meeting, March 03, 2004 Regular Meeting, April 30 2004 Joint Council/Planning Commission Meeting and May 19, 2004 Special Meeting and May 04, 2004 Regular Meeting.**

i. **Annual report of the General Employee Retirement System Performance Review.**

b. **RESOLUTION 04-063 AUTHORIZING THE CITY MANAGER TO JOIN WITH OTHER LEE COUNTY GOVERNMENT ENTITIES AND ENTER INTO AN AGREEMENT WITH MARSH USA, INC. FOR CONSULTING SERVICES TO DETERMINE IF A HEALTHCARE PURCHASING COOPERATIVE WOULD BE BENEFICIAL TO PARTICIPATING ENTITIES AND TO CONDUCT HEALTHCARE PROPOSALS AND IMPLEMENTATION AS DIRECTED BY THE HEALTHCARE CONSORTIUM; AND PROVIDING FOR AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 04-063.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 04-063.

Public Comment:
None.

The motion passed unanimously.

c. **RESOLUTION 04-064 ESTABLISHING CITY FEES RELATING TO CONTRACTORS LICENSING PURSUANT TO CITY OF SANIBEL ORDINANCE NO. 04-005, THE CITY'S CONTRACTORS LICENSING ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 04-064.

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to adopt Resolution 04-064.

Public Comment:
None.

The motion passed unanimously.

d. **RESOLUTION 04-066 ESTABLISHING A POLICY FOR THE NAMING OF SANIBEL PUBLIC PARKS, PRESERVES, AND RECREATION FACILITIES, OR PORTIONS THEREOF; AND PROVIDING AN EFFECTIVE DATE..**

Ms. Zimomra read the title of Resolution 04-066.

Councilman Brown made a motion, seconded by Mayor Harranty, to adopt Resolution 04-066.

Discussion ensued regarding deleting naming anything for a living person from the resolution and not naming something after a person or group and where the donation did not include entire amount needed was not donated.

The motion passed 3 to 1 with Vice Mayor Walsh voting in opposition, and Mayor Harrity, Councilman Brown, Councilman Jennings and Councilmember Workman voting in favor of the motion..

- e. **RESOLUTION 04-069 ACKNOWLEDGING THE VOTE OF ELECTORS OF THE JULY 15, 2004 MAIL BALLOT FOR THE CITY OF SANIBEL, FLORIDA; WHICH RESULTED IN THE ELECTORATE'S APPROVAL OF THE SALE OF TWO CITY-OWNED PARCELS LOCATED WITHIN THE ENVIRONMENTALLY SENSITIVE LANDS CONSERVATION DISTRICT TO THE FEDERAL GOVERNMENT TO BE INCLUDED IN THE J. N. DING DARLING NATIONAL WILDLIFE REFUGE; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 04-069.

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to adopt Resolution 04-069.

Public Comment:

None.

The motion passed unanimously.

- f. **RESOLUTION 04-070 ESTABLISHING RECREATION USER FEES FOR CITY OF SANIBEL RECREATION PROGRAMS PURSUANT TO CITY OF SANIBEL ORDINANCE NO. 03-008; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 04-070.

Vice Mayor Walsh made a motion, seconded by Mayor Harrity, to adopt Resolution 04-070.

Public Comment:

None.

The motion passed unanimously.

- g. **RESOLUTION 04-071 EXERCISING THE CITY'S POWER OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY FOR PUBLIC USE OR PURPOSE; DETERMINING THAT IT IS NECESSARY TO PERFORM A PUBLIC PROJECT FOR EXPANSION OF THE SEWER SYSTEM, SAID PROJECT TO BE REFERRED TO AS THE SANIBEL SEWER SYSTEM EXPANSION PROJECT PHASE 3B; DETERMINING THAT THE PROJECT IS A PUBLIC PURPOSE; DETERMINING THAT THE ACQUISITION OF CERTAIN PROPERTY IS FOR A PUBLIC PURPOSE AND IS NECESSARY TO ACCOMPLISH THAT PURPOSE; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 04-071.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to adopt Resolution 04-071.

Public Comment:

None.

The motion passed unanimously.

h. Approval of City Council Goals for Fiscal Year 2004-2005.

Discussion ensued regarding moving “Streamlining City Council Operations” to number 11.

Vice Mayor Walsh made a motion, seconded by Mayor Harranty, to approve Council Goals with the above-mentioned change.

Public Comment:

None.

The motion passed unanimously.

- j. **RESOLUTION 04-072 PERTAINING TO THE SANIBEL BOARD OF TRUSTEES OF THE MUNICIPAL POLICE OFFICERS' RETIREMENT TRUST FUND; ACKNOWLEDGING THE ELECTION OF TWO TRUSTEES BY POLICE OFFICER MEMBERS OF THE PLAN AND APPOINTING TWO RESIDENT MEMBERS TO THE BOARD TO SERVE TERMS ALL TERMS COMMENCING OCTOBER 1, 2004 AND ENDING ON SEPTEMBER 30, 2006; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 04-072.

Vice Mayor Walsh made a motion, seconded by Councilman Brown, to adopt Resolution 04-072.

Public Comment:

None.

The motion passed unanimously.

- k. **RESOLUTION 04-073 OF THE CITY OF SANIBEL ESTABLISHING THE CLASSIFICATION OF “EMERITUS MEMBER” APPLICABLE TO ALL ADVISORY COMMITTEES TO THE CITY COUNCIL IN ORDER TO PROVIDE FOR THE ABILITY OF THE CITY COUNCIL TO APPOINT A NON-RESIDENT MEMBER TO ANY SUCH COMMITTEE WHERE THE CITY COUNCIL DETERMINES THAT SUCH MEMBERSHIP IS IMPORTANT TO THE FUNCTIONING OF THE COMMITTEE AND THAT THE SKILLS OR PAST EXPERIENCE OF SUCH EMERITUS MEMBER ARE VALUABLE AND IN THE BEST INTERESTS OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.**

Ms. Zimomra read the title of Resolution 04-073.

Mayor Harranty asked that Resolution 04-073 be amended to make the adjunct member a non-voting member.

Vice Mayor Walsh made a motion, seconded by Mayor Harranty, to adopt Resolution 04-073 as amended above.

Public Comment:

None.

The motion passed unanimously.

CITY MANAGER'S REPORT:

Informational items:

Request from Anchor Inn (1045 Periwinkle Way) for the removal of 2 Australian Pines.

Ms. Zimomra reported the requested trees were not in the City's right-of-way.

Status of request from Sanibel Rocks Homeowners Association to delete West Gulf Drive Shared Use Path.

Ms. Zimomra stated the letter would go to the Parks and Recreation Committee for their input.

Update on status of negotiation for the "Old Schoolhouse" from the Old Schoolhouse Theater Foundation for re-location to the Historical Village.

Ms. Zimomra stated there would be a report on the August 03, 2004 Council agenda.

May 2004 Visitor Profile for Lee County from Tourism Development Council. (TDC)

Ms. Zimomra explained her involvement at the last Tourism Development Council meeting and the request for \$150,000 to purchase the "Old Schoolhouse" from the Theater Foundation.

Discussion ensued regarding paying money for the Old Schoolhouse, monies spent over the years by the Old Schoolhouse Board of Directors, moving the building to the Historical Museum, cost of the building \$150,000, cost of moving to Historical Village approximately \$42,000 and money for restoration, TDC money could not be used for the moving of the Old Schoolhouse and land contract contingent on the sale of the Old Schoolhouse.

Advertisement for the Sanibel Board of Trustees of the Municipal Police Officers' Retirement Trust Fund.

Ms. Zimomra explained that the four current members would appoint the fifth member to the Police Pension Board, which would come to Council as advertisement and appointment.

Evaluation Appraisal Report (EAR) process update.

Discussed earlier in the day.

City Manager's Performance Evaluation:

Councilman Brown made a motion, seconded by Vice Mayor Walsh, to approve the City Manager's employment agreement dated 071504.

The motion passed unanimously.

CITY ATTORNEY'S REPORT.

Council directed Mr. Cuyler to continue research and offer as judgment to the counter claim at his discretion.

COUNCILMEMBERS' REPORT.

Attendance at the Florida League of Cities in Hollywood, Florida, August 19 to 21, 2004 and voting delegate.

Mayor Harrity spoke to attending the conference and normal procedure was for the Mayor to be the voting delegate.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to appoint Mayor Harrity as Council's voting delegate at the Florida League of Cities Conference while attending.

Councilman Brown asked if Council would approve staff working with him in writing a letter to the editor regarding the Causeway.

Vice Mayor Walsh made a motion, seconded by Mayor Harrity, for Councilman Brown to work with staff regarding a letter to the editor.

Discussion ensued regarding what should be in the letter, safety issues as stated previously, Environmental Impact Study, and Construction of Spans B and C.

The motion passed unanimously.

Vice Mayor Walsh asked to be authorize to attend the August 03 meeting by phone.

Mr. Cuyler explained that the Attorney General opinions was not consistent in opinion and Council could allow attendance by phone.

Councilman Brown made a motion, seconded by Councilmember Workman, to allow Vice Mayor Walsh to participate by phone.

The motion passed unanimously.

PUBLIC COMMENT.

None.

There being no further business the meeting was adjourned at 8:23 p. m.

Respectfully submitted by,

Pamela Smith, CMC
Deputy City Clerk