

7.

First Reading of an ordinance and scheduling of public hearing.
(Note: The First Reading is not a public hearing and no discussion or testimony will be taken unless the ordinance changes permitted conditional or prohibited uses as required by State Statute.)

- a. **ORDINANCE 08-016 PROPOSING AN AMENDMENT TO ARTICLE III, "LEGISLATIVE", TO ADD A NEW SECTION 3.19 TO THE SANIBEL CITY CHARTER (AS CODIFIED) TO BE ENTITLED "PROHIBITION OF MOTORIZED DEVICES ON PATHS"; PROPOSING A CHARTER PROHIBITION ON THE USE OF A MOTORIZED CONVEYANCE OR DEVICE ON THE BICYCLE / SHARED USE PATHS WITHIN THE CITY OF SANIBEL, SUCH MOTORIZED CONVEYANCE OR DEVICE TO INCLUDE, BUT NOT BE LIMITED TO, ANY MOPED, MOTORSCOOTER, MOTORIZED BICYCLE AND/OR ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE (ALSO COMMONLY AND COMMERCIALY SOMETIMES KNOWN AS A SEGWAY); PROVIDING AN EXCEPTION FOR USE OF SUCH MOTORIZED DEVICES FOR OFFICIAL PURPOSES; PROVIDING AN EXCEPTION FOR USE OF MOTORIZED DEVICES CERTIFIED AND APPROVED UNDER THE AMERICANS WITH DISABILITIES ACT; 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 (Councilman Pappas) (Staff received a subsequent memo from Councilman Pappas enclosed in agenda packet requesting that this item not be scheduled for second reading/public hearing)**

MEMORANDUM

To: Sanibel City Council Members

From: Peter Pappas, Council Member

Date: September 26, 2008

With regard to the Ordinance which has been placed on the Agenda for first reading on October 7, 2008, relating to a proposed Charter Amendment prohibiting motorized vehicles from the Shared Use Paths, please note that it is my request that the Ordinance not be scheduled for second reading.

In light of additional research into this matter, I feel it is in the City's best interest not proceed with this particular ballot question.

PJP
9/26/08

**CITY OF SANIBEL
ORDINANCE 08-016**

AN ORDINANCE PROPOSING AN AMENDMENT TO ARTICLE III, “LEGISLATIVE”, TO ADD A NEW SECTION 3.19 TO THE SANIBEL CITY CHARTER (AS CODIFIED) TO BE ENTITLED “PROHIBITION OF MOTORIZED DEVICES ON PATHS”; PROPOSING A CHARTER PROHIBITION ON THE USE OF A MOTORIZED CONVEYANCE OR DEVICE ON THE BICYCLE / SHARED USE PATHS WITHIN THE CITY OF SANIBEL, SUCH MOTORIZED CONVEYANCE OR DEVICE TO INCLUDE, BUT NOT BE LIMITED TO, ANY MOPED, MOTORSCOOTER, MOTORIZED BICYCLE AND/OR ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE (ALSO COMMONLY AND COMMERCIALY SOMETIMES KNOWN AS A SEGWAY); PROVIDING AN EXCEPTION FOR USE OF SUCH MOTORIZED DEVICES FOR OFFICIAL PURPOSES; PROVIDING AN EXCEPTION FOR USE OF MOTORIZED DEVICES CERTIFIED AND APPROVED UNDER THE AMERICANS WITH DISABILITIES ACT; 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

WHEREAS, the Sanibel City Council wishes to submit to the Sanibel electorate, by referendum, a proposed amendment to **The Sanibel Charter, Article III – Legislative**, in order to add **Section 3.19 - Prohibition of Motorized Devices on Paths**;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sanibel, Florida:

SECTION 1: Proposed Amendment to The Sanibel Charter, ARTICLE III - Legislative, in order to add **Section 3.19 - Prohibition of Motorized Devices on Paths**.

An election shall be held to submit to the Sanibel electorate the following proposed amendment to the Sanibel Charter:

The Sanibel Charter, ARTICLE III - Legislative, Section 3.19 - Prohibition of Motorized Devices on Paths, is hereby added, with underlining indicating additions and strikethrough indicating deletions, subject to approval of the electorate as set forth in this Ordinance, to read as follows:

Section 3.19. Prohibition of Motorized Devices on Paths.

Sanibel's bicycle paths / shared use paths (hereinafter the "Paths") are an important island resource to cyclists, skaters, pedestrians and pet walkers of all ages and physical capabilities. The ability of Sanibel's citizens, residents, guests and visitors to safely enjoy and use the Paths is a civic asset of Sanibel which must be preserved and guarded. The operation on the Paths of a personal conveyance or device which is in any way motorized including, but not limited to, a moped, a motorscooter, a motorized bicycle, an electric personal assistive mobility device (as defined in Section 316.003, Florida Statutes, and commonly and commercially sometimes known as a Segway) or any other device which has as its motive power anything other than human effort (hereinafter, individually and collectively a "Motorized Device") is unsafe. Therefore in the interest of safety:

(a) It shall be unlawful and prohibited to operate or make available for such purpose, any Motorized Device on the Paths, or any functional equivalent thereof, in the City of Sanibel. Penalties for violation shall be determined and assessed in accordance with the provisions of Sanibel Code Section 66-171 as constituted on May 31, 2008.

(b) This prohibition does not apply to a public officer or employee in their official performance of duty or to a person operating a motorized wheelchair or other device which is specifically designed for, and being used for transportation of, a person with a mobility impairment, and which device has been specifically appropriately certified and approved under the Americans With Disabilities Act of 1990, as amended, and regulations thereunder.

SECTION 2. Date of Election

An election shall be held on March 3, 2009, to submit to the Sanibel electorate the above-proposed amendment to the Sanibel Charter as set forth in this ordinance.

SECTION 3. The Lee County Supervisor of Elections shall conduct the election in conjunction with the regular Sanibel election scheduled for March 3, 2009.

SECTION 4. The City of Sanibel shall reimburse the Lee County Supervisor of Elections for the additional costs of the election, if any, applicable to the City of Sanibel's Charter Amendment Referendum as authorized by this ordinance.

SECTION 5. Ballot Language

The ballot for such election shall read substantially as follows:

**OFFICIAL BALLOT
SANIBEL CHARTER AMENDMENT REFERENDUM
ARTICLE III, SECTION 3.19**

**CHARTER AMENDMENT PROHIBITING MOTORIZED DEVICES ON
THE CITY'S BICYCLE / SHARED USE PATHS**

Shall Section 3.19 be added to the Sanibel Charter to prohibit the use of motorized devices including, but not limited to, a moped, motorscooter, motorized bicycle and/or electric personal assistive mobility device (commonly and commercially sometimes known as a Segway) on the bike / shared use paths of the City of Sanibel, but providing exceptions for official use and motorized wheelchairs or other devices certified and approved under the Americans With Disabilities Act?

Shall the above-described amendment be adopted?

YES _____ NO _____

SECTION 6. The City Clerk, or designee, is hereby authorized and directed to provide public notice of the election in accordance with the law.

SECTION 7. Effective date of Ordinance.

This Ordinance shall take effect immediately upon adoption.

SECTION 8. Effective date of Charter Amendment.

The charter amendment to be submitted to the Sanibel electorate as provided herein shall become effective upon approval of a majority of those qualified voters voting at the March 3, 2009, election called herein.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this ____ day of October, 2008.

AUTHENTICATION:

Mick Denham, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: *Kenneth B. Cuyler* *9/22/08*
Kenneth B. Cuyler, City Attorney Date

First Reading: October 7, 2008

Publication Date: _____

Second Reading: _____

Vote of Council members:

Denham _____

Ruane _____

Jennings _____

Johnston _____

Pappas _____

Date filed with City Clerk: _____