

**CITY COUNCIL SPECIAL MEETING
AUGUST 10, 2004**

Mayor Harrity called the meeting to order at 2:30 p. m.

Members present: Mayor Harrity, Vice Mayor Walsh (by phone), Councilman Brown, Councilman Jennings and Councilmember Workman.

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

Mayor Harrity asked Mr. Cuyler to address Vice Mayor Walsh participating by phone.

Mr. Cuyler explained that discussion held in the past regarding participation by phone and read an Attorney General opinion. (See attached). He explained that it was up to City Council to decide if there were extraordinary circumstances. He further explained that Council could vote regarding said participate. Mr. Cuyler noted that in his opinion Vice Mayor Walsh could vote and participate fully.

Discussion ensued regarding Vice Mayor's Walsh attendance by phone and previous plans made to drive to Minnesota for a family function, no Council member knew that a special meeting would be called, material handed out at Councilmember seats that was not given to Council in advance as all other Council agenda packet material and at the County Commissioner meeting earlier today took no action.

Mayor Harrity made a motion, seconded by Councilman Jennings, to allow Vice Mayor Walsh to participate by phone.

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

Discussion ensued regarding a Councilmember voicing opposition earlier for a Councilmember participating at a meeting by phone and now changing their mindset to allow participation by phone.

Mayor Harrity explained that he called the Special Meeting due to discussion in shade session and his opinion of the route Council should take regarding the lawsuit against Lee County.

Discussion of pending case of City of Sanibel v. Lee County and Board of County Commissioners, its governing body, Case #04-134 CA-H.

RESOLUTION 04-079 OF THE SANIBEL CITY COUNCIL APPROVING AND AUTHORIZING A SETTLEMENT IN THE CASE OF CITY OF SANIBEL, A MUNICIPAL CORPORATION V. LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, ITS GOVERNING BODY, CASE NO. 04-134CA-H; SETTING FORTH THE TERMS FOR SETTLEMENT; DIRECTING THE CITY ATTORNEY TO EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO IMPLEMENT THE SETTLEMENT; AND PROVIDING AN EFFECTIVE DATE.

Mayor Harrity read all of Resolution 04-079 in to the record.

Discussion ensued regarding money spent on legal fees, what items needed to be discussed, Mr. Cuyler noted that Vice Mayor Walsh asked for the David Fleck letter and lawsuit paperwork be included in Councils' paperwork, January meeting there was an item that was introduced at the meeting without being on the agenda and only two Councilmembers receiving a briefing,

Vice Mayor Walsh made a motion to table until Sept 11 at the regular meeting, but withdrew to allow public comment.

Discussion ensued regarding Vice Mayor Walsh speaking with Commissioner Janes without Council knowledge, serious flaw in Resolution 04-079 and should have included indemnifying the City from any claims from other lawsuits against Lee County

Public Comment:

Sam Bailey spoke in support of dropping the lawsuit.

Francis Bailey spoke in support of dropping the lawsuit.

Jerry Muench spoke in support of dropping the lawsuit.

Claudia Burns spoke in opposition of dropping the lawsuit.

Bob Feldman spoke in support of dropping the lawsuit.

Barbara Anderson spoke in opposition of dropping the lawsuit.

James Burke spoke to postponing discussion.

Steve Alexander spoke in support of dropping the lawsuit and Council's angry words to one another.

Sandy Stilwell spoke in support of dropping the lawsuit.

Ted Tyson spoke in support of dropping the lawsuit and at a Lee County construction meeting the contractor suggested re-enforcing Span A to bring materials over for construction of Spans B and C, not rehabilitation.

Marie Gargano spoke to Environmental Reports (two types EA or EIS) and the report accepted being inadequate.

Jack Samler spoke in support of dropping the lawsuit.

Burt Jenks spoke in support of dropping the lawsuit.

Candy Harris spoke in support of dropping the lawsuit.

Mike Valiquette spoke in support of dropping the lawsuit.

Pete Adania, Sundial Resort spoke in support of dropping the lawsuit.

Billy Kirkland spoke in support of dropping the lawsuit.

Maureen Valiquette spoke in support of dropping the lawsuit.

Jon Liljequist spoke in opposition of dropping the lawsuit.

Bob Sheenan spoke in support of dropping the lawsuit.

Steve Greenstein, Executive Director of Sanibel-Captiva Chamber of Commerce spoke to the Chamber not taking a position and encouraged members to get involved. He also spoke in support of dropping the lawsuit.

Jim Gould spoke to looking to rent a place off-island for his employees to park.

Cliff Fitzgerald spoke to 1977 lawsuit, Supreme Court opinion and all previous lawsuits Lee County lost.

Paul Emilius spoke in opposition of dropping the lawsuit.

Discussion ensued regarding not acting on Resolution 04-079, considerations of future costs to citizens, tax increase, citizens of Sanibel and Captiva attending the Lee County Board of Commissioners discussions regarding increasing tolls.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to postpone discussion of Resolution 04-079 until the September 09, 2004 City Council meeting.

Mr. Cuyler suggested scheduling a separate meeting.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to amend the motion to have a meeting the week of September 11.

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

Discussion of letter to Coast Guard (Continued from meetings of August 3 and 4, 2004).

Mr. Cuyler explained a time frame of public comments and contacting the Coast Guard to extend public comment until September 01, 2004.

Vice Mayor Walsh made a motion, seconded by Councilmember Workman, to send the draft letter in the agenda packet to the Coast Guard.

Discussion ensued regarding sending a letter from Council and Mayor Harrity sending his own letter stating his position.

Discussion ensued regarding if Councilmember Workman could move to allow Councilman Brown to speak and Mr. Cuyler agreed that could be done.

Councilmember Workman made a motion, seconded by Councilman Brown, to hold the vote of the previous motion and allow Councilman Brown to make a comment.

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

Discussion ensued regarding a past letter sent to the Coast Guard stating Council's opinion, but did not speak to the Environmental Impact Study and did speak to environmental issues, letter in direct response to public comment notice and that the City Manager or City Attorney did not receive any information from the U. S. Fish and Wildlife as requested by Councilman Jennings and the answer was no and the letter in packet was directed by Council to draft for Council review.

Mr. Jim Isom stated that there was a public meeting held by Lee County and the letter speaking to environmental issues and the letter also objected to the previous public hearing.

Public Comment:

Marie Gargano asked Council to send the letter to the Coast Guard.

Rob Jess, J. N. Ding Darling National Wildlife Refuge that the report was sitting on his desk and did send a note to Councilman Jennings.

Discussion ensued regarding a request to Mr. Jess for environmental information.

Al Hans suggested sending a cover letter with the letter to keep a dialogue open with the Coast Guard.

Discussion ensued regarding sending the letter to the Coast Guard as written and Coast Guard disregarded the U. S. Fish and Wildlife proposal.

The motion failed by a four to one vote with, Mayor Harrity, Vice Mayor Walsh, Councilman Brown and Councilman Jennings voting in opposition, and Councilmember Workman voting in favor of the motion.

There being no further business the meeting was adjourned at 4:50 p. m.

Respectfully submitted by,

Pamela Smith, CMC
Deputy City Clerk