

**SANIBEL CITY COUNCIL REGULAR MEETING
MARCH 05, 2013**

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

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

Members present: Mayor Ruane, Vice Mayor Denham, Councilman Harrity, Councilman Congress and Councilman Jennings.

Planning Commission Report

Commissioner Holly Smith gave the following report of February 12 and February 26, 2013:

- Draft amendment to LDC establishing bike standards
- Valet parking

Public Comments

None

Council Comments

Councilman Harrity welcomed Councilman Jennings back.

Councilman Jennings spoke to missing Council during his illness

Mayor Ruane spoke to the following:

- Attending Lee County MMP meeting Monday and spoke to concerns of baseball
- Report of baseball financing as TDC liaison
 - Financing for Minnesota Twins
 - Pledged all 5 cents from bed tax
 - Twins financing \$36 million over 30 years
 - Three balloon payments
 - Payment of \$80 million
 - Establish a \$6.6 million sinking fund
 - Deferred maintenance at approximately \$1 million per year
 - \$95 million left in undesignated reserves
 - \$29 million budget deficit leaving \$66 million left
 - TDC 10% overage
- Recommendation was no need for a third baseball team (Nationals)

Discussion ensued regarding listen 0914; report required and TDC never understood implications and message cannot afford a third baseball team.

Second Reading and Public Hearing

ORDINANCE 12-010 EXTENSIVELY AMENDING AND RESTATING THE *SANIBEL PLAN TO UPDATE AND TO CLARIFY THE PLAN, TO IMPLEMENT THE RECOM-MENDATIONS OF THE 2012 EVALUATION AND APPRAISAL REPORT*

OF THE SANIBEL PLAN, TO ADDRESS CONSISTENCY WITH CHANGES IN STATE STATUTES AND ADMINISTRATIVE CODE AND TO ADDRESS CHANGES IN LOCAL CONDITIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 12-010.

Director Jordan spoke to the following:

- Received comments from State
- Addressed the recommendations, comments and recommendation
- First was to address the Coastal Zone map and include in future definition
- Second objection expanded the demarcation of General Commercial District, Town Center
- First comment stated wanted to incorporate any new development of road expansion
- Do not intend to expand City roadways
- Near build out
- No need to engage state requirement regarding transportation
- Comments from School Board and had early version of school board plan and made change
- Received comments from SFWMD

Discussion ensued regarding preparing a transmittal letter if ordinance adopted required timeframe to return to State and comment report due within 180 days.

Public Comment

Karen Storijohann had a copy fro public of state comments

Ms. Zimomra noted it was in the packet at the end of the report.

Steve Maxwell spoke to his objection and providing to Council and Planning Commission his comments and appeal notice. He noted the following:

- Index does not have pages
- Only provided Exhibit "A"
- Concerned on July 10, 2012 when Exhibit "B" was noted and noted there was no changes to the development intensity maps
- Documents not provided to public
- Spoken to Mayor regarding issues
- Fails the basic test of common sense

Peter Pappas spoke to the following:

- He asked that the EAR not be adopted if report was deficient
- Called to City Manager's office and met with her, City Attorney, Director Jordan and Ken Phalzer
- Ms. Zimomra told Mr. Pappas ERA reviewed did not go the way Mr. Pappas wanted it to go
- Transfer of authority to City Manager, City Attorney and Planning Commission was not good
- City altered document three times and conspired to keep it that way
- Reviewed records and Mr. Maxwell could be correct
- Has a piece of land in the Wetlands Zone – Tahiti Shores subdivision and need consistency
- He ask not to take his land out of the district, but fix the problem
- Problems caused two citizen groups enormous time and money
- Could appeal to governor

Karen Storijohann spoke a second time to absence of the index to the EAR ad should be included

Steve Maxwell spoke a second time to an email response from the City Manager and does not specify the delegation of authority, how often, what other delegation of authority.

Discussion ensued regarding issue, Ms. Zimomra noted that a memo could be prepared, sis the last version of EAR have an index, Director Jordan noted that staff focused on changes and Ms. Zimomra noted that an index would be included

Mayor Ruane moved, seconded by Councilman Congress, to postpone adoption until the May, City Council meeting and the time would be 9:15 am

Mayor Ruane notes that accept all relative to EAR and exception indexes and maps, to come back May 07, 2013 and would sit down with both men.

Discussion ensued regarding what other information would be needed, Ms. Zimomra noted that other than the issue Mr. Pappas raised was Council alright with t index; two citizens regarding maps, not clear on the issues, one more attempt to understand issues when passing something to the state, and meet with Mr. Maxwell and Mr. Pappas

The motion carried.

CONSENT AGENDA

Remove (a), by Councilman Jennings. (g) Councilman Congress and (i) Vice Mayor Denham.

- a. **RESOLUTION 13-015 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-016 AND PROVIDING AN EFFECTIVE DATE** (To budget and appropriate \$2,250 from Zonta for after-school program financial assistance. This amendment increases the FY13 budget by \$2,250)

Councilman Jennings commended Zonta for their grant and was a worthy cause.

- g. Approval of an agreement between the City and Roy Hyman Consultant to collect and review all pertinent documentation and data to assist management and City Council in its deliberations regarding the Sanibel Causeway reconstruction and financial matters relating to maintenance and toll collection by Lee County and authorize the City Manager to execute same **AND RESOLUTION 13-023 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-022 AND PROVIDING AN EFFECTIVE DATE** (To transfer \$12,500 from the reserve for contingencies to other contractual services for review of Lee County's causeway documents. This amendment does not increase or decrease the FY13 budget)

Councilman Congress asked Mayor Ruane to provide information.

Mayor Ruane spoke to the following:

- Need for an independent audit relative to the Sanibel Causeway
- Never seen a historical accounting of bridge construction financing
- When junior lien paid off funds then funds coming to Sanibel
- Mr. Hyman hired by Charlie Green and instrumental in funds for 20/20 lands
- When would Sanibel see revenue, how bridges were financed
- Issue relative the cracks and result of those discussions

- Dave Loveland, Lee County staff in an email noted that Sanibel could receive funds in the amount of approximately \$1.3 million in 2013
- Meet with commissioners

Discussion ensued regarding Mayor wanting assistance from other Councilmember's, established relationship with Lee County commissioners, Mayor would like to continue speaking with County and at one time Sanibel receiving \$1.75 million.

- Approval of a contract between the City and Wilbur Smith Law Firm to investigate and evaluate any and all claims the City may have against BP, Halliburton or Transocean arising out of the April 20, 2010 Deepwater Horizon Spill and its aftermath and authorize the City Manager to execute same

Mr. Cuyler noted the following:

- Wilbur Smith Law Firm
- Met with City Attorney
- Represents several municipalities and one county
- Staff recommendation to approve the agreement

Public Comment

Barbara Cooley asked if there was an accounting of how the Causeway toll revenue used; concern of parallels, does City pay for material used to repair the bridge cracks.

Mayor Ruane responded:

- Objective was to look at collected toll funds
- Interlocal mandates debt was paid first
- Revenue and expenditures each year
- Make Lee County aware Sanibel would be auditing
- Split toll funds 29% to 81% when junior lien paid off
- Reason for exercise was Mayor aware of county problems
- Structural situation out of mayor's realm and speaking with Director Williams

Barbara Cooley asked if the supplemental report available or was it exempt? If exempt, could City produce a summary?

Ms. Zimomra noted that the report was exempt due to Homeland Security and corresponding to see if the report could be released. She further noted that the bridge inspection was completed and it would take about six weeks before it was released.

Mr. Cuyler noted that he was reviewing to see if the document could be released.

Discussion ensued regarding \$161,000 expenditure for the bridge report; Mayor received 3 calls from 3 different commissioners relative to the expenditure, Mr. Hyman report within 6 weeks and Clerk of Court responsible for overseeing financial affairs of Lee County

Vice Mayor Denham moved, seconded by Councilman Congress, to adopt Resolution 13-015.

Public Comment

None

The motion carried.

Mayor Ruane moved, seconded by Vice Mayor Denham, to adopt Resolution 13-023 and approve the Roy Hyman agreement.

Public Comment

None

The motion carried.

Vice Mayor Denham moved, seconded by Councilman Harrity, to approve the Wilbur Smith Law firm agreement.

Public Comment

Steve Maxwell asked how much the contract with Wilbur Smith in relation to the BP claim. Mr. Maxwell asked if there were other municipalities that had prevailed.

Mayor Ruane responded that the claim was contingent on being granted funds and the firm gets paid 25% of recovery. He stated that Council did not know if there would be any recovery.

Jason Maughan urged Council to enter into the contract. He further spoke to the maximum charged by a law firm was 25% and the pollution act requires a 3-year claim period and a 90-day requirement to notify BP of a claim.

The motion carried.

Mr. Cuyler noted that the statute of limitation was not a done deal, but needed to proceed.

- d. **RESOLUTION 13-016 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-018 AND PROVIDING AN EFFECTIVE DATE** (To budget and appropriate \$74,000 from the State of Florida Department of Environmental Protection for a recreational trails program at Pond Apple-Shipley Park. See attached agreement #T12009. This budget amendment increases the FY13 budget by \$74,000)
- e. **RESOLUTION 13-018 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-019 AND PROVIDING AN EFFECTIVE DATE** (To budget and appropriate \$20,861 for CDBG Contract #6288, through Lee County, to remove architectural barriers and provide full access to the Pond Apple Trail. See attached agreement. This budget amendment increases the FY13 budget by \$20,861)
- h. **RESOLUTION 13-017 AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE OR SURPLUS FIXED ASSETS; AND PROVIDING AN EFFECTIVE DATE** (Police Department 2009 John HPX Gator & 2010 John Deer HPX Gator)
- j. **RESOLUTION 13-025 ACCEPTING A WASTEWATER UTILITY EASEMENT AND MAINTENANCE AGREEMENT FOR A PRIVATE LIFT STATION; AND BILL OF SALE AND AFFIDAVIT OF NO LIEN FOR THE EXTENSION OF A FORCEMAIN TO A SEWER COLLECTION SYSTEM LOCATED ON LIBRARY WAY FOR WELLS FARGO BANK, NA.; AND PROVIDING AN EFFECTIVE DATE**

- k. Approval of an agreement between the City and IN REM to provide grant services in the amount of \$20,000 and authorize the City Manager to execute same **AND RESOLUTION 13-019 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-024 AND PROVIDING AN EFFECTIVE DATE** (To budget and appropriate \$20,000 for grant writing services to be provided by IN REM. This amendment does not increase or decrease the FY13 budget)
- l. **RESOLUTION 13-020 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-017 AND PROVIDING AN EFFECTIVE DATE** (To appropriate \$1,211,900 of grants from the Lee County Tourist Development Council (TDC) for various projects for fiscal year 2012-13 including: 1) \$1,090,900 for Sanibel facility/beach maintenance; 2) \$71,000 for dune walkover replacement; 3) \$40,000 for beach erosion monitoring and 4) \$10,000 for beach access dune protection. See attached agreements. These are all new sources of funds for FY13 which collectively increase the FY13 budget by \$1,211,900)
- m. **RESOLUTION 13-021 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-020 AND PROVIDING AN EFFECTIVE DATE** (To transfer \$3,216 from the reserve for contingencies to the Transportation Fund for emergency signage for special events. This amendment does not increase or decrease the FY13 budget)
- n. **RESOLUTION 13-022 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-021 AND PROVIDING AN EFFECTIVE DATE** (To roll-forward \$387,920 of unspent FY12 TDC grant funds for construction of a family restroom at Lighthouse Beach. This amendment increases the FY13 budget by \$387,920)
- o. **RESOLUTION 13-024 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2013-023 AND PROVIDING AN EFFECTIVE DATE** (To appropriate \$6,000 to establish a City of Sanibel Employee Assistance Fund with F.I.S.H. This amendment does not increase or decrease the FY13 budget)

Ms. Zimomra read the title of Resolutions.

Vice Mayor Denham moved, seconded by Councilman Harrity, to adopt the above-mentioned resolutions.

Public Comment
None

The motion carried.

- b. Approval of an agreement between the City and Arcadia Police Department, Avon Park Police Department, Bradenton Beach Police Department, Bradenton Police Department, Cape Coral Police Department and Charlotte Police Department for Child Abduction Response Team and authorize the City Manager to execute same
- c. Approval of a Multi-jurisdictional Mutual Aid Agreement between the City, Cape Coral Police Department, Edison State College, Lee County Board of Commissioners, Florida Gulf Coast University, City of Fort Myers, Lee County Port Authority and City of Cape Coral and authorize the City Manager to execute same

f. Acceptance of a Florida Department of State Historic Preservation lighthouse restoration grant in the amount of \$50,000 and authorize the City Manager to execute same
Mayor Ruane moved, seconded by Vice Mayor Denham, to approve the above-mentioned items.

Public Comment
None

The motion carried.

Council recessed at 10:25 a.m.

Council reconvened at 10:35 a.m.

OLD BUSINESS

Water Quality

Update relative to the citizen fertilizer educational program

Vice Mayor Denham asked the Mayor to advise Council of his contact with Lee County Commissioners? Mayor Ruane spoke to his contact with Commissioner Mann regarding \$100,000 to contribute to the cause and he said he would support \$75,000 if the Mayor could get two other votes and have commitments from Commissioners Mann, Kiker and Pendergrass. He further explained he had not talked to Commissioners Hall, but think this would be approved once it gets on an agenda.

Vice Mayor Denham noted that he would wait until the approval of funds, and then he and Director Evans would be meeting with County staff with City Manager approval.

CITY MANAGER

Informational Items

Invitation from Lee County Board of Commissioners for a joint meeting

Ms. Zimomra noted receiving the annual invitation for a joint meeting and the last several years Council preferred one on one discussion and looking for direction.

Discussion ensued regarding the joint meeting came about due to toll discussions, calling each commissioner and progressed so far in the relationship to have a joint meeting, should be on Sanibel, tolls, integrity bridge cracks, jet skis in back bays, TDC, money issues, what would be on the agenda, Ms. Zimomra suggested staff could prepare an agenda and put on March 19th agenda and let the City Manager contact Lee County for dates.

Mayor Ruane moved, seconded by Vice Mayor Denham, to hold a joint meeting with Lee County in April and agenda to be determined.

The motion carried.

Direction from City Council regarding distressed properties

Lawn maintenance

Grass length

Ms. Zimomra spoke to direction from City Council regarding the above. She further noted that lawn maintenance and grass length was not consistent with other policies and staff recommendation was not to include.

Vice Mayor Denham moved, seconded by Councilman Harrity, to not include lawn maintenance and length of grass included in the proposed ordinance.

The motion carried.

Request to consider a Needs Assessment for the Center4Life

Ms. Zimomra noted that Council's direction was not to proceed with a new roof and HVAC. She noted that staff came to the conclusion that the most prudent approach was a needs assessment. She further noted that for a set price the Recreation Center Architect could perform the needs assessment for a low cost and begin immediately. She also noted the assessment would include:

- Treads
- Review census data
- Use of building
- What would be needed immediately and long-term needs
- Would evaluate type of rooms and parking
- Do not get renderings and site selection and would subsequent model
- Current site inadequate

Vice Mayor Denham moved, seconded by Mayor Ruane, to approve the needs assessment agreement.

Public Comment

None

The motion carried.

Conceptual Sewer Proposal Private Financing for the West Gulf Drive Sewer Extension

Ms. Zimomra explained that there was a homeowner looking at constructing a home on West Gulf Drive on a private drive beyond a public street. She noted that were a number of remote location known as Section 4 and the reason these locations were bifurcated was due to the high cost to get to these locations. She explained the owner was willing to do private financing for the sanitary installation with zero interest and \$150,000.

Vice Mayor Denham moved, seconded by Councilman Harrity, to give staff authority to negotiate an agreement that would come back to Council.

Public Comment

Barbara Cooley ask if this would affect the surrounding properties and would they be required to hook-up to the sewer and was this extension of the sewer line on West Gulf Drive or Gulf Pines?

Ms. Zimomra answered that the neighbors do concur. She explained that one neighbor has a septic system and another grinder and also were interested in participating. She further explained that one of the three was interested in purchasing another property.

The motion carried.

Approval of Actuarial Reports

General Employees Retirement Plan Actuarial Report for October 01, 2012

Sanibel Police Officers Retirement Actuarial Report for October 01, 2012

Other Post-Employment Benefits (OPEB) October 01, 2012 Actuarial Report

Ms. Zimomra noted that certain Councilmembers have reports and also noted that due to the audit the reports needed to be approved.

Vice Mayor Congress and Mayor Ruane noted that both Boards approved their respective reports.

Ms. Zimomra stated there was a memo regarding the OPEB report and work with the actuarial on the assumptions relative to OPEB.

Mayor Ruane moved, seconded by Councilman Congress, to approve the 3 above-mentioned reports.

Public Comment
None

The motion carried.

Departmental Reports

Final 2012 Sanibel Police Department Crime/Call Statistics

October Grease Trap Report

Planning Department Permit Activity Report January 2013

Planning Department Code Enforcement Activity Report January, 2013

Building Department Monthly Revenue Report, January 2013

Status of Capital Projects

Recreation Departmental Revenue and Membership Report through January, 2013

Committee Annual Reports and Appointments Timeline

Ms. Zimomra called attention to the routine staff reports. She further noted that staff would have recommendations relative to committee statuses.

Vice Mayor Denham as for the liaison list and Ms. Zimomra answered the list would be on the agenda at Council's reorganization meeting.

CITY ATTORNEY'S REPORT

None

COUNCIL MEMBERS' REPORT

Mayor Ruane noted he was currently the chair and treasurer of MPO. He further spoke to the 2035 transportation plan that affected Sanibel negatively did not take place and assured the public there were no funds. He further stated that his focus as chair was where the revenue, projects to maintain was and what was left over for new projects.

Report regarding attendance at the Friday, February 08, 2013 Tourism Development Council (TDC) meeting

Update regarding Impact Fees discussion with Lee County Board of Commissioners

Mayor Ruane was invited to discuss and thought answers were needed for transparency, many questions that needed an answer, how to replace revenue stream, adjustments due to impact fee loss, would be a cash flow issue, various credits associated with impact fees that were given when acquiring land, borrowed over \$50 million for future impact fee collections, as a result as the meeting is was found that the money was taken from undesignated reserves and have the funds reclassified as a due to and from, \$21 million loan due in September for State Road 951, money used to acquire property, but the road would not be developed between 2035 to 2041, impact to Sanibel to quantify and make sure everything is transparent. He further stated that at the last MMP meeting of Lee County Commissioners to have a 2-year moratorium with no second, then a second motion of 80% of fee with no second; guessing there would be a 50% reduction and current residential impact fees is about \$12,500 and the 4th highest county in the state and need to look at overhead expenditures with tough decisions.

Report regarding attendance at the Sanibel Police Officers Pension Board on Monday, February 18, 2013

Mayor Ruane gave the following report:

- Last year made contribution and \$1 million to unfunded liability
- Assumptions measure with 16% return in investments
- Need to redefine turnover

- Payroll reflect true dollars that need to be contributed by City
- Quantify how assumptions did in dollars and cents
- Investment a positive \$1 million and Compensation a positive \$100,000
- Turn-over a negative \$800,000 and would like to see a supplement
- Looking at mortality and changed the tables

Report regarding attendance at the General Employees' Pension Board meeting of Monday, February 18, 2013

Councilman Congress gave the following report:

- Better handle on what makes up gain or loss
- General fund books a \$1 million actuarial loss despite a 16% gain
- Turnover assumption a large factor when recognizing a loss
- Doug Lozen estimates that approximately \$500,000 was the loss
- Only 26 active members
- Function of changing reporting
- 80% always the funded ratio
- 2-years ago funded ratio was 51% and due to Council action it was now 67%
- \$4 million in fund and regular \$2 million
- \$19 million in assets
- \$28 million liability
- Investment policy discussion

Discussion ensued regarding Council attendance at the General Employees' Pension Board meeting, professional members on the Board, gone through managing assumptions and bringing them down from 7.5 to 6.75, prudent to review assumptions, need to go through the same exercise with the turnover rate, when discussion was completed relative to the investment policy it would then come to Council, City Manager to work Mayor Ruane and/or Councilman Congress and Mr. Lozen for the turnover assumption and cost associated to perform this in the amount of approximately \$2,000 to \$3,000, which the City would pay for rather than the plan and Council agreed by consensus.

Vice Mayor Denham passed out his ideas relative to Council's workshop on Commercial Redevelopment Workshop.

Councilman Jennings spoke to attending the Red Tide talk held at SCA. He further spoke to attending a luncheon with Senators Benacquisto and Gatez.

PUBLIC COMMENT

Barbara Cooley spoke to the County practice of using impact fees. She also spoke to the way Lee County and their staff works relative to issues of money. She asked was it legal to purchase land with impact fee monies.

Discussion ensued regarding how Lee County fund transfer works and Mayor Ruane spoke to asking the legal question on internal fund transfer.

Karen Storjohann asked what other municipalities were looking at Lee County's funding efforts.

Mayor Ruane noted that the 5 Mayors got together and advised Commissioner Kiker that this was not a good move.

Vice Mayor Denham spoke to today being the last day bills could be filed and so far nothing has been filed.

There being no further business the meeting was adjourned at 11:29 a.m.

Respectfully submitted by,

Pamela Smith, MMC
City Clerk