

**SANIBEL CITY COUNCIL REGULAR MEETING  
FEBRUARY 19, 2008**

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

Members present: Mayor Denham, Vice Mayor Johnston, Councilman Jennings, Councilman Pappas and Councilman Ruane.

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

**PRESENTATION(S)**

**Employee of the Quarter, 1<sup>st</sup> Quarter, FY 2007-2008**

Mayor Denham presenter Ron Orr, Recreation Superintendent Employee of the 1<sup>st</sup> Quarter.

**Public Comments**

Herb Rubin spoke to a vote of the Planning Commission allowing a proposed structure, and setback. He asked for a moratorium on residential building permits.

Karen Stori Johann spoke to reviewing one-story homes in that above-mentioned situation as they were all 2-stories. She suggested reviewing each neighborhood.

Mayor Denham spoke to an agenda item to discuss changing the Planning Commission priorities.

Ann Yarnel spoke to a poll being taken in the Island Reporter regarding a town center.

Dr. David Berger spoke to 2 newspapers report proceedings of the Planning Commission and City Council. He further stated that there needed to be a clear concise report of meetings in the newspapers.

**Council Comments**

Vice Mayor Johnston spoke to the need of a dialogue regarding issues facing the island. She further spoke to residents receiving partial information and a suggested a workshop between City Council and the Planning Commission. She mentioned the Clarion report may need to be reviewed by the Planning Commission

Discussion ensued regarding a Council discussion on the Town Center at a future meeting, confusion among residents, needed topics for a discussion, Council discussion focus at the whole Periwinkle Way West Town Center and invite Planning Commission to attend, Planning Commission hold a similar workshop on big houses, and Council needs to attend a Planning Commission meeting for big house discussion.

Councilman Jennings spoke to being involved in the Edison Parades.

Councilman Ruane spoke to Periwinkle Way West past discussions, not enough input from consultant for \$150,000, and important to get information to public.

Councilman Pappas stated that Director Duffy has been given direction from Council regarding Periwinkle Way West.

Discussion ensued regarding the direction to Director, holding another meeting would clarify communication and ensure the public understands.

Mayor Denham announced a forum on the Quality of Sanibel Water from 2:00 p.m. to 5:00 p. m., by PURRE. He further spoke to the quality of water good due to little rain and no nutrient-laden water from Lake Okeechobee. He also stated that people were beginning to be complacent due to good water quality.

Mike Valiquette spoke to the above-mentioned meeting was the Annual PURRE Water Coalition held at the Sanibel Community Center (SCA). He also spoke to the speakers presentations.

### **Planning Commission Report**

Commissioner Tom Krekel gave the following report:

- Considered a resolution to deny a variance for a boat dock at 411 Osprey Court; vote 6-1
- Continued development permit for 1249 Seagrape at the request of applicant
- Approved conditional use and development permit 2628 Coconut Drive for an erosion permit - approved
- Replace exiting gravel driveway and parking area at 303 Periwinkle Way (Snug Harbor Condos with impervious brick pavers – denied
- Continuation of a hearing for a development permit to construct an elevated swimming pool at 2745 Rue Bel Mar; vote 4-3

Discussion ensued regarding the number of residents objecting to the elevated swimming pool and 21 residents objecting.

- Land Development subcommittee hearing

Second Reading and Public Hearing

**ORDINANCE 08-003 AMENDING THE SANIBEL CODE, PART II LAND DEVELOPMENT CODE: CHAPTER 126 ZONING, ARTICLE XIV SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 5, COMMERCIAL USES GENERALLY, TO ADD A NEW SECTION 126-1032 OUTDOOR SEATING FOR CARRYOUT RESTAURANTS, TO ESTABLISH PROCEDURES AND STANDARDS FOR PROVIDING OUTDOOR SEATING FOR CARRYOUT RESTAURANTS; CHAPTER 90 FEES, ARTICLE II. DEVELOPMENT PERMITS, DIVISION 3. NONRESIDENTIAL DEVELOPMENT, TO ADD A NEW SECTION 90-86. OUTDOOR SEATING; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 08-003.

Discussion ensued regarding reviewing the site, does outdoor seating encroach on any other public rights, triggers a series of emails and violation of privacy at Schnappers, parking a police enforcement at Schnappers, consider for approximately 6.5 years, and Council 3 years ago stated there would be follow-up on different issues and those issues are coming before Council.

Public Comment

None

Director Duffy spoke to the following:

- Mid-term report on outdoor dining
- 2-year trial period
- 7 small businesses that would benefit from the adoption of Ordinance 08-003
- Planning Commission recommend unanimously

Mayor Denham made a motion, seconded by Vice Mayor Johnston, to adopt Ordinance 08-003.

The motion carried.

**PUBLIC HEARING**

**RESOLUTION 08-022 OF THE SANIBEL CITY COUNCIL EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON-AD VALOREM ASSESSMENTS WHICH HEREAFTER SHALL OR MAY BE LEVIED (UPON ADDITIONAL NOTICE TO PROPERTY OWNERS) BY THE CITY COUNCIL IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 197.3632, FLORIDA STATUTES, FOR THE SANIBEL SEWER SYSTEM PHASE 5 EXPANSION PROJECT; SETTING FORTH THE NEED FOR THE LEVY OF SUCH NON-AD VALOREM ASSESSMENTS; SETTING FORTH THE LEGAL DESCRIPTION OF THE BOUNDARIES OF THE REAL PROPERTY SUBJECT TO THE LEVY OF NON-AD VALOREM ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 08-022.

Mr. Cuyler spoke to the following:

- Spring/summer considering the Phase 5 Sanibel Bayous sewer expansion
- Time requirement mandate the adoption of resolution if Council wish was to have the assessments on the tax bill
- Does not commit Council for establishing the assessment
- Uniform method refers to the Ad Valorem tax bill
- This method was use to place non-ad valorem assessment of the tax bill

Discussion ensued regarding the interest rate, Mr. Cuyler stated the interest would be discussed at a later date and would be established at that time, notice would go to all affected parties, and Council would review May/June Council meetings.

Councilman Jennings made a motion, seconded by Mayor Denham, to adopt Resolution 08-022.

The motion carried.

**CONSENT AGENDA**

- c. **RESOLUTION 08-019 ADOPTING A COST ALLOCATION PLAN, (ALSO KNOWN AS AN INDIRECT COST PLAN) FOR THE FISCAL YEAR 2007-08; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CERTIFICATE OF COST ALLOCATION PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF OMB CIRCULAR A-87 AND FULL COST PLAN; AUTHORIZING THE DISTRIBUTION OF THE CENTRAL SERVICE OVERHEAD COSTS TO QUALIFYING GRANTS AND ENTERPRISE FUNDS; ESTABLISHING THAT REGULAR UPDATES TO THE COST ALLOCATION PLAN BE MADE; AND ESTABLISHING AN EFFECTIVE DATE**
- d. **RESOLUTION 08-021 CANCELING THE REGULARLY SCHEDULED CITY COUNCIL MEETINGS OF JUNE 17, JULY 1, AND AUGUST 5 AND**

**RESCHEDULING THE CITY COUNCIL MEETING OF SEPTEMBER 2 TO SEPTEMBER 6; AND PROVIDING AN EFFECTIVE DATE.**

- e. **RESOLUTION 08-017 APPROVING BUDGET AMENDMENT /TRANSFER NO. 2008-030 AND PROVIDING AN EFFECTIVE DATE** (to transfer \$31,962 from the Reserve for Environmental Initiatives line in the General Fund to the Environmental Defense Fund Other Contractual Services line to pay for the production and distribution of a fertilizer education DVD and fertilizer booklet. There are no new funds appropriated by this amendment. The balance in the General Fund Reserve for Environmental Initiatives line will be \$655,184 after this amendment)
- f. **RESOLUTION 08-018 APPROVING BUDGET AMENDMENT /TRANSFER NO. 2008-031 AND PROVIDING AN EFFECTIVE DATE** (to transfer \$107,045 from the Recreation Center Reserve for contingencies line to various expense lines for opening costs. The lines include: 1) Other contractual services of \$40,440; 2) Office supplies of \$15,000; 3) Operating supplies of \$39,610; 4) Machinery and equipment of \$11,995. This amendment does not increase the FY08 expense)
- g. **RESOLUTION 08-016 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008-028 AND PROVIDING AN EFFECTIVE DATE** (to (1) roll forward from FY07 \$1,661,272 for the building of the new recreation facility; 2) to appropriate \$184,286 of Lee County revenue and; 3) to appropriate \$25,000 of interest earnings. This amendment increases the FY08 Recreation Facility Fund budget by \$1,870,558. This amendment appropriates \$25,000 of new revenue)
- h. **RESOLUTION 08-023 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2008-032 AND PROVIDING AN EFFECTIVE DATE** (to roll forward from FY07 \$10,000 of beginning fund balance for the City's share of Sanibel Harbor (at the end of Bay Drive) dredging costs, originally budgeted but unspent in FY 07. The Sanibel Harbor Homeowners Association is hiring a dredging contractor and will bill the City for 1/3 of the dredging costs. This amendment increases the budget by \$10,000; however no new or additional funds are being appropriated by this amendment)

Ms. Zimomra read the titles of the above-mentioned Resolutions.

Councilman Ruane made a motion, seconded by Mayor Denham, to adopt the above-mentioned resolutions.

The motion carried.

- a. Approval of an Interlocal Agreement between the City of Sanibel and Lee County for Community Development Block Grant (CDBG) in the amount of \$43,260 for identifying single-family/multi-family housing repair and mitigation activities and authorize the City manager to execute same
- b. Approval of agreement between the City of Sanibel and Community Housing Resources (CHR) for a Community Development Block Grant (CDBG) in the amount of \$43,260 for identifying single-family/multi-family housing repair and mitigation activities and authorize the City Manager to execute same

Vice Mayor Johnston made a motion, seconded by Councilman Ruane, to approve Consent Agenda items (a) and (b).

The motion carried.

Council recessed at 9:51 a. m.

Council reconvened at 10:00 a. m.

## **OLD BUSINESS**

### **Water Quality Issues**

#### **Reports from City Council members**

Mayor Denham spoke to proposed Senate Bill 1634 under Senator Bennett, Bradenton and the House Bill would be endorsed by Representative Aubuchon. He further explained the following:

- More requirements to the Healthy Beach Program
- Bill would requires the public to be notified of a sewer problem
- Authorizes DEP to trace the source of the containments

#### **Status of Senate Bill 1634**

##### **Bill Language**

##### **Senate Bill 1634 Fact Sheet**

##### **Next Steps**

##### **Call for Action**

##### **Web Posting**

##### **Mailing**

##### **Legislative Contacts**

Ms. Zimomra spoke to the following:

- Staff prepared the fact sheet for Council
- Councilman Jennings signing a letter requesting the item be added to the March Florida League of Cities Board of Director meeting
- Will be sent to all counties
- Will send out an email alert when the vote comes forward
- Sending request for adoption to house and senate members
- Working with lobbyist

Discussion ensued regarding to importance of lobbying the week of the vote, timing is critical, Chamber notifying members, poll committee to review a possible house and senate vote of the bill, and add Senator Daniel Webster to possible of endorsers.

## **RESOLUTION 08-020 OF THE CITY OF SANIBEL, FLORIDA, THAT RECOMMENDS THAT THE FLORIDA LEGISLATURE ACCEPT THE RECOMMENDATIONS OF THE FLORIDA CONSUMER FERTILIZER TASK FORCE AND REJECT ANY ATTEMPT TO PREEMPT THE HOME RULE AUTHORITY OF LOCAL GOVERNMENT TO ENACT MEASURES REGULATING THE INTRODUCTION OF POLLUTANTS INTO OUR WATERWAYS**

Ms. Zimomra read the title of Resolution 08-020.

Discussion ensued regarding the task force resolution and Mayor not happy with the legislation, key findings was that any local government could enact their own legislation, the need to accept the task force finings and object to any preemption

Vice Mayor Johnston made a motion seconded by Councilman Ruane, to adopt Resolution 08-020 and encourage Mayor Denham to work with the City Manager to send to other governmental entities.

The motion carried.

Director Loflin spoke to endorsing Resolution 08-020. He further spoke to C-43 and land being purchased for treatment before filtering to C-43. He further spoke to C-43 does not have a treatment area before it goes into the Calooshatchee River.

Discussion ensued regarding water treatment needed before releasing in to the Calooshatchee River, once C-43 completed more contaminated water coming toward Sanibel, the need for a filter marsh, Lee County land purchase would not affect the need to filter water, no incentive for Glades County to provide a filter marsh because it does not bring in tax dollars, need to recognize of a split of water quality and the need for tax dollars.

#### Public Comment

Barbara Cooley spoke to using a tool “payment in lieu of taxes”.

Discussion ensued regarding involvement of Lee and Glades counties.

Karen Stori Johann spoke to the filter marsh being a bird sanctuary, which could be a small source of revenue.

Discussion ensued regarding the Attorney General possibility having suggestions, water recover faster than experts thought would happen, consideration of recovering an issue to slow down water quality, Dr. Loflin spoke to his agreement of water clarity and reduction of red drift algae, but he stated that oyster and sea grass beds will require long-term recovery due to the devastation from poor water quality and the Lake Okeechobee water releases.

### **Staff Reports**

#### **Recreation Issues**

#### **Membership/Revenue Summary**

#### **Usage Summary**

#### **Summary of Recreation Center Construction**

#### **Change Order #13**

Ms. Zimomra spoke to the following:

- March 04 Council meeting will be a proposal for extended hours for the remainder of the year
- Week of Easter having an adjusted schedule based on the hours approved by Council
- Final Change order – with approval the final number would come back to Council at the March 04 meeting

Councilman Ruane made a motion, seconded by Vice Mayor Johnston, to approve the Change Order.

#### Public Comment

None

The motion carried.

### **COMMITTEES BOARDS COMMISSION**

#### **Appointment of Gregory Woodham to the Vegetation Committee**

Councilman Jennings made a motion, seconded by Councilman Ruane, to appoint Mr. Woodham.

The motion carried.

**To consider a recommendation from the Planning Commission to revise the Redevelopment Planning Work Program and Priorities to enable the Commission to**

## **study and report on potential amendments to the Land Development Code that will address Appropriately Sized Houses and Neighborhood Rhythm and Harmony**

Discussion ensued regarding Council agreed that the conclusion of the Periwinkle Way West Project would be completed April, 2008, report noted that project would be complete in August, 2008, Council deals with a number of priorities, Council decided to deal with commercial and Periwinkle Way West first, Knave property not the only focus, parcels along Tarpon Bay Road and Palm Ridge, would like to receive a more thorough report, Planning Commission made decision on the MIMS house, need to be convinced that there were enough large houses applications to out weigh the need to look at the Central Commercial area and drop everything and move the large house issue before completion of Periwinkle Way West project, can not stop working on the Periwinkle Way West projects, have and staff bring a report on workload at the next Council meeting.

Director Duffy spoke to the following:

- Planning Department establishes goals and work program when Council sets goals
- Council direction clear at the February 05 meeting on the next steps of Periwinkle Way West project
- Direction to provide Council with a detailed work program for the remainder of FY 08 and in the future
- Direction to work with Planning Commission for design guidelines, report prepared setting out objectives, timeframe and general process to go over with the subcommittee; due to heavy agenda subcommittee was not able to meet
- Subcommittee would meet and discuss the above at the February 26 meeting
- After February 26 meeting the completion of a detailed report on outlook and work program could be done and brought to Council
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Discussion ensued regarding recommendations from the Planning Commission to City Council, Council asked Director Duffy if the Planning Department could work on the large house issue as suggested by the Planning Commission chair could be done concurrently with other work, Director Duffy answered that to complete the design guidelines in April staff would need the assistance of WRT to meet the timeframe and the LDC subcommittee would complete the preliminary work product and bring back to Council for discussion no later than May 06 Council meeting, he further stated that if Council wanted the report the last meeting in April staff would work toward that goal, Director Duffy also stated that if Council wanted the preliminary report at the second meeting in April staff would need to focus only on this matter, it would take 8 to 10 weeks to bring back a preliminary report working with the subcommittee on the architectural and Site Planning Guidelines, direction from Council at the February 05 meeting was to follow through on the commercial district standards adopted by Council 12 to 18 months ago to enable Council to adopt illustrative and specific guidelines and use the work from the Periwinkle Way West District Planning effort and focus on those guideline on the 2 zoning districts; i.e., Town Center General and Town Center Limited Commercial District as an out growth of the Periwinkle Way West District Planning effort.

Council agreed

Discussion ensued regarding any applications on permitting large homes, Director Duffy stated that there were no applications for new construction of large single-family homes, all construction to date was improvement of existing homes, normally process timeline approximately 90 to 120 days, report to Council on May 08 of architectural and site planning, decision pertaining to the MIMS house had been decided, Mr. Cuyler stated the decision was made and a resolution would come to the Planning Commission at their next meeting and there had been a discussion of an appeal, which could possibly come before Council, could the Planning Commission work on large house issue and Periwinkle Way West project at the same time, Director Duffy stated that some research had began, but developing code amendment(s) would be difficult, conflict in scope and process, and past background must be reviewed on the large house issue.

Mike Valiquette, Planning Commission Chair spoke to the following:

- Staff produced letter from Planning Commission discussion

- Large house issue still lingers
- Property owners need to know guidelines
- MIMS house came to staff through regular process before purchase of property
- Designed house at 17%
- Came to Planning Commission due to the request for the elevated pool 18 inches higher
- Need conclusion to issue

Vice Mayor Johnston made a motion, seconded by Councilman Pappas, to direct the Planning Commission Land Development Code subcommittee to work on projects assigned by Council at the last meeting pertaining to Periwinkle Way West project and provide a report; 2) planning staff in consultation with the Planning Commission address appropriately sized houses; 3) staff present a feasible work program and time line carrying out projects and bring back to Council.

The motion carried.

## **NEW BUSINESS**

### **Preliminary Budget Discussion**

### **Inventory of Current Service Levels**

### **Noteworthy Budget Variables**

### **Revenue Options**

### **User Fees**

### **Weight Station**

### **Recreation After-School Program**

### **Public Utility Service Tax**

### **Storm Water Fee**

### **Solid Waste Franchise Fee**

### **Vegetation Permit**

### **Other**

Ms. Zimomra spoke to the following:

- Request by Council for a philosophical discussion
- Prepared a list of noteworthy variables
- Can only provide historical information
- Highest variable would be final property evaluations
- Other cities tried to get a calculation
- Property Appraiser would not give information until required
- More mandated next year
- Changes to tax formulas
- Have not been through possible storm response
- State House significant undertaking that could be shifted to counties as unfunded mandates
- Utility cost a concern
- Fuel cost for City fleet
- Health Care costs to employees
- Other variables, but those noted have the most impact
- Provided past information of various revenues without being updated; i.e. weigh station, and consultant reviewed alternatives
- Recreation fees recommendation for increase for the summer and after school program
- Potential revenue source – Public Utility Service Tax used in other municipalities that would allow large user to pay their share, storm water fee and improvements are paid out of the general fund – state law allows for a storm water district, solid waste fee, vegetation permits – past Council taken position that a fee did not need to be a barrier
- Looking at other fees being instituted by other municipalities

Discussion ensued regarding concern if property tax went through, should explore all revenue streams, higher millage rate less funds to Sanibel, revenue decreased, Councilman Ruane asked for more information for utilities service tax, storm water fee and solid waste, Councilman Jennings asked for more information of storm water fees, Councilman Pappas spoke to the clear tax reduction of last year and the need for certain non ad valorem taxes this year, he also spoke to the weigh station Mayor Denham meeting with opponents, the need for compelling reason not to have a weigh station, Vice Mayor Johnston spoke to the need for cost saving options, concern about issues at the state level, 15% of taxes come back to Sanibel, weigh station and heavy trucks on streets separate issues, agree with public service tax if it could be linked to improving greening the island, Councilman Jennings spoke to past revenue from the weigh station and asked for more weigh station information, Mayor Denham spoke to the agreement of the utility service tax linking it to conservation, and revisit the weigh station recommendations.

Councilman Jennings made a motion, seconded by Mayor Denham, to direct staff to bring back additional information on the following; 1) public service utility, 2) weight station; 3) storm water fee; and 4) solid waste fee.

#### Public Comment

Jim Lavelle spoke to Council reviewing zero-based budgeting.

Dr. Harries spoke to settling the weigh station issue and large trucks on City streets.

Discussion ensued regarding the new bridges, revenue an easier issue, zero-based budgeting, today's meeting was to review of potential revenues, Council would review expenses, and a list of other governments that use zero-based budget.

Jim Lavelle spoke to large trucks parking of right-of-ways.

Discussion ensued regarding the discussion being on revenues and putting together the budget with comments from public the budget document provides an improved basis offered for public services with a narrative, budget needs to fit what services property owners would be willing to pay for annually.

The motion carried.

Ms. Zimomra stated that a department by department services was included in the agenda packet, as well as posting the document on the website.

### **Approval of the Community Resources Housing (CHR) annual plan per the agreement between CHR and the City of Sanibel**

Discussion ensued regarding CHR's intent on the new medical building and CHR come back for more detail on Center Street and the Medical Center

Vice Mayor Johnston make a motion, seconded by Mayor Denham, to accept the report and ask CHR to come back to Council with a report on Center Street and the Medical Building at the March 04, 2008 Council meeting.

Public Comment:  
None

The motion carried.

## **CITY MANAGER**

### **Informational Items**

#### **Status of Sanibel Causeway Variable Pricing**

**Lee County Variable Pricing Focus Groups public information meeting, February 26, 2008, Sanibel Recreation Center, 4:30 p.m. to 6:30 p.m.**

Ms. Zimomra noted the above-mentioned meeting.

**Presentation by Lee County to City Council on March 18, 2008**

**Lee County Board of County Commissioners to review alternatives under consideration along with recommendations from Sanibel City Council on April 7, 2008**

**Inter-governmental Activities**

**Lee County Chamber Days – Tallahassee – March 12<sup>th</sup> and 13<sup>th</sup> (Councilman Jennings attending)**

**Florida League of Cities Legislative Day – Tallahassee - March 26<sup>th</sup> (Mayor Denham & Councilman Jennings attending)**

**Southwest Florida Delegation Day – Tallahassee – April 02, 2008 (Councilman Jennings & Mayor Denham attending)**

**Community Housing Resources, Inc. (CHR) Financial Statements and Supplementary Information**

**Code Enforcement Activity Report for January, 2008**

**Development Permit Activity Report for January, 2008**

**Building Department Permits and Inspections Monthly Report**

**Building Department Monthly Revenue Accumulative as of January 31, 2008**

Ms. Zimomra stated that the above-mentioned information was provided in the agenda packet.

**CITY ATTORNEY'S REPORT**

**Approval of an agreement between the City of Sanibel and Anthony J. Gargano, P.A. to continue the current Code Enforcement Hearing Examiner Services providing for a rate of \$175/hour for FY 07-08 and a retainer of \$100 per month and authorize the Mayor to execute same**

Mr. Cuyler spoke to the following:

- \$175 per hour for the remainder of 2007
- \$185 per hour beginning 2008
- Inclusion of a \$100 monthly retainer
- Cost recovered and paid by respondent of any case brought forward

Mayor Denham made a motion, seconded by Vice Mayor Johnston, to approve the agreement.

Public Comment

None

The motion carried.

**COUNCIL MEMBERS' REPORT**

Councilman Ruane requested a report of the remaining funds in the SBA investment pool.

Ms. Zimomra stated the report was in Council boxes.

Councilman Pappas asked for a staff recommendation for the placement of the weigh station.

Ms. Zimomra stated she would include all staff comments

**PUBLIC COMMENT**

None.

There being no further the meeting was adjourned at 11:44 a. m.

Respectfully submitted by,

Pamela Smith, CMC  
City Clerk