

9. **CONSENT AGENDA**

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

CITY COUNCIL SPECIAL MEETING FEBRUARY 25, 2009

Mayor Denham called the meeting to order at 10:00 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.

Mayor Denham spoke to the reason the special council meeting was scheduled for today being that the City was in financial crisis. He read the civility policy previously adopted by Council. He gave the following as an outline for the meeting.

- Review the current City financial position
- Hold Council comments to a minimum
- Questions directed through the Mayor and speakers should give their name for the record.

Councilman Jennings stated he thought the meeting might be moved.

Mayor Denham asked to see if the crowd increased before deciding to move the meeting the B. I. G. Arts, which was prepared as a back-up meeting place.

Discussion regarding recent misrepresentations regarding the City's financial status and leadership

Ms. Zimomra requested that Sylvia Edward, Finance Director to come forward for discussion. She explained the information being passed out to the public and Council in that Page 1 was information previously distributed and Page 2 was a summary of all budget amendments adopted this year.

Sylvia Edwards gave the following report:

- Page 2 report was previously provided to Council in December 2008
- Schedule of audited ending fund balance from FY 2003 to FY07
- Un-audited ending fund balance of FY08
- Last column adopted ending fund balance FY \$9.6 million
- Included \$8 million in reserve
- \$1.596 million available for appropriations
- Un-audited ending fund balance to roll forward for FY 09 of revenues more than budgeted of actual expenditures were \$2.1 million
- Forward \$11.7 million based on the budget
- Page1
- First column shows the adopted budget of \$1.6 million
- \$275,00 reserve for contingency
- \$6,997 for compensation adjustments
- \$4.5 million reserve for disasters
- \$315,000 reserved for insurance deductible
- \$1.2 million for environmental initiatives
- Mandatory 17% cash flow equal to \$2,068,000
- \$350,000 sewer repayment annually for \$3.5 million loan to construct the reuse system
- \$350,000 moved to undesignated to be used for appropriations
- Total reserve \$9.6 million
- 3 budget amendment 1) \$290,000 to decrease operating cost, whereby increasing the reserve to contingencies; 2) \$7,500 for accounting cost incurred in recovering FEMA funds
- Total increase to reserves was \$282,500 with a grand total of \$550,750

- Additional reimbursement for Hurricane Charley \$410,508
- Increased undesignated ending fund balance from \$1,596,000 to \$2,006,000
- FY 08 un-audited budget \$2.1 million
- Provide \$4, 166,000 undesignated appropriations
- Total undesignated available funds - \$12,463,000
- Another budget amendment to decreases expenditures by \$1.2 million
- Total in other funds available for appropriations \$1.4 million
- Total amount available for appropriations \$13.9 million

Ms. Zimomra stated Ms. Edwards had prepared a status report of cash on hand. She further explained that when cash on hand was discussed the time of year also included the collection of property taxes and at this time the collection was approximately 75% and the single largest source of funds.

Mr. Edwards summarized cash-on-hand as follows:

- \$16.8 deposited into qualified public depositories regulated by Florida Statute 280
- \$20 million invested in treasury bills
- Florida State Board Administration Fund B \$1.235 million
- \$15,477 release from Fund A to Fund B
- \$18,000 near maturity
- Total cash investments \$38 million
- \$8 million in ad valorem taxes collected
- \$6.5 million in reserve accounts for debt services
- \$3 million reserved capital projects
- \$6 million for sewer project
- \$14.5 million available for appropriations

Discussion ensued regarding allocated 5% for uncollectible funds for real estate taxes, Ms. Edwards stated collected 75%, which was within .5% of last year's collection, Mayor chosen to use the power of incumbency an election issue in to Council chambers, could have used a more appropriate form, be assured that those citizens whom were indicated that misrepresented the leadership be able to speak, 4 COTI members be able to sit at the staff table to have the opportunity to speak to the COTI ad, was the meeting an election issue or an appropriate meeting, Mr. Cuyler answered that there were numerous election issues that were City issues and his understanding was that the Mayor called the meeting due to community members expressed concerns about the financial condition of the City, he continued that the meeting was a legal meeting and the Charter provides that any Councilmember could call a meeting for public purpose, Vice Mayor Ruane received by email the press release by the City and asked if Ms. Edwards would read the 2nd to the last comment as follows:

Ms. Edwards read as follows: "Upon releasing this statement City of Sanibel Finance Director Sylvia Edwards, CPA, CGFO, CPFO stated significantly strengthening reserves was combined with conservative budget revenue and expenditure estimates have positioned as well for the current economic climate."

Public Comment

John Harries spoke to charges made by COTI and the City finding the ad inaccurate based on what was used.

Mayor Denham asked Council what they wanted to do.

Vice Mayor Ruane asked if Dr. Harries' comments could be expressed during public comment.

Dr. Harries stated that the group would like to respond and COTI would like the opportunity to respond with their experts.

Ann Yarnel spoke to political campaigns being filled with lies and other things. She suggested that if the Mayor had a problem with his campaign there was other ways to get his message out to the public.

Gordon Knooce spoke to Council procedure, the COTI ad and the City should have the ability to release the facts.

Sam Bailey spoke to the operation of the election and how much he cares for the island. He further spoke to his support of the incumbents.

John Carney spoke to the meeting getting turning to a political rally and asked if it would continue as a political rally.

Mayor Denham asked there be no further political statements.

Billy Kirkland asked if the City was in financial distress. He asked how the City compared to other governmental entities. He spoke to appreciation of the answers provided by staff.

Ms. Edwards answered no.

Ms. Zimomra stated that it was important to remember that Sanibel was not divorced from global and national economic conditions. She further stated staff had attempted to do with Council's very clear direction with this and all Council's in her 7-year tenure was to position the City for the current economic climate. She also stated that this year through collective bargaining agreements all employees with the exception of one re-classification did not receive a wage increase. She explained that staff's job was to give the facts and there was approximately \$13.9 million in undesignated reserves for a variety of expenses. She further explained that some reserves were in designated categories, such as hurricanes, and not appropriate for the staff to give the condition of the City and the City was affected by the current economic conditions. She stated that this past year the property values decreased by 5.9% and the City was able to absorb the decrease due to reserves and factually there were challenges in the current climate.

Mayor Denham spoke to meeting with several Mayors and most municipalities were unable to balance their budget

Barbara Cooley turned her time to Jim Lavelle.

Jim Lavelle spoke to being a member of COTI and spoke to the following:

- pension plans unfunded by \$12 million
- reality was a report from the actuarial as of October 01, 2007
- assumptions based on prior employment history
- fund suffer significant losses
- assess invested in the stock market
- possible short fall was \$15 million
- COTI addressed the shortfall
- 30 year employee could retire at 90% of the last 5 years of employment

Vice Mayor Ruane spoke to the following

- May, 2008 a Council goal was to strengthen the investment policy
- September budget finalized
- October Vice Mayor Ruane appointed liaison to Pension Boards
- 3 meetings General Employees
- 2 meetings Police Pension
- Meetings open to public
- Actuary attended 3 separate times
- Significant time given to fund liability of 30-years possible changed to 20-years
- More contribution needed due to the change
- Great community participation
- Pension Board enhanced with knowledge
- Legislature reviewing the way it is funded
- Actuary assured that in 30 years there would be no unfunded balance
- Funding mechanism changed by legislature

- Council enhanced things taken place by past Councils
- Employees pay for medical benefits after retirement
- Staff reviewing backward 10 years at the unfunded liabilities
- Actions of 1999 a contributing factor
- Council reviewed since May, 2008 and working with pension actuarial
- Florida statute may change for a 20-year plan rather than a 30-year plan
- Council aware of situation
- Council not complacent with the numbers
- Invited the public to pension meetings
- City funded 100% suggested by actuarial
- If funds had been adjusted by City, funds would have been lost in the market over the last year

Discussion ensued regarding the unfunded liability as a house mortgage, actuarial assured that the unfunded liability was not a crisis situation, pension packet received was a determination of a funding ratio, police pension had a 92%, general employee ratio was at 89%, if someone retired after 30 years and what was the average age of City retirees, and Mr. Isom stated average service for both plans was between 12 to 14 years and hiring mature people.

Mr. Isom spoke to speaking with the actuary regarding the ratio and it was stated that in private industry 80% was a good ratio, but the 84% for General Employee Pension and 92.2% for Police Pension was good and covered benefits to date.

Bob Holder asked that the COTI ad made a reference to employee compensation of \$86,000 per year and 29% increase over 4 years and was that statement true? He spoke to pension obligations were all about assumptions and asked the actuarial report be made public with assumptions currently in use, rate if return, future increases and pension increases. He urged that communications be straighter forward. What were the average salary of employees and the ad mention increase of 29% of employee salaries?

Discussion ensued regarding Vice Mayor quoting the actuary report, deliberations of lower assumptions and the report would be out in March, Vice Mayor stated there had been discussion regarding lowering the assumptions, a special meeting called, impact, salaries going forward, report on the City's website, and Mr. Cuyler stated the term used underfunded that from a factual point of view that there was an unfunded liability which was a normal part of any pension and underfunded means the City had not been funding the pension plan and it had been funded.

Mr. Isom stated that current situation:

Median salary after FICA	\$ 43,379
Median annual salary	\$ 47,405
Average employee annual salary after FICA	\$ 49,776
Average annual FICA cost	\$ 4,123
Total annualized salary costs	\$6,899,072
Benefit costs as % of payroll	38.6%
Total annualized benefits costs	\$2,663,041
Payroll taxes and insurances costs as % of payroll	12.2%
Total payroll taxes and insurance costs	\$ 841,687

Dick McNeill spoke to the COTI ad.

Melissa Congress spoke to the need for COTI to get involved sooner. She spoke to the pension being the pension being employees' retirement. She also spoke to the need for the meeting.

Janet McBee spoke to the pension boards across the state were highly regulated and also had an attorney and financial advisors. She further spoke to asking the attorney the pension plan compared to other plans and the answer was Sanibel was in the top 98% of pension plans.

Vice Mayor asked if the pension board was complacent?

Ms. McBee answered no.

Kurt Stendahl spoke to the average salary increase being 29%. He used the budget books of 04/05 and 08/09. He stated the methodology was as follows:

- Review operating manpower
- Manpower associated with the enterprise funds and was data distorted and her decided no
- Eliminated the Enterprise funds
- 2004 operating average salary \$56,800 and 2008 \$86,000
- Met with finance director and analyst

Discussion ensued regarding able to ascertain the significant costs of Hurricanes Charley and Wilma and able to determine the additional overtime cost and expenses, Mr. Stendahl answered reviewed the entire budget book and the need for \$10 million to cover hurricane costs, \$410,000 additional FEMA reimbursement put in the reserve line item, Mr. Stendahl took the 2 budget books 04-05 and 08-09 analyzed and concluded the data did not skew the budget, Vice Mayor Ruane stated that \$14 million was incurred during Hurricane Charley with a final reimbursement of \$10 million, would like to see the calculation of employee overtime and how it was allocated, Ms. Zimomra spoke to the calculation was the average employee compensation was \$86,200 was not verified by staff, but took the cost of salaries divided by the approved head count to get the \$86,200, Ms. Zimomra stated that the total employee costs includes salary and compensation, Mr. Stendahl used the table # 1 in COTI hand out, line item includes additional cost of employees, Mr. Isom spoke to cost incurred, such as workers compensation, number was divided by number of employees, all costs in clued workers compensation costs, flu shots, physical exams, etc., trying to minimize the staff head count and had reduced at Council's direction by 5%, misleading that the average compensation was \$86,000 because other employee costs was included, Ms. Zimomra stated that any time a residents wants to meet and go over information for clarity staff would meet with said resident, Mr. Stendahl would like to meet with Ms. Zimomra, Mr. Stendahl the 29% came from budget books, Vice Mayor Ruane spoke to numbers provided and questions with numbers and how to compare with other municipalities as mentioned in the COTI ad, Mr. Stendahl answered that a recommendation to get a better handle for employee costs was to review employee costs and average compensation for the City of Bonita Springs, Vice Mayor Ruane stated he went to the US Bureau statistics for national average for compensation and benefits, unusual things within the City, such as a Natural Resources Department, a separate Building and Planning Departments, salaries in Natural Resources were unusual, how many employees in Natural Resources, 3 employees, Planning Director, 2 support personnel and 3 planners, City of Bonita Springs does not have the 3 departments as stated, Mr. Isom stated that the 3 planners and planning directors make more than the average salary, and 2 NR employees make more than the average salary, Mr. Stendahl stated that there was a 29% increase over 4 years to total cost of employees, as well as a salary increase of 29%, Councilman Jennings stated that information above was information suggested in the ad, asked if the information was important and Mr. Stendahl answered yes, Mr. Stendahl stated table 3 had the information requested by Councilman Jennings.

A resident asked how much of the 29% over 4 years increase included additional employee costs and some cost out of City control.

Ms. Zimomra stated a benefit package was provided by employees and family coverage was not paid for by the City. She stated that the collective bargaining agreement including competitive costs.

Mr. Isom stated that the health benefit cost increased at least 20% and health benefits were negotiated and modified health insurance and co-pays increased to cut costs, both unions receive pay increases and COLA for 3 years and an employee that received an acceptable appraisal, and/or police officer that completed a physical fitness requirement or exceptional performer received up to 5.5% increase for 3 years, retention problem with police officers, water plant operators and finally offered incentives to retain them.

Vice Mayor Ruane asked that the last budget period and union negotiations, the initial expense in health costs was what? Mr. Isom answered it was 23% or \$300,000, result of Council decisions of 14%, trade off with union, Vice Mayor asked if general employee union was for 3 year contract. Mr. Isom yes, but Council

decided on 1 year agreements for general employees and 3 year with police, looked at wages and salaries were frozen.

Ms. Zimomra stated that through agreement with unions salaries were held and extended the contract.

VM also stated uniforms were given up by Utility workers saving \$2,000.

Chuck Kettelman spoke his surprise at the ad and cynical attempt by COTI and hurt the community. He also spoke that the COTI ad had hurt people looking to purchase property on the island.

Councilman Pappas stated using an instrument of government to attack citizen who put an ad in the paper, and have a right to free speech. He further spoke to Kurt Stendahl being a considerate individual.

Mr. Kettelman stated he heard that compensation in the ad was an inaccuracy with total employee costs. He further spoke to taking a stand of the City being in a financial crisis and goes over the line in a City where their visitors.

Robin Humphries spoke to the COTI ad and having a negative effect.

Ted Tyson spoke to the false statements in the COTI ad. He also asked Councilman Pappas if he was the person of information for the COTI ad and if he thought the City was in crisis.

Councilman Pappas answered no.

Jerry Riesch spoke to the COTI ad.

Jim Hanlon spoke to the COTI ad and not heard anything that refuted the COTI ad. He asked that the facts be presented to refute the COTI ad.

Discussion ensued regarding that the Finance Director stated revenues were exceeded and revenues were down, Vice Mayor Ruane stated to say the pension fund was underfunded by \$12 million was a different connotation and haven't heard what affect the \$410,000 had impacts the compensation, and pension meetings open to the public.

Sandy Ahlers spoke to the importance that all intentions were good.

Maureen Valiquette spoke to the COTI ad.

John Kramer spoke to advertisements of the 2005 election and was found guilty of election violations. He further stated that there was no meeting called by Council.

Mayor Denham stated that he called the meeting because he felt that was an attack on City staff.

Chuck Workman spoke to his concern of the meeting providing a vehicle for attack on an island committee. He spoke to no policy and ground rules for discussion.

Barbara Cooley spoke to an editorial by David Bath and there being no inflammatory statements.

Karen Storjohann spoke to information given out at Council meetings. She further spoke to the COTI advertisement not approved by any candidate. She also spoke to the items being discussed at many meetings.

Bill Satoris spoke to presenting the facts and the numbers presented spoke to an 8% increase in head count. He spoke to the COTI information.

Council recessed at 12:22 p. m.

Council reconvened at 12:30 p. m.

John Carney spoke to his discussion with Porter Goss and his sadness over the meeting. He further spoke to the called meeting being unethical.

Louise Johnson asked why the incumbents did not come to the COTI candidate's night. She further stated that it was not fair that all candidates could not be present and the meeting should have been held after the election.

Vice Mayor Ruane answered he first found out the candidates night in the paper. He stated that there was a meeting at SCA the same night and that all campaign managers should have a meeting to organize a candidate's night.

Dr. John Harries spoke to the COTI advertisement and that it was gleaned from City documents.

Vice Mayor Ruane spoke to the issue of transparency and encouraged participating for the pension board by advertising board/committee positions, spoke with COTI regarding issues, having conversations with people such as the retired CEO of yahoo for advice, money was removed from Pool A with a 2% penalty that was put in a fund to offset loses, 22% of bonds in Pool B de-rated and 78% higher than B plus. He further stated that reserves had been increased and a meeting in Tallahassee today and monthly state conference calls and employee and police pension board meetings.

Steve Smith spoke to the COTI ad. He asked that a resolution be adopted that there was no financial crisis and a press release should be issued that Council and/or staff was not the source of the COTI ad information.

Chris Cook spoke to a financial problem and would be a crisis if nothing was done.

Brad Lear spoke to understanding that the City was properly funding the pension plan. He also spoke to understanding employee costs.

Wayne Ponader spoke to the COTI ad.

Jim Kilcherman spoke to other issues of importance, not everyone having the ability to attend Council meetings and that COTI does not represent everyone.

Bob Winters spoke to the COTI ad. He further spoke to the state issuing a statement that the value of funds in Pool B was half the value.

Vice Mayor Ruane spoke to the following:

- City invested in the SBA for 25 years
- Many municipalities took the 2% penalty and paid the penalty
- Part of penalty put in a reserve fund to be utilized off set the losses that occur
- Value of any bond fluctuate
- 4 pending suits against security companies
- Part of investment policy was to indicate that their was a violation of the investment policies
- Sued for lack of disclosure
- 2 securities being negotiated
- Market value fluctuated for bonds to be less than par
- Penalty taken to off set losses
- Some conversation was to kick the bonds out to give a greater liquidity

Mr. Winters spoke to the securities and longest maturity out was March, 2010 and average maturity less than 1 year; principle basis for those evaluations was that the likelihood that the issuer would default.

Vice Mayor Ruane answered that throughout the entire process of delaying Pool B the dates got reset and maturities got extended and the indication was that there was a process they are getting reset with a meeting today and could access through the web to find out what was going on.

Jeannette Ashley spoke to looking for people that could work together.

Councilman Pappas spoke to the determination that COTI misrepresented the facts in the ad, COTI's ad was an opinion in the election process, government should have no opinion, people and COTI did more homework including Vice Mayor Ruane and City staff, people deserve the right to put an ad in the paper, there was a quintessential error today, and this Council would have to depend on COTI.

Councilman Jennings stated that Council had proven the concerns of the public were addressed.

Mayor Denham stated that he called the meeting because he felt it necessary.

Vice Mayor Ruane spoke to preparing for all meetings, welcoming people participation, get involved, went before COTI in December to talk about issues and did not bring these issues up, answered questions, went to the webpage US Bureau of Labor for answers, involved in bringing harmony to both camps, interaction with staff showed that they were shaken, and hoped to have given the staff comfort. He further stated that Council had tried build reserves, cut taxes and anticipate the economic down turn. He also spoke to changing the way finances were reviewed, and no simple solution.

Marty Harrity spoke to running for election to protect Sanibel.

There being no further business the meeting was adjourned at 1331.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk

**SANIBEL CITY COUNCIL REGULAR MEETING
MARCH 03, 2009**

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

Councilman Harrity 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 honoring Robert Duffy, Planning Director for his service to the City of Sanibel and its residents

Mayor Denham read and presented the proclamation to Mr. Duffy.

Mr. Duffy stated it was an honor to serve the City.

Proclamation acknowledging the National Association for the Advancement of Colored People (NAACP) 100th Anniversary

Mayor Denham read the proclamation and presented it to the Cultural Heritage Center to Oscar Gavin and Yvonne Hill.

Public Comments

Herb Rubin spoke to the COTI ad in the newspaper, a nominee for the COTI Board, the decision of the 3 incumbents running for election not attending the COTI candidate night and the Special Council meeting of February 25th.

Claudia Burns spoke to an article in the Island Reporter where Commissioner Bob Janes states that the proposed fishing pier was on hold.

Paul Andrews spoke to a proposed bill by Representative Trudi Williams that would allow development in wetlands without need for permits from ACOE and the state. He further spoke to impact of development on wildlife.

Discussion ensued regarding the above-mentioned proposed bill due to a bad economy, conflicting economic requirements would continue and would bear watching, and community need to rally support in opposition to the above mentioned proposed bill.

Jim Lavelle spoke to public notices being placed on the bulletin board, and felt the posting was not transparent enough. He further spoke to future notices being put on the City's website. He also spoke to the "unfunded" or "under funded" City pension plan and his discussion with Pete Winton and Diane Lewis, Lee County discovering Lee County employees were a part of the Florida Retirement System and the formula used was that each year of service 1.7% of the average salary over the last 5 years of service with no cost of living index. He urged the City to join the State pension plan.

Discussion ensued regarding a previous discussion joining the State system, the State retirement plan does have a 3% COLA, previous Councils decided not to join the State system due to the cost of buying into the pension plan, and reach out to COTI to work with the City to review the City's pension plan.

Ms. Zimomra stated that under "Quick Links" meetings for all committees, boards and commission was listed separately on the website.

Dr. Harries spoke to COTI looking forward to working with Council. He further spoke to the word "Crisis" not necessarily true as advertised in the paper, but brought the community together by making the community aware of issues and committed to working with the City.

Council Comments

Councilman Pappas spoke to the paperwork handed out at the February 25th Special Council meeting, a new developed schedule named "personnel services FY 08/09". He also spoke to objecting to the Special meeting, obligation not to misrepresent, Council did misrepresent at the Special meeting and all political ads containing highly inaccurate information. He further stated that in this country we don't hold citizens accountable to government. He proposed the following:

- City immediately undertake a study to estimate revenues and expenses for the next 3 to 5 years based
- Finance Director head study with those employee deemed necessary to conclude the study under the supervision of the City Manager
- Introduce new thinking choose a few select citizens with appropriate background a part of the above-mentioned group
- A tight timeline table to ascertain that the result would be included in next years budget

Councilman Jennings asked everyone to vote.

Vice Mayor Ruane spoke to responsibility for the inaccurate information in a newspaper regarding the securities in the local government investment pool (SBA) and many components to the SBA. He spoke to the following:

- Many municipalities took money out of SBA and paid a 2% penalty and money in reserve
- Lawsuits against broker/dealer that sold the securities
- He read; "The securities held in Fund B resulted from completed or pending workouts with Florida insurers. The purpose of Fund B is to maximize the pay out of principle of certain investment surplus funds with a prudent workout with an ultimate goal of liquidations. As a result, the maturity dates of each security in Fund B will be dependent on maturity date or earlier liquidation if prudent of the investments underlying each of the securities and will be contingent upon future market conditions and other factors"
- Discussions with the state officials the items were not at a value they need to be and could not enter into a settlement with brokers dealers due to evaluating the losses and offsetting the potential loss

He further stated that he did meeting with COTI regarding the state of financial affairs and current challenges thinking there was an understanding of challenges. He further apologized if he offended anyone.

Mayor Denham spoke to working together as a community.

Planning Commission Report

Commissioner Patty Sprankle gave the following February 24, 2009 Planning Commission meeting report as follows:

- Approval of an application for a variance to dredge an existing manmade canal, replace 7 boat docks
- Approval to construction a single-family dwelling with an above-ground pool on West Gulf Drive
- Recommended amendments to Chapter 114 of the LDC
- Considered a conditional use application for BMRH for 14 units and approved

CONSENT AGENDA

- b. **RESOLUTION 09-022 OF THE CITY OF SANIBEL, FLORIDA, EXPRESSING SUPPORT FOR HOUSE BILL 707 AND SENATE BILL 1296, WHICH WILL REQUIRE THE DEPARTMENT OF HEALTH TO NOTIFY LOCAL GOVERNMENTS AND LOCAL OFFICES OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION WHEN CERTAIN HEALTH ADVISORIES ARE ISSUED; REQUIRING LOCAL OFFICES OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION TO CONDUCT INVESTIGATIONS OF WASTEWATER TREATMENT FACILITIES WITHIN ONE MILE OF AFFECTED BEACH WATERS AND PROVIDE THE RESULTS OF SUCH INVESTIGATIONS TO LOCAL GOVERNMENTS; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 09-022.

Mayor Denham made a motion, seconded by Councilman Harrity, to adopt Resolution 09-022.

The motion carried.

Ms. Zimomra stated that the resolution would be sent to the local legislation delegation, sister cities and other local governments along the coast.

- a. **Approval of minutes – February 03, 2009 Regular Meeting and February 17, 2009 Regular Meeting**
- c. **Approval of a “Child Abduction Response Team” Mutual Aid Agreement between the City of Sanibel and Florida Department of Law Enforcement (FDLE) and authorize execution of said agreement**
- d. **Request from Chelle Koster Walton to use the City Seal for a WGPU documentary titled “The Sanibel Legacy Sanctuary Islands”**

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to approve items (a), (c) and (d).

The motion carried.

Ms. Zimomra spoke to a calendar of meetings that would be emailed to Council depicting upcoming City meetings, as well as being placed on the City's website.

Discussion ensued regarding adding or not adding other meetings and adding TCD, RPC and MPO meetings.

CITY MANAGER

Informational Items

Community Housing & Resources, Inc., Quarterly Financial Statement

Letter of February 09, 2009 from Michael Sittig, Florida League of Cities Executive Director to Governor Crist regarding restoration of funding for the Florida Forever Program

Notification from the State Bureau of Invasive Plant Management of a grant award in the amount of \$7,440

Submitted for information only.

**Alternative Transportation in Parks and Public Lands Program (ATPPL)
Important Upcoming Dates**

Tuesday, March 17, 2009 Project Status Report to City Council

Thursday, April 02, 2009 Workshop – Sanibel Community Center (SCA) 3:00 pm to 9:00 pm

Thursday, April 16, 2009 Workshop – Sanibel Community Center (SCA) 3:00 pm to 9:00 pm

Ms. Zimomra spoke to the Council presentation on March 17th and the upcoming workshops

CITY ATTORNEY'S REPORT

None

COUNCIL MEMBERS' REPORT

Councilman Pappas spoke to apologizing for statements made He further spoke to Vice Mayor Ruane taking the chair of Mayor on March 17th if re-elected and he would be nominating the Vice Mayor Ruane for the appointment.

PUBLIC COMMENT

Karen Storjohann spoke to an article in the News Press regarding one department overseeing water issues. She further spoke to the waste on money spent for the Royal Palms at the first Causeway bridge.

There being no further business the meeting was adjourned at 9:55 a. m.

Respectfully submitted by,

Pamela Smith, CMC
City Clerk

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

OATH OF OFFICE

Oath of Office – Mick Denham

Oath of Office – Marty Harrity

Oath of Office – Kevin Ruane

Mr. Kenneth B. Cuyler, City Attorney spoke to the process for electing the Mayor and Vice Mayor.

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

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

Election of Mayor

Mr. Cuyler announced that he would take nominations for Mayor.

Councilman Marty nominated Mick Denham for Mayor.

Councilman Pappas nominated Kevin Ruane for Mayor.

Mr. Cuyler asked for a hand vote for the position of Mayor.

There were 3 votes for Councilman Denham for Mayor

Councilman Harrity made a motion, seconded by Councilman Jennings, to appoint Councilman Denham as Mayor.

The motion carried.

Election of Vice Mayor

Mayor Denham asked for nominations for Vice Mayor.

Councilman Harrity nominated Councilman Ruane as Vice Mayor.

Councilman Pappas nominated Councilman Jennings.

Mayor Denham asked for a hand vote for Councilman Ruane.

There were 3 votes for Councilman Ruane for the position of Vice Mayor.

Councilman Harrity made a motion, seconded by Councilman Jennings, to appoint Councilman Ruane as Vice Mayor.

The motion carried.

Ms. Zimomra administered the Oath of Office to Mayor Denham and Vice Mayor Ruane.

The recording was not turned on up to this point in the Council meeting.

Council recessed at 9:19 a. m.

Council reconvened at 9:32 a. m.

Vice Mayor Ruane thanked Councilman Pappas for his nomination for Mayor.

PRESENTATION(S)

Presentation of a Certificate of Appreciation to the City of Sanibel from F. I. S. H.

Maggie Finer, President of F.I.S.H. gave a brief synopsis of the organization and spoke to the increase of emergency needs of residents and employees. She also presented a Certificate of Appreciation to the City.

Mayor Denham accepted the certificate on behalf of City Council.

Status report regarding the Alternative Transportation in Parks and Public Lands Project (ATTPL)

Ms. Zimomra spoke to the following:

- Presentation would be a cooperative effort between “Ding” Darling, Lee County through Lee Tran and the City of Sanibel identified by federal government as a gateway community impacted by a federal refuge or parkway
- Progress report
- MPO initiative to look at the long-term funding and governing structure for Lee Tran
- Councilman Jennings liaison to MPO
- Council’s adopted Transportation position paper

David Baxter, Jacobs Consultants gave a brief PowerPoint presentation.

- Purpose of study is to work closely to balance visitor experience with the needs of the environment incorporating the visions of Sanibel and Captiva
- Primary focus area was the refuge
- Focus on land on both sides of the Causeway
- Goals of each entity taken into consideration
- City goal to preserve the barrier island sanctuary
- Closely following the Sanibel Plan & Shared Use Master Plan
- Lee Tran had the Trans Development Plan to provide an efficient high quality transportation service
- ATTPL National Program 4 objectives; 1) Conserves natural, historical and cultural resources; 2) Reduces congestion and pollution; 3) Improves visitor mobility and accessibility; 4) enhance visitor experience
- Identified common goals of partners
- Ongoing data collection
- Ongoing communication meetings
- 2 public workshops; 1) April 02 and 2) April 16
- Goals: 1) Find and evaluate a green transportation alternative; 2) evaluate, recommend a more efficient means of moving residents and visitors; and 3) implementing strategies and funding sources to support the program
- Stakeholder interviews completed
- Received 450 comments and recommendations
- January 29 public workshop at Recreation Center; receiving 134 comments
- Common themes: 1) Adding Shared Use Paths; 2) avoiding congestion on Periwinkle Way; 3) looking for alternative transportation appropriate for refuge; and 4) finding ways to safeguard refuge and the sanctuary environment
- Surveys taken personally and through the mail with 4,000 comments

- Finalize opportunities
- Summer 2009 alternative testing and impact analysis
- Fall 2009 alternatives tested, recommendations made and identify implementation strategies

Discussion ensued regarding citizen concern to protect the environment, issue of congestion 12 weeks each year, issue to justify new infrastructure and investment, Mr. Baxter stated that any plans would match the City's, wildlife refuge and/or Lee Tran goals, Ms. Zimomra stated that if Council approves the Shared Use Path Plan would agree with the Sanibel Plan and only implement if there was federal funding for such an initiative, 4,000 responses to surveys, Ms. Zimomra stated the survey was sent via the City email database, noticed survey in newspapers, and in-person surveys.

Public Comments

Herb Rubin spoke to increasing the use of solar power and a Texas company installing solar panels on residential roofs. He also spoke to a newspaper article in the New York Times and a loan from a municipality for installing solar panels by state legislation amortized over 20 years.

Claudia Burns spoke to the nesting season of Snowy Plovers and asked if the Snowy Plover CD could be put on the City's website.

Council agreed.

Council Comments

Councilman Harrity spoke to the attendance by young Kevin Ruane and young people being the future.

Vice Mayor Ruane announced the March 26th General Employees Pension meeting and asked if he could contact the chair when the actuarial report was submitted for a special meeting of the Police Pension Board.

Council agreed.

Councilman Jennings congratulated the Mayor and Vice Mayor on their appointment. He also congratulated Chief Tomlinson's wife upon receiving the "Golden Apple" Award. He suggested a workshop regarding green funding.

Mayor Denham spoke to RPC would be the agency for green projects and the first project would be using warm water to heat homes.

Planning Commission Report

Commissioner Mike Valiquette gave a report of the March 10, 2009 Planning Commission meeting as follows

- Approve a Court Place BMRH housing project – 14 units; attachment for a request to pave Center Street
- Discussion on Section 86-43

Discussion ensued regarding approval of 6 items concerning Section 86-43.

First Reading of an ordinance and scheduling of public hearing.

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.

Council set the second reading and public hearing on Tuesday, April 07, 2009 at 9:15 a. m.

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.

Council set the second reading and public hearing on Tuesday, April 07, 2009 at 9:30 a. m.

CONSENT AGENDA LISTEN 1015

Councilman Jennings requested the March 03 meeting minutes be brought back at the April 07, 2009 Council meeting. Mayor Denham requested that item (e) be pulled for discussion.

- a. Approval of minutes – March 03, 2009 Regular Meeting

- e. **RESOLUTION 09-026 DETERMINING THE REQUEST FOR AN ENTERTAINMENT BUSINESS TAX RECEIPT AT McT'S SHRIMP HOUSE & TAVERN, McT'S OF SOUTHWEST FLORIDA, L.L.C., 1523 PERIWINKLE WAY; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 09-026

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to adopt Resolution 09-026.

The motion carried.

Public Comment

Joe Vincent, General Manager was available for Council discussion.

- b. **RESOLUTION 09-023 ACKNOWLEDGING THE VOTE OF THE ELECTORS OF THE MARCH 3, 2009 MUNICIPAL ELECTION FOR THE CITY OF SANIBEL, FLORIDA; ACKNOWLEDGING THAT THE ELECTED COUNCIL MEMBERS ARE MICK DENHAM, KEVIN RUANE AND MARTIN J. HARRITY; ACKNOWLEDGING THE APPROVAL BY THE ELECTORATE OF THE CITY REFERENDUM APPROVING 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 THE CITY PROPERTY ALONG ISLAND INN ROAD; ACKNOWLEDGING THAT THE CITY ELECTORATE DID NOT APPROVE THE CITY REFERENDUM FOR THE REMOVAL OF LAND FROM THE ENVIRONMENTALLY SENSITIVE LANDS CONSERVATION DISTRICT FOR DOG PARK USE; AND PROVIDING AN EFFECTIVE DATE.

- c. **RESOLUTION 09-024 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-023 AND PROVIDING AN EFFECTIVE DATE** (to adjust the appropriated budgets for workers compensation and liability insurance in various funds to conform to the Florida Municipal Trust final audit for FY08. This budget amendment decreases the FY09 budget by \$6,571)
- d. **RESOLUTION 09-025 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-024 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$7,440 of grant assistance from the Florida Fish and Wildlife Conservation Commission's Invasive Plant Management Section. The Section will provide 120 gallons of Element 4 herbicide, valued at \$62 per gallon, to the City. This is the herbicide product that is used by City contractual crews for treatment of Brazilian pepper as part of the Island-wide Brazilian pepper eradication program. It is the least toxic, least expensive and most environmentally friendly herbicide available that is suitable for this purpose. This grant will enable the program to save an equivalent amount in herbicide expenses during the current fiscal year. This amendment increases the FY09 budget by \$7,440)
- f. **RESOLUTION 09-030 APPROVING BUDGET AMENDMENT/TRANSFER NO. 09- 025 AND PROVIDING AN EFFECTIVE DATE** (to appropriate \$16,534 (\$8,267 each from the Shell Harbor Property Owner's Association and the Sanibel Marina) to dredge the mouth of the Shell Harbor Canal System. The cost of this \$24,800 project will be split equally between three parties; the Shell Harbor Property Owner's Association, Sanibel Marina and the City of Sanibel. The City's contribution will come from funds previously transferred from the General Fund to this fund. This agreement increase the FY09 budget by \$24,800)

Ms. Zimomra read the titles of 09-023, 09-024, 09-025 and 09-030.

Councilman Jennings made a motion, seconded by Council Harrity, to adopt Resolutions 09-023, 09-024, 09-025 and 09-030.

The motion carried.

Vice Mayor Ruane asked if staff would bring back the adopted policy regarding special assessment.

Mr. Cuyler stated there was a Council policy to have 80% of property owners in agreement of a certain request of which an assessment would be placed on each property.

Council agreed to have a discussion at a future Council meeting.

OLD BUSINESS

Water Quality Issues

Reports from City Council members

Staff Reports

Mayor Denham spoke to critical legislative issues were as follows in the resolutions before Council.

Letter to elected/appointed officials regarding the proposed Healthy Beach Program legislation as submitted through HB 707 and SB 1296

Ms. Zimomra stated that letter would be sent to the City's legislators and all coastal communities.

RESOLUTION 09-029 OF THE CITY OF SANIBEL OPPOSING SENATE BILL 1436 AND HOUSE BILL 987 RELATING TO WATER MANAGEMENT DISTRICTS, WHICH WOULD AMEND SECTION 373.584, FLORIDA STATUTES TO PROHIBIT WATER MANAGEMENT DISTRICTS FROM ISSUING CERTIFICATES OF PARTICIPATION UNLESS APPROVED BY THE ELECTORS OF THE DISTRICT IN A REFERENDUM; URGING FLORIDA LEGISLATIVE REPRESENTATIVES TO REFRAIN FROM ANY FORM OF SUPPORT OR CO-SPONSORSHIP OF SB1436 AND HB987 AND TO VOTE IN OPPOSITION OF SUCH PROPOSED BILLS; REQUESTING GOVERNOR CRIST TO ADVISE THE HOUSE AND SENATE LEADERSHIP DURING THE 2009 REGULAR SESSION THAT HE DOES NOT SUPPORT SB1436 OR HB987; DIRECTING THAT THIS RESOLUTION BE FORWARDED TO FLORIDA GOVERNOR CRIST, THE LEE COUNTY LEGISLATIVE DELEGATION, THE MAYOR OF EACH MUNICIPALITY IN LEE COUNTY, THE LEADERSHIP OF THE FLORIDA LEAGUE OF CITIES AND EACH MEMBER OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE

Mayor Denham spoke to the above-mentioned bill not moving through committee and the water management districts were in Tallahassee. He recommended bringing back Resolution 09-029 on April 07 due to discussions of alternative options.

Discussion ensued regarding the unreasonable cost of referendums, the increased cost for referendums over the last 10 years, and Councilman Jennings had appointment with Governor Crist at Florida League of Cities Legislative Day.

Public Comment

Paul Andrews spoke to sometimes it cost money to do the right thing.

Rae Ann Wessel spoke to the above-mentioned project worth watching and there were active alternative options being discussed.

Discussion ensued regarding requesting a copy of the SCCF fact sheet.

RESOLUTION 09-033 OF THE CITY OF SANIBEL OPPOSING SENATE BILL 730, WHICH PROPOSES TO ABOLISH THE DEPARTMENT OF COMMUNITY AFFAIRS, AND PROPOSED HOUSE COMMITTEE BILL AND SENATE BILL 360 WHICH WILL SIGNIFICANTLY WEAKEN THE REGULATORY AUTHORITY AND ENVIRONMENTAL OVERVIEW OF THE DEPARTMENT OF COMMUNITY AFFAIRS, FLORIDA'S GROWTH MANAGEMENT AGENCY; URGING FLORIDA LEGISLATIVE REPRESENTATIVES TO REFRAIN FROM ANY FORM OF SUPPORT OR CO-SPONSORSHIP OF SB730, AS WELL AS SB360 AND THE PROPOSED HOUSE COMMITTEE BILL, AND TO VOTE IN OPPOSITION TO SUCH PROPOSED BILLS; REQUESTING GOVERNOR CRIST TO ADVISE THE HOUSE AND SENATE LEADERSHIP DURING THE 2009 REGULAR SESSION THAT HE DOES NOT SUPPORT SB

730, OR SB360, OR THE PROPOSED HOUSE COMMITTEE BILL; DIRECTING THAT THIS RESOLUTION BE FORWARDED TO FLORIDA GOVERNOR CRIST, THE SOUTHWEST FLORIDA LEGISLATIVE DELEGATION, THE MAYOR OF EACH MUNICIPALITY IN LEE COUNTY, THE LEADERSHIP OF THE FLORIDA LEAGUE OF CITIES AND EACH MEMBER OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE

Mr. Cuyler spoke to the following:

- DCA responsible for growth management plan for the state
- State planning agency
- Approves municipal comprehensive plans
- Helps development adhere to regulations
- One bill that would abolish DCA
- Another bill would significantly weaken DCA

Ms. Zimomra read the title of Resolution 09-033.

Mayor Denham made a motion, seconded by Councilman Jennings, to adopt Resolution 09-033.

Discussion ensued regarding the origin of the resolution, Ms. Zimomra stated that Executive Staff always reviewed upcoming legislation, Dr. Loflin brought forward his concern for the above-mentioned legislation, aware that people act in ways that are not up front, may need to watch Resolution 09-029 closely, no enthusiasm in the community, Sanibel must be a voice against the dissolution of the Department of Community Affairs (DCA).

The motion carried.

RESOLUTION 09-027 OF THE CITY OF SANIBEL OPPOSING SENATE BILL 2016 AND HOUSE BILL 1123 RELATING TO ENVIRONMENTAL PERMITTING, WHICH WOULD AMEND SECTION 373.4144, FLORIDA STATUTES, AND SIGNIFICANTLY WEAKEN WETLAND PERMITTING REGULATIONS AND PROGRAMS IN THE STATE OF FLORIDA; URGING FLORIDA LEGISLATIVE REPRESENTATIVES TO REFRAIN FROM ANY FORM OF SUPPORT OR CO-SPONSORSHIP OF SB2016 AND HB1123 AND TO VOTE IN OPPOSITION TO SUCH PROPOSED BILLS; REQUESTING GOVERNOR CRIST TO ADVISE THE HOUSE AND SENATE LEADERSHIP DURING THE 2009 REGULAR SESSION THAT HE DOES NOT SUPPORT SB2016 OR HB1123; DIRECTING THAT THIS RESOLUTION BE FORWARDED TO FLORIDA GOVERNOR CRIST, THE SOUTHWEST FLORIDA LEGISLATIVE DELEGATION, THE MAYOR OF EACH MUNICIPALITY IN LEE COUNTY, THE LEADERSHIP OF THE FLORIDA LEAGUE OF CITIES AND EACH MEMBER OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 09-027.

Discussion ensued regarding concern of proposed legislation.

Public Comment

Rae Ann Wessel spoke to Resolution 09-027 and the concept of streamlining permitting by bringing federal permitting into the state permitting process. She advised the legislation would change wetland definition, self regulation suggestions, including the ability for possible exemptions. She further spoke to the understanding if permitting was streamlined it would become an economic driver.

Discussion ensued regarding the Ethics Commission quiet on a legislator action allowing profits later, and legislators taking advantage of the economic climate to further themselves.

Mayor Denham made a motion, seconded by Councilman Harrity, to adopt Resolution 09-027

The motion carried.

RESOLUTION 09-028 OF THE CITY OF SANIBEL OPPOSING HOUSE BILL 1515 WHICH RELATES TO FERTILIZER APPLICATION BUT PROVIDES A PREEMPTION ON LOCAL GOVERNMENTS' AUTHORITY TO REGULATE FERTILIZER APPLICATION AND CONTENT; URGING FLORIDA LEGISLATIVE REPRESENTATIVES TO REFRAIN FROM ANY FORM OF SUPPORT OR CO-SPONSORSHIP OF HB1515 AND TO VOTE IN OPPOSITION OF SUCH PROPOSED BILL; REQUESTING GOVERNOR CRIST TO ADVISE THE HOUSE AND SENATE LEADERSHIP DURING THE 2009 REGULAR SESSION THAT HE DOES NOT SUPPORT HB1515; DIRECTING THAT THIS RESOLUTION BE FORWARDED TO FLORIDA GOVERNOR CRIST, THE LEE COUNTY LEGISLATIVE DELEGATION, THE MAYOR OF EACH MUNICIPALITY IN LEE COUNTY, THE LEADERSHIP OF THE FLORIDA LEAGUE OF CITIES AND EACH MEMBER OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE.

Ms. Zimomra read the title of Resolution 09-028

Discussion ensued regarding a phone call to the Legislative Affairs Consultants advising the bill was moving slowly, Orlando representative had another bill, should watch bill for preemption, state rule rather than a law, preemption language different, Mr. Cuyler stated this resolution could be brought back, Ms. Zimomra stated an option would be to wait or with City Attorney advice to adopt and not send out, Mr. Cuyler stated that the resolution could be adopted and give the Mayor the authority to send out if necessary, the version does have a form of preemption,

Councilman Jennings made a motion, seconded by Mayor Denham, to adopt Resolution 09-028 and give Mayor Denham the authority to send out.

The motion carried.

RESOLUTION 09-029 OF THE CITY OF SANIBEL OPPOSING SENATE BILL 1436 AND HOUSE BILL 987 RELATING TO WATER MANAGEMENT DISTRICTS, WHICH WOULD AMEND SECTION 373.584, FLORIDA STATUTES TO PROHIBIT WATER MANAGEMENT DISTRICTS FROM ISSUING CERTIFICATES OF PARTICIPATION UNLESS APPROVED BY THE ELECTORS OF THE DISTRICT IN A REFERENDUM; URGING FLORIDA LEGISLATIVE REPRESENTATIVES TO REFRAIN FROM ANY FORM OF SUPPORT OR CO-SPONSORSHIP OF SB1436 AND HB987 AND TO VOTE IN OPPOSITION OF SUCH PROPOSED BILLS; REQUESTING GOVERNOR

CRIST TO ADVISE THE HOUSE AND SENATE LEADERSHIP DURING THE 2009 REGULAR SESSION THAT HE DOES NOT SUPPORT SB1436 OR HB987; DIRECTING THAT THIS RESOLUTION BE FORWARDED TO FLORIDA GOVERNOR CRIST, THE LEE COUNTY LEGISLATIVE DELEGATION, THE MAYOR OF EACH MUNICIPALITY IN LEE COUNTY, THE LEADERSHIP OF THE FLORIDA LEAGUE OF CITIES AND EACH MEMBER OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 09-029.

Mr. Cuyler stated that each resolution directs the clerk to send to other governmental entities and authorize the Mayor with the discretion to send to other governmental entities.

Councilman Jennings made a motion, seconded by Mayor Denham, to adopt Resolution 09-029 and give the Mayor the authority to send out.

Discussion ensued regarding what legislators advanced the legislation, should wait to do nothing, Mayor Denham explained it was Representative Trudi Williams and Mike Bennett.

The motion carried.

Council recessed at 11:07 a. m.

Council reconvened the meeting at 11:19 a. m.

Presentation by Dr. Ai Ning Loh, Florida Gulf Coast University - Mid-year report on the Bioavailability and Sources of Nutrients and the Linkages to Nuisance Drift Algae

Ms. Zimomra stated

Dr. Loflin spoke to the following:

- Red drift algae event on beaches and grass beds in J. N. "Ding" Darling
- Large historic levels of algae on Sanibel beaches
- Water releases from Lake Okeechobee
- Study to find the source of nutrients
- management implications
- TDC, WCIND, City partnership
- FGCU chosen to do study
- Introduction of Dr. Loh

Dr. Loh gave a brief PowerPoint presentation.

Public Comment

Barbara Cooley spoke to the speculation of less turbidity and more light and was objective of number 5 inclusive of that speculation.

Discussion ensued regarding nitrogen being a major caused of the red drift algae, Dr. Haberham stated that he was surprised to find out that deposits could come in and leave relatively soon, cost for loss of jobs due to the algae, the need for information from the Kissimmee Basin and Lake Okeechobee, Dr. Haberham stated that tides have a large impact, sample was collected upstream of S-77, sample at C-43 canal between S-78 and S-79, need samples directly from Lake Okeechobee to get a full impact. Dr. Brandt spoke to other research reviewing the full system, and data available from SFWMD.

Barbara Cooley spoke to objective 5 and asked if the phenomenon blooming the dry season due to turbidity and less light.

Dr. Brandt spoke to observations of light attenuation and photosynthetic efficiency

Councilman Pappas spoke to the last 2.5 years presumptions made. He asked when the study would give more definitive results and the length of the program.

Dr. Loh answered that she felt there would be an answer to know what other areas of algae growth, nutrient sources, nutrient and light limitation, be able to identify through observation the conditions allow an algae growth. She stated the 2-years survey would end May, 2010 with a final report 3 months later.

Discussion ensued regarding scheduling a workshop about the study.

Rea Ann Wessel asked if there would be distinguishing contributions identifications of nutrients from Lake Okeechobee and area 4 basins, which comes into the old Lake Hipcachee.

Recreation Center Issues

Recommendation for merchandise sale proceeds to be dedicated to scholarship assistance

Chris Deal, Parks and Recreation Director explained staff recommendation was to use the profit from the sale of recreation merchandise would go toward the scholarship fund.

Mayor Denham made a motion, seconded by Councilman Harrity, to approve the recommendation.

Discussion ensued regarding retaining a certain amount of money to restock, Director Deal stated the net proceeds would be moved over.

The motion carried.

Status of revenue reports

Total Revenue

Total Membership Revenue

Total Other Revenue

Ms. Zimomra stated that the charts were reviewed during Council briefings with a slight decrease in membership renewal rate, but slight above the national figures. She further stated that the Parks and Recreation Committee was following revenues very closely and may have recommendations for next fiscal year.

NEW BUSINESS

RESOLUTION 09-031 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 EXPANSION AND EXTENSION OF THE SANIBEL SEWER COLLECTION SYSTEM; SAID PROJECT TO BE REFERRED TO AS THE "SANIBEL SEWER SYSTEM PHASE 5 EXPANSION PROJECT"; 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 09-031.

Mr. Cuyler stated that this resolution was the commencement of the assessment process and the public hearing would be July 21, 2009. He further mentioned that there were 2 lots with recreation facilities that the owner asked not to be assessed due to recreation units of which the density was given up by the owner. He stated explained that Sanibel Bayous, Herons Landing and all others that the assessment increases from \$1296.96 to \$1308.29 and Blind Pass condominium increase from \$723.01 to \$727.00.

Mayor Denham made a motion, seconded by Mayor Harrity, to adopt Resolution 09-031 with amendments as stated by the City Attorney above.

The motion carried.

2009 Budget Calendar

Discussion regarding City Council's summer schedule

Ms. Zimomra stated the calendar was a tentative calendar. She further spoke to a Goals Workshop the afternoon of April 21, 2009 Council meeting

Discussion ensued regarding canceling August meetings, charter requires one meeting per month, cancel July 7th and August 4th, only 1 meeting per month throughout the summer months, cancel June 16th, reschedule the September 01 meeting to Saturday, September 05, and get budget information to Council as soon as possible.

Public Comment

Claudia Burns suggested canceling the Labor Day meeting.

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to cancel the June 16, July 7, August 04 Council meeting, as well as rescheduling September 01 to Saturday, September 05, 2009.

The motion carried.

Discussion regarding Council liaisons

Discussion ensued regarding Council attendance to the Planning Commission meetings and a discussion with the City Attorney that it was not necessary for a Council member to sit throughout the meeting.

Mr. Cuyler stated that if Council wanted to make a presentation of the Council meeting to Planning Commission members it could continue, but Council member time may be used in other areas. He stated that the liaison began with lack of communication.

Discussion ensued regarding Mayor Denham becoming the liaison, Planning Commission rotates a member to make a report at Council meetings, could rotate Councilmembers to attend Planning Commission meetings, and Mayor Denham would attend the next Planning Commission meeting, Council would decide who would attend Planning Commission meetings, Mr. Cuyler stated that getting potential agenda items may help with Councils decision to attend, and ask the Parks and Recreation Committee if there was someone that would be interested in membership on the Lee County Parks and Recreation Committee, Ms. Zimomra spoke to Ms. Carla Brooks Johnston being a member of the citizen advisory committee for MPO and a citizen on the Lee County Landscaping Committee.

Council recessed the meeting at 12:27 p.m.

Council reconvened the meeting at 1:26 p. m.

Legislative Issues

Legislative Watch List

Ms. Zimomra spoke to the following:

- Alert from the Florida League of Cities regarding legislation that would freeze municipal ability to implement user fees
- Benefit for users to be applied to particular users
- Council may want to take advantage of any discussion with other elected officials

Discussion ensued regarding the State sponsored legislation January, 2007, Florida built on low taxes and affordable housing, legislators wanting to maintain growth as in the last 20 years, scheduled phone conference with Councilman Jennings, Legislative Affairs consultants, the City Manager and City Attorney, Ms. Zimomra offered a phone conference to all Council members, and Mr. Cuyler stated that there was the beach access legislation on the watch list that came before Council previously and may be adopted.

Mr. Cuyler spoke to following the beach access legislation; the legislation going through close to the form it was introduced; and cause unclear areas in the law with additional obligations.

Draft City position regarding Everglades Restoration

Mayor Denham stated this information was his draft position and was premature, but would continue to watch developments.

Tallahassee Days attendance

Councilman Jennings spoke to the Florida League of Cities paying for the trip due to his association as a League Board of Directors.

COMMITTEES, BOARDS, COMMISSION

Resignation of Donna Ruhe Parks and Recreation Committee member

Status report regarding presentation of Annual Reports tentatively scheduled for April 21, 2009 Council meeting

Advertise for committee appointments

Ms. Zimomra spoke of the resignation from Donna Ruhe.

Councilman Pappas made a motion, seconded by Vice Mayor Ruane, to accept Ms. Ruhe resignation with regret, accept the committee annual report schedule and advertisement as submitted for committee appointments.

The motion carried.

Attendance to the Tourism Development Council meetings of Wednesday, March 11th and Friday, March 13th

Ms. Zimomra spoke to Tourism Development Council (TDC) meetings.

- Would not fund insurance on TDC funded buildings
- Position of Council that if TDC funds the construction was a gift and the subsequent costs would be funded by governmental entity
- Incorporating photos into the TDC packet
- Two other packet for consideration; 1) 2 additional bathrooms; lighthouse beach (beachside) & family bathroom at Bowman's Beach (lowest ranked projects)

Discussion ensued regarding Commissioner Hall asking for legal counsel, TDC funding not a gift, when was the actual revenue collected from beach parking, Ms. Zimomra stated it had been 6 years, Ms. Zimomra stated the County had doubled their parking fees, need another alternative, Ms. Zimomra stated direction could be to include insurance costs, should explore every avenue, submit bathroom grants to TDC, 1) beach maintenance funding grant, 2) water recon with SCCF, 3), 4) & 5) environmental grants, Vice Mayor Ruane to contact each commissioner, further discussion with Vice Mayor Ruane and the City Manager and April meeting TDC would consider grant requests.

CITY MANAGER

Informational Items

Building Department Monthly Revenue Report

Building Department Monthly Permit and Inspections Report

Planning Department Permit Activity Report

Planning Department Code Enforcement Activity Report

January traffic counts

Letter dated February 11, 2009 from the ISO announcing the Sanibel Building Department improvements warranted a Class 2 for 1& 2 family residential property and Class 2 for commercial and industrial property saving residents \$3 million annually on property insurance

Brazilian Pepper Update

Ms. Zimomra called Council's attention to packet information.

CITY ATTORNEY'S REPORT

RESOLUTION 09-032 OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, PURSUANT TO CHAPTER 171, PART II, FLORIDA STATUTES, THE INTERLOCAL SERVICE BOUNDARY AGREEMENT ACT; SAID RESOLUTION CONSTITUTING A RESPONDING RESOLUTION TO THE INITIATING RESOLUTION ADOPTED BY THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR THE PARTICIPATION ON THE CITY OF SANIBEL WITH LEE COUNTY IN THE PROCESS PROVIDED FOR IN CHAPTER 171, PART II, FLORIDA STATUTES, FOR THE PURPOSE OF ADDRESSING THE ISSUES MORE PARTICULARLY SET FORTH HEREIN; ACCEPTING THE INVITATION OF THE CITY OF CAPE CORAL MADE TO ALL MUNICIPALITIES IN LEE COUNTY TO PARTICIPATE IN NEGOTIATIONS; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 09-032.

Mr. Cuyler spoke to the following:

- Process Lee County adopted an initiating resolution
- Driving force was annexation
- Sanibel responding resolution was for joint planning issues
- Establishment of municipal service areas
- Sanibel not designating an municipal service boundary or proposed municipal areas outside of the City
- Premature to designate Captiva as a City of Sanibel municipal service area
- Beginning process and could not be forced into an agreement
- Negotiating joint planning issues listed in the resolution

Mayor Denham made a motion, seconded by Councilman Harrity, to adopt Resolution 09-032.

The motion carried.

COUNCIL MEMBERS' REPORT

Request to schedule discussion on April 07, 2009 regarding amending parking permit legislation by altering the definition of persons eligible for A parking permits to include property tax payers

Councilman Pappas stated that the City should not distinguish between domicile taxpayers and non-domicile taxpayers.

Ms. Zimomra stated that a draft ordinance with background material would come back at the April 7th Council meeting.

Discussion ensued regarding previous decisions of the parking permits, Ms. Zimomra stated that earlier research showed that there was a significant underwriting of property fees and now had changed.

Ms. Zimomra stated that there were interesting statistics of inland hotels performance decreased, and staying with relatives rather than hotels.

Public Comment

Victor Greto spoke to increasing the vehicle permit fees .

Appointment to the National League of Cities Energy, Environment and Natural Resources Committee and attendance to March 15th committee meeting

Councilman Jennings spoke to the following:

- Funding green issues
- Opportunity for other funding such as EPA and labor
- Requested funding and best practice models

Caloosahatchee Watershed Working Group next meeting with Commissioner Hall on March 23, 2009

Mayor Denham and Dr. Loflin will attend.

COUNCIL COMMENTS

Vice Mayor Ruane spoke to the upcoming March 26 General Employees Pension Plan and receiving the requested actuarial report. He suggested discussion to explore all avenues of alternatives to fund the General Employees Pension Plan.

Ms. Zimomra spoke to directed staff to review a way for a split option of all new employees going into the State plan and identifying alternative options of the State Plan.

Vice Mayor Ruane spoke to having serious discussions with solutions and exploring all avenues regarding retirement plans. He further spoke to previous discussions of the Local Government Investment Pool and requested agreement from Council to contact Dr. Francis with the state regarding information relative to lawsuits against brokerage dealers and securities that were purchase inside Pool B that were not fully disclosed regarding the elements and the feeling of deception. He also stated that the State of Florida have actions against 4 broker dealers for actual ingredients of Pool B that were not performing. He further spoke to information on the State website that would indicate evaluation of things as was noted that due to lack of activity trade for Fund B to market value was an estimation of current liquidation value. He further stated that perhaps liquidation of securities would be deferred and extended to period of 7 to 9 years to complete the liquation of Pool B. He explained that he would like to get clear direction from Dr. Francis by asking

specific questions addressing some of the items regarding those lawsuits and the reserves that were initially put aside for people that got out of Pool A and paid the 2% penalty and when would the reserve be utilized because the reserves were to initially absorb some of the losses potentially from Pool B. He also spoke to an adjustment previously made to interest and made an adjustment from evaluation starting a net positive number to the pool and the need for clarity.

Vice Mayor Ruane spoke to a previously adopted ordinance on segways and a request from Mr. Greto for the use of a segway on the Shared Use Path for handicapped persons.

Discussion ensued regarding revisiting the segway use issue and fairness of use, handicapped residents should be allowed to enjoy the island, should address the issue of disabled residents, each Councilmember forward any questions/concerns to the City Attorney, deal with disable aspect of segway use.

Ms. Zimomra reminded Council of the upcoming agenda items, April 21 Goals workshop, provide background information regarding segways and discussion of handicapped accessibility to the Shared Use Paths.

Councilman Pappas spoke to the Transportation Authority Policy adopted in 2005 and what businesses community think about the ATPPL study.

Discussion ensued regarding active input from businesses, discussion needed at the chamber level, and Councilman Harrity would bring up with the chamber.

PUBLIC COMMENT

Victor Greto thanked Council for their consideration.

Mr. Cuyler stated that the BMHR unit density increase ordinance would be on the April 07, 2009 meeting for first reading/public hearing.

There being no further business the meeting was adjourned at

Respectfully submitted by,

Pamela Smith, CMC
City Clerk