

**SANIBEL CITY COUNCIL REGULAR MEETING
APRIL 07, 2009**

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

Vice Mayor Ruane gave the Invocation and led the Pledge of Allegiance.

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

PRESENTATION(S)

Proclamation designating April 12th through 18th as National Library Week

Mayor Denham read and presented the proclamation to Margaret Mohundra, Executive Director Sanibel Library, members of the Library Commission and staff members.

Margaret Mohundra, Executive Director thanked Council for the proclamation.

Proclamation designating April as Water Conservation Month

Mayor Denham presented proclamations to Tim Gardner, President of Island Water Association (IWA), and Debra Teasley, representative from South Florida Water Management District (SFWMD).

Tim Gardner, IWA President and Debra Teasley, SFWMD thanked Council for the proclamations.

Staff presentation regarding the Draft Shared Use Path Master Plan

Ms. Zimomra, City Manager spoke to the significant involvement through City Departments. She also stated that the plan was reviewed by the Parks and Recreation Committee and their recommendations were incorporated within the plan.

Jimmy Jordan, Acting Planning Director gave a brief PowerPoint presentation.

Ms. Zimomra stated that there would be a resolution on the April 21st Council meeting allowing Council to formally adopt the Shared Master Plan.

Public Comment

Richard Caulkins spoke to COTI's approval of the plan.

Ric Base, Chamber Director spoke to approval of the Chamber Board.

Karen Storjohann spoke to her concern of the page regarding page 5 "Implementation Program". She also spoke to the need to put a Shared Use Path on Dunlop Road when the road is repaved.

Hazel Schuller spoke to the importance that the Planning Commission reviewed the plan. She spoke to page 23/24 and page 88 "Profile of Users". She also stated that segways were only mentioned by tours and moving to a less trafficked area, possibility Rabbit Road.

Darla Letourneau spoke to working with a former Lee County employee and forming a County-wide collation providing bike and pedestrian, which was initiated, award of a grant to develop a plan and would soon be adopted by Lee County Board of Commissioners. She recommended that Sanibel appoint someone to serve on the Bike and Pedestrian Committee, as subcommittee of MPO.

Discussion ensued regarding bike paths issues discussed at the last MPO meeting.

Bill Satoris spoke to the Sanibel Bike Club working with City staff to develop the plan.

Billy Kirkland spoke to his support of the plan. He presented a check to the City for additional bike racks.

Discussion ensued regarding shared use paths an integral part of Sanibel, working with Lee County for funding sources, address funding sources, letter from Sanibel Bike Club suggesting a separate line item in the budget to address the Shared Use Paths, Summerlin Road bike path connection to Causeway on MPO list and 5% stimulus funds would go to bike paths, discussed Council's previous decision not to put plan before the Planning Commission and bring back at the April 21st Council meeting for approval.

Ms. Zimomra stated that any plan was a living document and any changes to the plan in the future would be incorporated in to the plan.

Mayor Denham made a motion, seconded by Councilman Jennings, to approve the draft Shared Use Master Plan.

The motion carried.

Public Comments

Claudia Burns requested that item c on the Consent Agenda be removed for discussion. She spoke to her participating in the Transportation Study and was clear that the study was more than just getting people to the refuge. She further spoke to the survey including questions about on-island public transport.

Rae Ann Wessell spoke to 2 items of legislative information from Director Sole, Department of Environmental Protection (DEP); 1) assessment fee to water bottling companies on bottle water shipped to other areas; 2) affects to quality of water and could fund TMDL's; and 3) HB1349 allowing professional engineers, surveyor and geologist to self certify in the form of a letter.

Hazel Schuller spoke to SB488 beach accesses, asked for an update and suggested the topic go to the Planning Commission.

Mayor Denham stated SB488 was on the City's watch list and being watched by the City's Governmental Affairs Consultant.

Mr. Cuyler stated City was monitoring the SB488 and was being perceived as an enhancement, but City staff sees there were problems with the bill.

Discussion ensued regarding bills being passed that would not have passed in previous years due to the economy, residents could contact the governor and request a veto, and Ms. Zimomra stated that nationally special groups were pushing more public beach access.

Allen Lasek spoke to attending the ATPPL workshop and the funds being spent with a pre-determined outcome. He further spoke to discussion regarding traffic back-up on Periwinkle Way.

Karen Storijohann spoke again to participating in the ATPPL surveys, which appeared to be pushed by Lee Tran for transportation only on the refuge. She further suggested that the City would be negatively impacted if there were multiple stops on island with large buses.

Billy Kirkland spoke to a Jet Ski vendor operating on the Causeway Islands and was there a way to get a copy of the business license.

Ms. Zimomra stated that it was Councils past direction that vendors on the Causeway Islands were maintained by Lee County.

Council advised that residents could make a public records request for information.

Council Comments

Councilman Pappas spoke his previous comments on Lee Tran transportation study and not sure the study was good for Sanibel. He further spoke to the study not being good for the community.

Councilman Jennings passed a flyer for a conference called "Imagine Solutions 2010". He spoke to the date of April 21/22, 2010. He further spoke to attending the Horizon Council. He also spoke to funding for low income families. He also passed out information regarding solar power provided by "Sky Shades". He also spoke to holding a green workshop.

Discussion ensued regarding having a green workshop discussion during the Goals Workshop on April 21, 2009, Mayor pursuing discussion with green vendors, and the need to set a date for a green workshop.

Vice Mayor Ruane echoed Councilman Pappas' concerns about the ATPPL study.

Councilman Harrity spoke to a public transportation program between Lee County and Fort Myers Beach with joint funding.

Planning Commission Report

Commissioner Holly Smith gave a report of the March 31, 2009 Planning Commission meeting as follows:

- Report from Mayor Denham
- Discussion regarding the fertilizer ordinance
- Reviewing vacation schedules
- 3 applications for April 14 meeting

Council recessed at 10:41 a. m.

Council reconvened at 10:51 a. m.

Second Reading and Public Hearing LISTEN TO ALL!!!!

ORDINANCE 09-003 AMENDING CHAPTER 78 GENERAL PROVISIONS, ADDING A DEFINITION OF TEMPORARY USE; CHAPTER 82 ADMINISTRATION, ARTICLE III. PLANNING COMMISSION, DIVISION 3 SPECIFIC AUTHORITY, CLARIFYING STANDARDS FOR TEMPORARY USES; CHAPTER 126 ZONING, ARTICLE III, TEMPORARY USE PERMITS, AMENDING SECTIONS 126-61. PURPOSE AND SCOPE, SECTION 126-62 APPLICABILITY, SECTION 126-63 GENERAL REQUIREMENTS, TO CLARIFY AND ADD TEMPORARY USE PERMIT REQUIREMENTS; AND INSERTING A NEW SECTION 126-64, SPECIAL CONDITIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 09-003.

Mr. Cuyler spoke to the following:

- Currently in the code, but moved to a new section page 4 under general requirements read, "temporary use permits may be issued for a period not to exceed one year and on further application the Planning Commission review, such permits maybe extended with or without additional standards and conditions required for an additional one year period for good cause shown"
- The maximum on a temporary use permit is a 2 year period
- Policy consideration to allow applicants temporary permit end at some point or the ability to show just cause and extend the temporary permit on a case-by-case basis

Discussion ensued regarding example given of the medical center, should there be exceptions, Mr. Cuyler stated under the example given, the medical center would have to come in and reapply and go through the application process again, Mr. Cuyler further stated that wording could be changed to allow extensions and for good cause was not defined and the Planning Commission may or may not find that financial problems of an entity may not be a good cause, should be an opportunity to allow an extension, Mr. Cuyler stated that there were only a couple words that would allow an entity to come in and apply on a year-to-year basis for good cause, temporary permits must go to the Planning Commission for appropriate review and Mr. Cuyler suggested the wording of, "for additional one-year periods for good cause shown," Mr. Cuyler stated that wording would require an entity to come in each year to show good cause that they were entitled to an extension.

Mr. Cuyler advised that for land code matters the Planning Commission was required to provide Council with a recommendation on the ordinance that Council would be considering for adoption.

Discussion continued regarding the Planning Commission recommending the ordinance as is to Council for adoption.

Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Ordinance 09-003 with amendments suggested by Mr. Cuyler.

The motion carried with Councilman Pappas voting in opposition.

ORDINANCE 09-004 AMENDING CHAPTER 114 SUBDIVISIONS, DIVISION 4 MAJOR SUBDIVISIONS, SECTION 114-87. PROCEDURE BY INSERTING A NEW SUBSECTION (5) ENABLING CITY COUNCIL, WITH A REPORT AND RECOMMENDATION FROM THE PLANNING COMMISSION, TO GRANT AN ADDITIONAL PERIOD OF TIME FOR A PRELIMINARY MAJOR SUBDIVISION PLAT TO REMAIN VALID BEYOND THE ADDITIONAL TWO YEAR EXTENSION APPROVAL GRANTED BY THE PLANNING COMMISSION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 09-004.

Mr. Cuyler stated there were individuals that plats have been approved and due to various reasons extensions would be requested. He also stated that there was a requested to extend and broaden the definition, applicants before Planning Commission on April 14 requesting an extension, and would want to consider this request was due to eagles building a nest that stopped construction. He stated that there was a current mechanism allow an extension if requested. He advised that if there was another 40 plats for consideration there may need to be new language, but if Council wanted to amended the ordinance to allow the Planning Commission to have more discretion in extending plat periods direction could be given to staff to amend the ordinance.

Discussion ensued regarding Planning Commission reviewing 2 separate plats for an extension request, Planning Commission could/could not grant an extension, if application pulled with no activity may not want to grant extension, but if there were mitigating circumstances may want to address with an extension.

Public Comment

Mike Armstrong spoke to rhythm and harmony and quid pro quo to qualify for requested extension; such as developer taking reasonable steps to be less disruptive as possible, i.e. Wulfert project and should be part of the deliberations.

Discussion ensued regarding someone beginning a project should be completed, and thinking of preliminary work without construction was the focus.

Steve Hartsell, Attorney spoke on behalf of Mark Anderson and Lamdale Company. He stated that it was not unusual for a permitting process to take 2 years, because the standards were higher the resulting projects were completed at a higher standard. He also stated that it was important proposal because it gives Council the flexibility to recognize there were circumstances that would require a 2-year extension. He spoke to the suggested extension being very limited due to environmental concerns relating to endangered or protected species and their habitat. He urged Council not to limit extension language and explained that there was another phrase that read, "due to unforeseen site or environmental conditions beyond the control of the applicant," and the aforementioned phrase would give Council the additional flexibility to look at other environmental circumstances that might not have been seen at the time of the application, and would allow an affirmative answer to an applicant that took 2-years in the application process.

Mr. Cuyler stated that he would suggest continuing the item until April 21st.

Discussion ensued regarding 09-003 and 09-004 unanimous recommendation from the Planning Commission, may need further discussion by Planning Commission, Mr. Cuyler stated regarding Ordinance

09-003 the issue was not raised in front of the Planning Commission, but Ordinance 09-004, the issue was raised late in the process, and Planning Commission thought the question was too far in the development and did not address the issue, Mr. Cuyler stated that if Council was so inclined the issue could be taken back to the Planning Commission on Tuesday for consideration.

Councilman Harrity made a motion, seconded by Mayor Denham, to continue the second reading and public hearing for Tuesday, April 21, 2009, and direct staff to draft further language to accommodate Council's concerns and refer back to the Planning Commission for discussion.

The motion carried.

First Reading and Public Hearing

ORDINANCE 09-005 APPROVING AN INCREASE IN RESIDENTIAL DEVELOPMENT DENSITY AS SET FORTH AND APPROVED IN PLANNING COMMISSION RESOLUTION NO. 09-05 WHICH APPROVES A CONDITIONAL USE TO DEVELOP A 14-UNIT INCREASED DENSITY BELOW MARKET RATE HOUSING UNIFIED RESIDENTIAL CLUSTER DEVELOPMENT (CONSISTING OF SEVEN DUPLEX STRUCTURES) ON A 2.37 ACRE PARCEL OF LAND LOCATED AT 1466 COURT PLACE, WHICH IS DIRECTLY EAST OF THE INTERSECTION OF MAIN STREET AND CENTER STREET IN SANIBEL CENTER SUBDIVISION; PROVIDING A FINDING THAT SUCH INCREASE IN RESIDENTIAL DENSITY CAN BE APPROVED BY CITY COUNCIL WITHOUT THE NECESSITY OF APPROVAL BY A MAJORITY OF THE QUALIFIED CITY ELECTORS SINCE SUCH APPROVAL CONSTITUTES AN EXCEPTION PURSUANT TO SECTION 3.10.2 OF THE CITY CHARTER; INCORPORATING AND APPROVING PLANNING COMMISSION RESOLUTION 09-05; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 09-005.

Public Comment

Billy Kirkland spoke to this project enhancing the neighborhood.

Mr. Cuyler spoke to the following:

- Project approved by the Planning Commission
- Due to increase of density the issue must go to Council
- No motion needed
- Planning Commission approved

Discussion ensued regarding making the project greener, Mr. Cuscaden stated that this would be a LEEDS project with green enhancements, half of the financing comes from the Florida Community Loan Fund and 50% was specific to green construction, and reviewing heat recovery system and everything was based on costs.

Council scheduled the Second reading and public hearing for April 21, 2009 at 9:30 a. m.

CONSENT AGENDA

Claudia Burns requested that item (c) be removed for discussion. Councilman Pappas pulled item (a). He stated he would like to absent himself from voting for item (a).

- c. **RESOLUTION 09-035 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-027 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$1,000 from the Florida Department of Law Enforcement (FDLE) for a bicycle to be used for the purpose of reducing crime and improving public safety. This budget amendment will increase the FY09 budget by \$1,000)

Ms. Zimomra read the title of Resolution 09-035.

Public Comment

Claudia Burns asked what the purpose of the bike was for, where would it be ridden and what was the useful life.

Ms. Zimomra answered that there are particular bike specifications and safety features to meet police standards. She further stated that there would not be a dedicated officer and if there were issues on the Shared Use Path the bike would give another opportunity. Ms. Zimomra answered that a useful life would be given the equipment.

Mayor Denham made a motion, seconded by Councilman Harrity, to adopt Resolution 09-035.

The motion carried

d. **RESOLUTION 09-037 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-028 AND PROVIDING AN EFFECTIVE DATE** (To: 1) reduce the budget for interest earnings to recognize the decrease in current interest rates; 2) offset the revenue decrease by decreasing the legal services professional services budget (\$40,000), deferring the purchase of a truck (\$23,000) and the purchase of additional water level recorders (\$44,740). This amendment increases General Fund FY09 ending fund balance by \$7,740 and decreases the budget by \$100,000)

f. **RESOLUTION 09-038 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-029 AND PROVIDING AN EFFECTIVE DATE** (to: 1) budget \$40,000 in grant revenue from the Sanibel-Captiva Conservation Foundation and US Fish & Wildlife for the treatment of invasive exotic species on conservation land; 2) use grant funds received and expenditure reductions to reduce transfers into this fund by \$100,000; 3) reduce other contractual expense by \$60,000 and; 4) redirect a \$100,000 transfer from the Franchise and Occupational License Fund to the General Fund. This amendment decreases the FY09 budget by \$60,000)

Ms. Zimomra read the titles of Resolution 09-037 and 09-038.

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to adopt Resolutions 09-037 and 09-038.

The motion carried.

a. Approval of minutes – February 25, 2009 Special Meeting, March 03, 2009 Regular Meeting and March 17, 2009 Regular Meeting

Councilman Pappas spoke to his disagreement of the February 25th meeting and stated he would not be present for the vote. Councilman Pappas left the room.

Mr. Cuyler stated that Councilman Pappas was saying that he would not be present for the vote. He further advised that if a Councilmember was present for a vote, the vote must be given unless there was a conflict of interest.

Mayor Denham made a motion, seconded by Councilman Harrity, to adopt the minutes of February 25, 2009, March 03, 2009 and March 17, 2009.

The motion carried. Councilman Pappas not present

e. Acceptance of a letter of confirmation for a \$40,000 grant from the U.S. Fish and Wildlife Service Coastal Program #401817J126 to be administered by Sanibel Captiva Conservation Foundation (SCCF) for the treatment of invasive exotic species on conservation land

b. Approval of a Multi-jurisdictional Mutual Aid Agreement between the City of Sanibel and Florida Department of Law Enforcement (FDLE) and authorize the City Manager to execute same

Ms. Cuyler stated that there was an indemnity clause within the agreement and if there were certain claims there may be a need to indemnify other parties.

Mayor Denham made a motion, seconded by Councilman Harrity, to approve the above-mentioned Consent Agenda items.

The motion carried. Councilman Pappas not present

OLD BUSINESS

Water Quality Issues

Reports from City Council members

Attendance at the March 23, 2009 Caloosahatchee Watershed Working Group

Mayor Denham gave the following report:

- Meeting called by Commissioner Hall
- Reason was to be sure that locally participates were on the same page
- Issues regarding Lake Okeechobee
- No water quality element to the new proposed reservoir

Dr. Loflin stated this was a general way to bring persons together working on the watershed plan, which was now in the funding stages and sponsored by the Visitors and Convention Bureau.

Ms. Zimomra stated that Dr. Loflin was a committee member and James Evans was appointed the chair of the Caloosahatchee Watershed Council.

Discussion ensued regarding C-43, no water quality element, water quality issues, Commissioner Hall does not agree meeting would attempt to put together a white paper on items of agreement and indicate items of concern, and the next meeting was scheduled for April 30, 2009

Public Comment

Barbara Cooley spoke to the City taking legal action to stall construction of the C-43 until there was a water treatment area.

Staff Reports

Lake Okeechobee Releases Update

Dr. Loflin spoke to the following:

- Lee County taken the lead
- Teleconference for weekly decisions
- Regular flow 650 cubic feet per second (base flow to the river)
- Time of drought everyone completing for water
- ACE over rode SFWMD for releases continuing in a pulse manner
- Reviewing through SCCF monitoring sites
- No significant impacts
- Improve system upstream

Update report regarding the Draft Verified Impaired Waters List for Charlotte Harbor

Dr. Loflin spoke to the following:

- Total Maximum Daily Load (TMDL) establishment process by DEP identified impairable waters
- Bowman's Beach and Sanibel River on the list
- 2007 series of beach advisories issued at Bowman's Beach for high levels of bacteria
- 2008 no instance or advisories issued

South Florida Water Management District newly proposed acquisition map for U.S. Sugar Corporation lands

Dr. Loflin spoke to the following:

- Map shows revised US Sugar Land acquisition
- \$530 million
- Total acreage remains the same of 72,000 acres
- Options for additional acreage
- 72,000 acres available immediately to store water by SFWMD
- Proposal to allow for 3,000 acres in 2 years to be available for design and construction of flow way
- Lease amount change to \$150 per acre

Discussion ensued regarding businesses in the acres willing to use best management practices and would address job situation, April 16/17 SFWMD Advisory Committee would be meeting in Ft. Myers regarding the future design, C-43 relies on the Certificates of Participation, COPS bill could be damaging, and Representative Williams stating the bill was symbolic and did not see the Governor Crist signing the legislation.

Public Comment

Herb Rubin spoke to his disappointment with the US Sugar land acquisition.

Councilman Jennings spoke to a discussion with Wayne Daltry, Smart Growth who would like to be appointed as a member to the SFWMD and asked if Council would support that suggestion.

Discussion ensued regarding Mayor as part of the RPC made a recommendation, a letter of recommendation, and Council agreed to a letter sign by Mayor Denham.

Councilman Jennings made a motion, Councilman Harrity, to direct staff to write a letter of recommendation supporting Wayne Daltry as a member of SFWMD.

The motion carried.

Steve Maxwell spoke to Council's interested in the Caloosahatchee River problems, U. S. Sugar provided economic stalwart, concerned about surrounding area once U.S. Sugar leaves. He suggested looking at Senator Bennett's legislative, the need to maintain the integrity of the Caloosahatchee River and work as a team.

Legislative Update

Legislative Watch List

Mayor Denham spoke to different legislation as it appears on the watch list.

Councilman Jennings spoke to his concern regarding a legislative body that has time invested and could be distracted. He further stated there was a chance to override the governor's veto and find out if that was the case.

Discussion ensued regarding any vetoes would not come back to the floor, and Mr. Cuyler would provide the information.

RESOLUTION 09-036 OF THE CITY COUNCIL OF THE CITY OF SANIBEL EXPRESSING ITS INTENT TO DECLARE A SPECIAL ASSESSMENT TO FUND A PUBLIC IMPROVEMENT AS AUTHORIZED BY THE HOME RULE PROVISION OF THE FLORIDA CONSTITUTION, GENERAL LAW AND THE SANIBEL CHARTER FOR THE PAVING OF JUNONIA STREET BETWEEN NERITA STREET AND DONAX STREET; ADOPTING THE PROCEDURES SET FORTH IN CHAPTER 170, FLORIDA STATUTES; PROVIDING FOR A DESCRIPTION OF THE NATURE AND LOCATION OF THE IMPROVEMENT, THE MANNER OF LEVYING ASSESSMENTS, THE ESTIMATED COST AND THE DESCRIPTION OF THE LANDS UPON WHICH THE ASSESSMENT

SHALL BE LEVIED, AND OTHER MATTERS REQUIRED BY CHAPTER 170, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 09-036.

Mr. Cuyler, City Attorney explained the following:

- Start of assessment process of paving requested of residents
- Payment portioned to all lots adjoining to the paved road

Councilman Harrity made a motion, seconded by Mayor Denham, to adopt Resolution 09-036.

The motion carried.

Council recessed the meeting at 12:25 p.m. to go in to Executive Session as follows:

EXECUTIVE SESSION RELATING TO UNION NEGOTIATIONS. In attendance shall be only the following persons:

Sanibel City Council

Sanibel City Manager Judie Zimomra

Sanibel City Attorney Kenneth Cuyler

Jim Isom, Director of Administrative Services

Sylvia Edwards, Finance Director

Wayne Helsby, Labor Counsel (Allen, Norton & Blue)

Council reconvened in to open session fat 2:00 p.m.

Councilman Pappas stated he earlier spoke to property owners domiciled on Sanibel and those property owners not domiciled. He stated the State provides to discrepancy between what one group receives for each group. He spoke to being in favoring of resident property owners and none-residents property owners should be allowed the same opportunities.

Discussion regarding Beach Parking Permits Eligibility and providing staff direction including the possibility of draft legislation of “A” parking permits by altering the definition of persons eligible for “A” parking permits to include property tax payers and Discussion of DRAFT Ordinance

Discussion ensued regarding the for the same parking advantage to resident property owner and non-resident property owner, Major Murray stated there would be no changes in “A” parking areas, some gulf front residents may feel they would be inundated with increased usage, Ms. Zimomra stated that the internal mechanism had been established with recreation fees and could be used for parking fees, should not have a system that keeps parking areas vacant, West Gulf Drive do have different areas that have 4 parking spaces each and suggest that half of them remain open for AB permits, Mr. Cuyler advised Council to direct staff to bring an ordinance back for consideration.

Ms. Zimomra stated that staff would recommend reviewing fees at budget time. She further stated that fee analysis was being completed.

Public Comment

Karen Stori johann asked how would the new requirement of renter’s ability to acquire an “A” permit be tracked, if there were annual rentals.

Ms. Zimomra stated that a renter would receive the resident rate with proof and staff would only go to the property map if there was a discrepancy.

Billy Kirkland spoke to his agreement of the proposal and asked if Kirkland bike rental could pay a fee so scooters could have a parking permit at Bowman’s’ Beach?

Ms. Zimomra stated in the draft legislation that was not incorporated and had not been a staff recommendation. She stated that Mr. Kirkland educates renters of the annual parking fee and was asking if there was a way to come up with a sticker to address Mr. Kirkland's request.

Councilman Pappas made a motion, seconded by Vice Mayor Ruane, to direct staff to draft an ordinance and bring back to Council on April 21st for first reading.

The motion carried with Councilman Jennings voting in opposition.

Discussion regarding handicapped accessibility to Shared Use paths via segways

Vice Mayor Ruane spoke to the following:

- Population continued to age
- Request to use segways by the handicapped persons on Shared Use Paths
- Should discuss the request

Discussion ensued regarding someone using a motorized cart on the shared use path, Mr. Cuyler stated that the aforementioned cart was an approved ADA device, segways did not fall under the ADA category, how does someone get a handicapped sticker for a segway, any state law regulating segways as a handicapped vehicle, Mr. Cuyler answered no and if it fell under federal law as an ADA vehicle then federal law would override any state law consideration, but was not addressed in state or federal law, how would someone's handicapped be established, Mr. Cuyler stated that if a person came in with a handicapped permit they would apply for a permit to use the segway, a permit would be issued, staff would monitor the use and the user would be able to present something to a police officer, how would the capability be tested, Mr. Cuyler stated the City would not, he further stated that ADA requirements question could not be asked, state law where segways could/could not be used, Mr. Cuyler stated that segways could be used on the road at 25 m.p.h. under state law, Mr. Cuyler advised that Council could restrict usage, may not be a huge increase in sales, should allow the use of segways when a person was handicapped, Council could ban segways due to safety, Mr. Cuyler advised that Council did ban due to the questionable safety issue of segways on the Shared Use Paths and an issue could arise if safe for a person with handicapped versus segway use by a non-handicapped person, Billy's Rentals had a use permit under certain conditions, how many years does use become perpetual, Mr. Cuyler stated the segway tour business permanent use, certain rules mandated for segway tours, he further stated that there were 25 conditions the business was subject to that was not spoken to in the state law and the ordinance indicates that Council would look at the business for segway uses in the future, someone with a handicapped would use a segway anywhere, political aspect of segway use, Mr. Cuyler stated segways could be used on tours, but not personally, no legal difference in owner or rental in segway usage, and intent was to bring issue forward for discussion.

Public Comment

Karen Storjohann spoke to segways not being on the approved ADA list. She further said that the approved list offers certain access rights.

Larry Schopp spoke to convincing his father to give up his driver's license. He also spoke to his concern of a handicapped person using a segway with impaired reflexes.

Victor Greto spoke to wife having knee problems and can not operate a bike. He further stated that if you pay money for a piece of machinery you should know how to operate. He also stated that he and spouse would sign a waiver.

Hazel Schuller spoke to her agreement of segway should be allowed on Shared Use Paths.

Mr. Cuyler stated that staff would review the issues which Ms. Schuller spoke.

Wayne Ponader spoke to his disagreement of using segways on the Shared Use Paths.

Discussion ensued regarding the adoption of the 2005 segway ordinance, the issue of some paths being 6 feet in width, using segways on streets everywhere where bike were approved, and Mr. Cuyler would issue an opinion regarding segways on City streets.

Richard Johnson spoke to there being room on island for segway use. He further spoke to operator responsibility.

Billy Kirkland spoke a second time that segways and seeing-eye dogs not ADA approved devices.

Dottie Greto spoke to not being able to ride 8 miles on her bike.

Discussion ensued regarding staff concern allowing segways on the street, and continue discussion to the April 21 Council meeting.

CITY MANAGER

Informational Items

Designation of April's City Council liaison to the Planning Commission liaison

Ms. Zimomra stated that Council asked staff to come back to Council for the liaison. Vice Mayor Ruane would attend the April 14th meeting.

Direction to staff regarding applications for "COPS" federal grant and an April 21, 2009 deadline

Ms. Zimomra spoke to a memo in the packet apply for the COPS grant, sign a contract and the first 3 years the total cost was paid for and the fourth year the City would pay in total.

Discussion ensued regarding hiring any police officers, Ms. Zimomra stated that any vacancy would be filled with part-time officers, this grant an unfunded mandate and Ms. Zimomra stated that without Council direction staff would not apply for the grant.

Status and review of the 2009 Hurricane Plan

Ms. Zimomra stated there were changes in the plan and staff encourages people to get their hurricane permits early. She further stated there was a new category for people that manage island properties.

Discussion regarding the Farmers Market

Ms. Zimomra stated the five week trial had ended and with Council direction staff would prepare regulations.

Public Comment

Ric Base, Chamber Director agreed with the Farmers Market and spoke to his concern of competing with the two supermarkets. He volunteered to help staff look at the issues.

Ms. Zimomra asked if Council objected to have staff look at drafting regulations.

Hazel Schuller spoke to her agreement of the Farmer's Market.

Council agreed.

Letter dated February 27th from the Arbor Day Foundation congratulating the City on achieving Tree City USA status for 2008 for the 20th straight year

Letter dated March 23rd awarding the City Clerk a scholarship to attend the May, 2009 International Institute of Municipal Clerk conference

Shade Structure Dedication at Community Park – Monday, April 13, 2009 11:30 a.m.

February, 2009 Causeway counts

Informational items only.

Council Liaison List

Upcoming Council schedule

Budget Calendar

Goals Workshop – April 21, 2009 2:00 p.m.

All provided in the agenda packet for information purposes only. Ms. Zimomra stated that the last several years Council submitted goals to the City Manager in advance and those proposals were put together and brought forward at the Goals Workshop.

Upcoming Agenda Items

Committee Appointments

Ms. Zimomra stated that in the packet were the applications and requests from those wishing to serve on City Committees. She further stated that if Council wanted to schedule interviews to work with the City Clerk. Council requested an attendance list of Committee members.

Time line for advertising and interviews

Press Release

Matrix of Applicants and Applications

Committee Orientation – Wednesday, April 22, 2009 2:30 p.m. to 3:30 p.m.

Ms. Zimomra stated that an orientation was scheduled as mentioned above.

Status report regarding the State Board of Administration (SBA)

Vice Mayor Ruane spoke to the following:

- Last year book value was reduced by 25% by utilizing the penalty reserve
- Several ongoing legal issues with broker/dealer have a desire to settle obligations, but with value changes with assets it had been difficult
- Premise was they solicited and sold
- Due to the lack of activity traded market for Fund B securities their market value is an estimate of the current liquidation value that had been determined through a collaborative process among various pricing experts and sources in the market place
- Estimates represent an attempt to reasonably reflect distressed circumstances that currently exist and not actually realizing that securities could be liquidated at the time could be more or less of the estimate
- Estimate of current market value may not be predicted the ultimate amount likely be realized from the securities
- Fund B investment objective is to maximize the present value of the distributions
- The judgment of the portfolio manager that fair market value could exceed the current value
- Extending liquidation period to a 7 to 9 year horizon
- Issue was that recently the Financial Accounting Standards Board changed market to market valuation
- Financial Accounting Standards Board bowed to political pressure from Congress and changes its rules so the beginning and current quarter alone of securities of bank financial instrument no longer was market to market price; someone would actually pay for it today next to nothing in an active market
- Banker could value it by what they think someone would pay for it in the future
- Complication being threefold; 1) book value today 25% than market value and able to adjust the City's book value so the 25% decrease by utilizing the penalty that was set aside and financial impact was mitigated; 2) Florida pursuing legal alternatives because they were sold item that they did not have full disclosure and instruments hard to value
- Accounting term market-to-market and what happens when something was not regularly traded it was difficult to value
- Talked to investment advisor, not looking to settle and would continue to make monthly distributions from fund B and the desire to pay out

Police report regarding sand removal from the beach

Ms. Zimomra stated that for the last 6 months large holes such as 20 feet long and 5 feet deep. She stated that with the changing economy people may be using beach sand and shell from the beach. She also spoke of a complaint and fining a person for taking shells and sand for landscaping up front. She further stated that if the public sees this kind of activity please call the police department.

CITY ATTORNEY'S REPORT

Request for direction to proceed with the exchange of .6 acres owned by the City (Block 14, Lots 11, 13, 19, 25; Block 13, Lot 6) for .6 acres owned by Sanibel-Captiva Conservation Foundation (Block 17, Lots 1-4; Block 6, Lot 5), with both properties located in Sanibel Gardens Subdivision and both designated Environmentally Sensitive Lands Conservation District, in order to consolidate SCCF property along the Sanibel River and City property along Island Inn Road as approved by a majority vote of the electorate on March 3, 2009

Mr. Cuyler explained the following:

- SCCF Board met and would like to go forward with the exchange
- Asked for a motion to direct the Attorney to provide proper documents

Mayor Denham made a motion, seconded by Councilman Harrity, to direct staff to prepare documents.

The motion carried

COUNCIL MEMBERS' REPORT

Attendance to the Florida League of Cities Board Meeting and Tallahassee Day

Councilman Jennings gave the following report:

- Cost of trip deferred by Florida League of Cities
- Resolution received well by Board
- Spoke to different Senators and Representatives
- Spoke to Director Sole (DEP), Secretary of State and the Governor

Public Comment

Hazel Schuller spoke to SB 488 regarding the beach access bill.

Attendance to the Police Officers and Firefighters Pension Trustee School May 18 through 20 Tallahassee

Report regarding the Special General Employee Pension Board Meeting of Thursday, March 26th and Special Police Pension Board Meeting Wednesday, April 01, 2009

Vice Mayor Ruane spoke to increases the General Employee Pension Board to nine (9) people.

Mr. Cuyler stated that if Council would direct staff to amend the ordinance.

Vice Mayor Ruane made a motion seconded by Councilman Pappas, to amend Ordinance 02-006 and responsibilities and expand by 2 members and bring back to Council for consideration

The motion carried.

Public Comment

David Bath spoke to unfunded liability for both plans increased from \$9 to \$15.5 million and need to find \$.5 million to fund the mandated liability. He further spoke to the assumption of return should be 7.5% and would not have that return this year and the continued number of retirees and the salaries that employees were receiving and not estimating 90% of salaries. He agreed with the need of projections. He suggested getting a second opinion of pension commitments for the next several years.

Vice Mayor Ruane spoke to:

- Police Pension numbers achieved 8%
- Asked for additional information with different snapshots
- Another change was the actual funding changed to 30 years from 20 years
- Define what the actuarial should do

- 60% was turn over
- Salary was 8%
- May be other elements to be identified

Vice Mayor Ruane spoke to his interest in attending a Police Firefighter Pension Trustee training in May.

Council agreed with the Vice Mayor attendance.

Report from Meeting with US Senator Nelson

No report.

COUNCIL COMMENT

Councilman Pappas spoke to the absence of press at Council meetings. He also spoke to the fact that City needs to get information to the public and elections moved from November to March. He also spoke to 85% of the electorate voted to incorporate.

Discussion ensued regarding percentage of electorate since elections moved from November to March.

PUBLIC COMMENT

Mike Gillespie spoke to moving the municipal elections in March from November was because the supervisor could not continue municipal elections in a general election year.

Karen Storjohann spoke to land given to the City to put in the Shared Use Path system, and Ms. Zimomra stated that land was not given to the City, but the City was given an easement along Periwinkle Pines in exchange for other consideration. She suggested that Darla Letourneau take the position on the Lee County committee.

Ms. Zimomra spoke to the following:

- Periwinkle Pines was not looking for a path due to the City's long-term list

There being no further business the meeting was adjourned at 16:10

Respectfully submitted by,

Pamela Smith, MMC
City Clerk