

**SANIBEL CITY COUNCIL REGULAR MEETING
FEBRUARY 17, 2009**

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

Mayor Denham gave the Invocation and led the Pledge of Allegiance.

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

Public Comments

Karen Storjohann spoke to resignation of Robert Duffy, Planning Director.

Herb Rubin agreed with the previous comments and a letter to the editor regarding the Sanibel Plan. He also spoke to solar panels being on the Chinese Embassy and none on the U. S. Embassy. He also suggested charging for the use of plastic bags.

Ms. Zimomra stated that the Florida Legislative preempted municipalities from regulating the use of plastic bags.

Mayor Denham spoke to an invitation to attend a conference in California regarding energy. He further stated that the Rockefeller Foundation would pay for the trip.

Ms. Zimomra stated that the only new city building had \$1.3 million dollars of green features. She further stated that at Council's goal setting meeting was to look at energy savings at City facilities.

Elaine Anderson spoke to beach rights. She further spoke to paying taxes as a part-time e resident, but can not have an "A" beach permit.

Bea Fulmer spoke to the City's pepper policy. She related that \$7,000 was spent to remove Brazilian Pepper. She also spoke to pepper being next to her, but there were not City funds to continue removal.

Ms. Zimomra spoke to the following:

- Continue to proceed with pepper removal
- Lost a year after hurricane Charlie
- Reissued notices
- There were environmental funds to remove pepper
- Continue to do pepper control

Rae Ann Wessel spoke to B.I. G. Everglades Foundation Presentation, March 04 at 7:30 p. m. regarding the US Sugar land acquisition. She also spoke to her appearance on WGPU "Gulf Coast Live Program for US Sugar land acquisition. She further stated the SFWMD was holding bi-monthly regional planning meetings; "The River of Grass" would be held in Belle Glade, Palm Beach Community Center Thursday, February 5th and April 16th a meeting would be held in Ft. Myers. She also spoke to the Swamp Cabbage Festival the upcoming weekend.

Ed Seibert thanked the City Manager and City Attorney for taking a salary reduction. He further spoke to individually taking measures to reduce and save energy.

Council Comments

Councilman Harrity spoke to read from the Island Reporter a quote from Claudia Burns regarding her reason for attending Council and Planning Commission meetings. He also spoke to the need to film Council meetings.

Discussion ensued regarding Councilman Jennings requesting videoing Council meetings for the last 2 years, and Council decided to put the above-mentioned item on a future agenda.

Councilman Jennings agreed with Councilman Harrity regarding the need to video Council meetings.

Councilman Pappas spoke to the comments regarding beach permit "A" and the need to revisit the issue of who was allowed to purchase the permit.

Council agreed to bring back discussion at a future meeting.

Mayor Denham stated that Friday, February 20th there would be an event at the wildlife refuge honoring volunteers. He asked is Vice Mayor Ruane would He further spoke to Robbie Roepstorff would be receiving the Paulette Burton Citizen of the Year Award at the Lee County Commissioner meeting this morning. He further mentioned that the City Clerks trip to Holland was not being paid by the City. He spoke to his concern that a vendor operating on the Causeway and had registered his concern to Commission Bob Janes and found out it was a Lee County Parks and Recreation decision.

Discussion ensued regarding a hotdog cart pulled by a vehicle operating on the Causeway, the Causeway Islands a family recreation area, fishing pier was described to have a fast food chain, and Sanibel does not want to see litter on the Causeway Islands.

Patty Sprinkle spoke to the trash left by people using the Causeway Island and Sanibel residents go out and clean the islands.

Planning Commission Report

Commissioner Paul Reynolds gave the following report of the February 10, 2009.

- Approved housekeeping modification for the temporary permitting process that would go to City Council
- Approved a dredging permit of a boat dock
- Approved of a house on West Gulf

Councilman Pappas spoke to an email from Mr. Reynolds. He read the email. He thanked Mr. Reynolds for his email and stated there was no reason to censor others comments. He also stated that people would be able to see through comments.

Mr. Reynolds stated he had no comments regarding the use of appointed office to further their personal opinions.

Discussion ensued regarding the email, listening to the Planning Commission meeting tape, and surprised at Councilman Pappas' comments as Council liaison.

CONSENT AGENDA

g. **RESOLUTION 09-020 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-021 AND PROVIDING AN EFFECTIVE DATE** (to reduce the city manager's salary by 15% for the period January 29, 2009 through September 30, 2009 and to transfer the funds to the Public Works Department's Street Division overtime budget. This amendment does not increase or decrease the FY09 budget)

Ms. Zimomra read the title of Resolution 09-020.

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to adopt Resolution 09-020.

Discussion ensued regarding Councilman Pappas voting no and did not advocate the decision of a reduced salary and Councilman Jennings thanking the City Manager and City Attorney taking a reduction in salary.

Public Comment
None

The motion carried with Councilman Pappas voting in opposition.

- b. **RESOLUTION 09-013 ACCEPTING AN INGRESS AND EGRESS EASEMENT FOR WASTEWATER FACILITIES, FROM WEST SHORE OF SANIBEL CONDOMINIUM ASSOCIATION, INC.; AUTHORIZING THE CITY MANAGER TO RECORD SAME IN THE OFFICIAL RECORDS OF LEE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE**
- c. **RESOLUTION 09-012 ACCEPTING A PERPETUAL UTILITY EASEMENT; ACCEPTING A GRANTOR'S AFFIDAVIT AND BILL OF SALE FOR WASTEWATER FACILITIES, FROM ROYALE TERN CONDOMINIUM ASSOCIATION, INC.; AUTHORIZING THE CITY MANAGER TO RECORD SAME IN THE OFFICIAL RECORDS OF LEE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE**
- d. **RESOLUTION 09-021 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-020 AND PROVIDING AN EFFECTIVE DATE** (to transfer \$11,381.22 from the Sanibel Isle Canal Dredging Fund to reimburse the City for costs incurred in May 2007 for advertising the creation of a new assessment district. This amendment does not increase the FY09 budget)
- e. **RESOLUTION 09-017 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-022 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$20,900 in matching funds from the South Florida Water Management District for the planned restoration of a former sanitary sewer package site on environmentally sensitive land. A copy of contract #4600001691 is attached. This award provides a portion of the \$29,100 in matching funds that are required under the terms of a U.S. Fish & Wildlife Service grant for this \$50,000 project. The City of Sanibel will contribute the remaining \$4,100 of in-kind services previously budgeted and \$100 in permit fees. This amendment increases the FY09 budget by \$20,900)

Ms. Zimomra read the titles of Resolutions 09-013, 09-012, 09-021, and 09-017.

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

Public Comment
None

The motion carried

- a. **Approval of minutes – January 20, 2009 Regular Meeting**
- f. **Acceptance of a West Coast Inland Navigation District (WCIND) grant in the amount of \$35,000 for the Sanibel boat ramp dredging and repair and authorize**

the City Manager to execute same. (No matching funds are required. This grant increases the FY 09 budget by \$35,000)

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to adopt the January 20, 2009 minutes and acceptance of the WCIND grant

The motion carried.

OLD BUSINESS

Water Quality Issues

Reports from City Council members

RESOLUTION 09-018 OF THE CITYCOUNCIL OF THE CITY OF SANIBEL, FLORIDA, SUPPORTING THE ACQUISITION OF U.S. SUGAR LANDS AND ADJACENT LANDS SOUTH OF LAKE OKEECHOBEE BY THE STATE OF FLORIDA TO RESTORE A CONTINUOUS SOUTHERN FLOW-WAY TO THE EVERGLADES AND TO SIGNIFICANTLY REDUCE EXCESSIVE WATER RELEASES FROM THE LAKE TO THE RIVERS AND ESTUARIES; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 09-018.

Discussion ensued regarding Councilman Jennings spoke bringing a resolution to the Florida League of Cities Board of Directors meeting, the need of a flow way south, and would help in the long-term.

Councilman Jennings made a motion, seconded by Mayor Denham, to adopt Resolution 09-018.

The motion carried.

Healthy Beach legislation – Senate Bill 1296 and House Bill 707

Mayor Denham spoke to the history of this request.

Public Comment

Barbara Cooley spoke to COTI making suggestions in a letter regarding beach closures and that testing needed to be done at least 2 miles from the affected site.

Dr. David Berger spoke to a responsibility to the island residents and the need for an island initiative to identify other sites. He further spoke to Paul Reynolds being a respected man.

Larkin Hammond spoke to an entity called the “Surf Riders”.

Caloosahatchee Watershed Working Group (CWWG) Monday, February 23, 2009, from 1pm – 4pm, at the Economic Development Office, meeting room, 3rd floor, 12800 University Drive, Ft. Myers

Mayor Denham stated this was a group called together by Commissioner Hall regarding like issues and he had been invited to attend.

Council agreed to Mayor Denham’s attendance.

Ms. Zimomra stated that Dr. Loflin would also attend.

Council recessed at 10:00 a. m.

Council reconvened at 10:12 a. m.

Mayor Denham spoke to the need for discussion of the civility policy.

Staff Reports

Status report on Council and staff work regarding Water Quality

Dr. Loflin spoke to the following:

- List of Multiple water quality challenges
- Would address on-island issues
- List incorporates Lake Okeechobee, in-island, beach issues
- Efforts to improve water quality in the water basin
- City had protocol in the event of a beach closure
- Protocol of sampling with adjacent areas of the island
- Residents adjacent to any closed site should remember that area would also be affected
- Health Department performs weekly testing
- City reviews the testing report and do additional samplings
- Last time Bowman's Beach was closed staff performed additional sampling
- Information on acronyms

Discussion ensued regarding the report was requested by Council at the February 03 meeting, what would the City do if there were large deposits of red drift algae, Dr. Loflin answered that with a large value the recommendation would be to do everything possible, he further spoke to using environmentally sensitive techniques, was a budget issue, Dr. Loflin stated that a policy was approved by Council and staff was ready to take action, discovered no method to take the algae out of the water effectively, Dr. Loflin agreed, discovered no environmental sound mechanical method to remove algae, Dr. Loflin stated that there were several different techniques and when removing algae the testing would show what technique was least damaging, state does not allow beach disturbance at certain times of the year, Dr. Loflin stated that in February Snowy Plover and Sea Turtle nesting season begins, Ms. Zimomra stated that there was a contract in place to do hand raking, no matter what kind of mechanical devices used there would be no way to assure that the beaches would be cleaned before nature would take care of it, Dr. Loflin stated that clean-up was expensive and no way to tell when nature would take care of the problem, need to qualify how the plan would be used and no way to assure the plan would allow to problem to be taken care of totally, Dr. Loflin stated that there was no safe guard that red drift algae would stay off the beaches, and critical for lands to be purchased and the flow way south to begin, residents should be aware of concise identification and adjustments must be made, since there was no algae on the beach the discussion was academic, Council put a plan of action in place when there was algae on the beach 2 years before, as algae goes back in the water it perpetuates the problem, there was no plan that was to fix every plan, Council would do whatever it takes to remove algae from the beaches, if algae was allowed to stay on the beach it would cause additional problems, Dr. Loflin stated there would be an opportunity to take the nutrients out of the mix and an overwhelming volume should be removed, was there anything that Councilmembers were uncomfortable with concerning red drift algae, Councilman Jennings speaking with the governor and research removing algae from the water, Council proactive, and two years ago the community did not get the results they were looking for and got mad.

Public Comment

Herb Rubin spoke to understanding the source of the problem and the solution once the algae arrives on beaches. He agreed that there was no way to clean-up the beach and let the community know that Council would do everything that could be done to clean the beaches if algae arrives on beaches.

Dr. Harries spoke to his understanding of the red drift algae; to do a demonstration and understand the source of intrusions. He suggested the plan be put on the website.

Discussion ensued regarding the environmental concern of destroying Sanibel beaches, Council concluded that testing could only be done when algae was on the beach, ask the City Manager to make sure the policy was on the website.

Karen Storjohann spoke to TDC funding being dedicated to a new baseball stadium. She further spoke to getting a commitment from TDC that algae on the beaches was a problem and the removal should be a priority funding item.

Vice Mayor Ruane stated that 20% of TDC funds were committed for a baseball stadium. He further stated that the TDC assured Sanibel officials that there would be clean beaches. He also stated that Sanibel was well represented at TDC meetings.

David Bath spoke to the fundamental solution on beaches would not be found until the nutrients from Lake Okeechobee were sent south.

Mayor Denham stated that when there is little or no flow from Lake Okeechobee 100% of pollution from nutrients comes from urban pollution.

Barbara Cooley spoke to the agreement that a large quantity of algae on the beach would be removed as environmentally sensitive a manner as necessary. She further spoke to Councilman Pappas pointing out that the removal would be very expensive.

Sonia Smith spoke to understanding how Council would manage large amounts of red drift algae on the beaches.

Budget Issues

Public Works Department Utilities Workers offer to alter the uniform procedures and reduce City expense by \$2,000

Ms. Zimomra spoke to meeting with staff regarding the budget. She further called Council's attention to the memo in the agenda packet regarding the staff recommendation to save money and the union does not oppose. She suggested accepting this recommendation for one-year.

Council agreed and thanked employees for the savings effort.

Councilman Jennings made a motion, seconded by Councilman Harrity, to accept the recommendation for one year.

The motion carried.

Services identified for consideration and evaluation for contracting

Ms. Zimomra stated staff was following Council's request for identification and evaluation of outsourcing certain work. She called Council's attention to the information in the agenda packet. She further stated that specifications would be prepared, brought back to Council for approval and advertise.

Discussion ensued regarding the City equipment investment, look at all options to cut costs.

Mayor Denham made a motion, to direct staff to prepare specifications and bring back to Council for discussion.

The motion carried.

Mayor Denham spoke to very little public participate at other public meetings.

Update on City Pension Plan Issues

Report on the Police Officers' Pension Plan Board of Trustees Meeting Wednesday, February 04, 2009

Report on the General Employees' Retirement Plan Board of Trustees Meeting Wednesday, February 11, 2009

Discussion regarding the current General Employees' Retirement Plan Ordinance concerning the Board of Trustees

Vice Mayor Ruane spoke to the following:

- Statute prohibits more than 5 board members for the Police Pension Board
- Adopted ordinance establishing membership on Police and General Employee Pension Boards
- Investments a Board decision
- Advertising was always done for members
- Public notice always posted for meetings
- General Employees Pension Board approved removing itself from the International Market
- Performance out performed most indexes
- General Employees Actuarial Plan due in March
- Police Pension 50/50 allocation between bonds and stocks
- General Employees Pension Board allocated more to bonds
- Legislature reviewing the legislation to change funding to a 30-year requirement to a 20-year requirement
- Unfunded liability like a mortgage
- Unfunded liability was the amount if all employees decided to retire at a given time

Discussion ensued regarding pension plan within state guidelines, actuary felt the plan was in good shape, actuary also felt freezing salaries would have a significant impact on plan, no penalty paid to remove funds from state pool, Sanibel one of the first to discuss with Alex Sink, CFO Florida, withdraw funds, first removed funds in March, 2007, Council discussed SBA loans with Senator Saunders and Representative Aubuchon winter of 2007, letters to Dr. Francis to open liquidity, actuary suggested putting a small investment in the pension plan, one individual could not make a decision regarding any one issue, gave previous explanation of assumptions, general employees pension board formed in 2002, actuary indicated that an adjustment should be made, 20 year plan would accelerate the pension plan, Council goal was to take a look at pension plans, and no discussion on a defined, the City paying no penalty when removing funds from the State investment pool, Senator Saunders spoke to problems with the state funds, documentation of staff and Vice Mayor Ruane meeting and requesting funds be removed from the SBA, unanimous on Council of the direction to go with state investments, Sanibel staff the first to meet with Alex Sink and staff,

Public Comment

Dr. Harries asked if there was still money in Pool B.

Vice Mayor stated that Pool B was frozen and there was \$1.2 million and there had been no loss.

Ms. Zimomra stated that TDC was having a special workshop March 11 at 9:00 a. m. on funding matters. She further spoke to the numerous meeting to follow-up to the direction from Council on the Nerita and Donax Streets traffic matter as an educational matter rather than an enforcement matter. She stated that after evaluating the options in the "Uniform Traffic Control Manual" (state guidelines) and consistent with Council's direction not to direct trucks to other streets; staff recommendation was to write every business along Gulf Drive and re-route trucks away from Nerita. .

Council decided to discuss the following.

CITY MANAGER

Informational Items

Status regarding development of an educational traffic program for Nerita and Donax Streets

She spoke to staff meeting regarding the direction from Council to attempt to address the Nerita and Donax Streets through an educational effort. She passed a letter to Council and the audience. She further spoke to evaluating the option evaluating the options in the "Uniform Traffic Control Manual" (state guidelines),

and to be consistent with Council direction not to direct trucks to other street the recommendations were as follows:

- Write every business on Gulf Drive to re-route trucks to other streets

Public Comment

Larkin Hammond spoke to 13 signatures from Nerita residents wanting a Council decision. She further stated wanting to remain a residential street and getting signatures for a petition, as well as email questions that Nerita was a residential street. She also asked more consideration.

Council agreed with the letter.

Upcoming agenda item for the Lee County Planning Agency to amend the height restrictions to permit a 170- foot communication tower on Captiva

Ms. Zimomra spoke to receiving correspondence from former Councilmember Carla Brooks Johnston.

Building Department Monthly Revenue Report Building Department Monthly Permit and Inspections Report Planning Department Permit Activity Report Planning Department Code Enforcement Activity Report December Causeway Traffic Count

Ms. Zimomra spoke to the agenda packet information. She spoke to the single-family home permits being noteworthy.

Letter from James Muwakkil, President of the Lee County National Association for the Advancement of Colored People (NAACP) Unit # 5110 regarding a proclamation

Ms. Zimomra spoke to receiving a letter requesting a proclamation and Council could invite Mr. Muwakkil to the March 3rd Council meeting. She further stated that February was actually Black history month.

Councilman Jennings read a portion of the City of Tampa proclamation. He further stated he would like include the Gavin and Walker family contributions.

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to direct staff to prepare a proclamation for March 3rd Council meeting.

The motion carried.

CITY ATTORNEY'S REPORT

Proposed State Beach Access legislation

Mr. Cuyler stated that 8a was an advertised public meeting. He spoke to the public beach legislation as follows:

- Florida League of Cities would taken action against the proposal
- Would keep an eye on the legislation

Discussion ensued regarding

COUNCIL MEMBERS' REPORT

Report on Black History Society, Inc., Black History Month Celebration and premier of Voices from Sanibel: "A Black Experience"

Councilmember Jennings spoke to attending the function. He complimented the tribute and contributions.

Yvonne Hill thanked Council for the comments. She stated that Tom Krieger wrote the play and would like to bring the play to Sanibel.

Council suggested contacting the Schoolhouse Theater.

Mr. Gavin spoke to bring the play to Sanibel.

Councilman Pappas spoke to him being the Planning Commission liaison and asked if Councilman Harrity listened to Mike Valiquette's comments. He further spoke to Mr. Valiquette's previous comments regarding Section 86-43. He also stated that he would respond as necessary at any Planning Commission meeting. He also stated that he was not sure he was the best Council liaison.

Discussion ensued regarding the need for the liaison to give a Council report and further discussion at a future Council meeting.

Public Comment

Karen Storjohann spoke to raising a concern of the lack of civility at Planning Commission meetings. She further stated her suggestion that the Planning Commission adopt Council civility policy had not been done and there needed to be a message that a civility policy should be adopted.

Council recessed the meeting at 12:04 p.m.

Council reconvened the meeting at 1:17p.m.

NEW BUSINESS

RESOLUTION 09-019 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 Resolution 09-019.

Mr. Cuyler spoke to the following:

- Advertised per statute 4 consecutive weeks before Council adopts the uniform method of collection
- Final hearing in July
- Hurricane threat and City evacuated the previous date of adoption
- Provide for assessment hearing

Mayor Denham made a motion, seconded by Councilman Harrity, to adopt Resolution 09-019.

Discussion ensued regarding allows for the assessment to be placed on the tax bill, Council would hear arguments, take public input, and Council would make a final decision.

Public Comment
None

The motion carried.

Mr. Cuyler advised Council that all notices were sent to the president of the homeowners association and the final hearing would be July 17, 2009.

PUBLIC COMMENT

None

There being no further business the meeting was adjourned at 1:23 p. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk