

**SANIBEL CITY COUNCIL REGULAR MEETING
JUNE 02, 2009**

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

Mayor Denham mentioned that Councilman Pappas was not at the Council meeting.

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

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

PRESENTATION(S)

Recognition of Police Auxiliary Lieutenant Steve Walters for 20 years of service to the Police Department and the community upon his retirement

Mayor Denham presented a certificate to Lt. Steve Walter upon his retirement May 01, 2009.

Public Comments

Karen Storjohann spoke to a sign that speaks to trucks with a certain number of axles charged additional tolls fees. She suggested piggy backing on the Lee County technology.

Vice Mayor Ruane stated during the last meeting her explained that was the way road tolls were charged.

Hazel Schuller spoke to a newspaper article regarding Governor Crist's signing the Growth Bill and asked if the City was represented in Tallahassee.

Louise Johnson spoke to her request to put the Vision Statement being put in MacKenzie Hall. She also spoke to algae on the beach and hotels along West Gulf Drive where Australian Pines were cut down and new pines had grown. She further spoke to the Sanibel Plan enhancing the City, but the news planted after Hurricane Charley were doing well.

Ms. Zimomra asked Ms. Johnson to meet with her regarding issues raised.

Billy Kirkland spoke to Lee County Board of Commissioners raising tolls and asked if the City would post Commissioner meetings on the City's website.

Mayor Denham stated that he had asked Ric Base to send out a notice to Chamber members.

Jane Pickerson spoke to the City email database being a public record.

Ms. Zimomra asked Ms. Pickerson to share her email address and staff would check to see if the address was in the City's database.

Mr. Cuyler stated that there was an issue that the Constant Contact Company that does the email stated they would not disclose the email, but because email addresses were public records they can be released according to Florida Statute.

Discussion ensued regarding the City's disclaimer on the City's website due to email addresses being public information.

Ed Seibert spoke to gross weight of airplanes used for landing fees.

Council Comments

Mayor Denham spoke to the Lee County Board of Commissioners' toll workshop Monday, June 01, meeting with commissioners and sending a letter to Chairman Judah. He explained the Management and Planning meeting usually did not accept public comment, but the Board gave the opportunity for public comment. He stated that the proposal was to lower some of the toll program due to reduction in revenues, and it was pointed out the Lee County expenses were up even though revenues were down. He continued to explain that revenues for the Sanibel tolls were up and the Cape Coral tolls were down. He noted that Mr. Cuyler, City Attorney would be meeting with the Lee County Attorney.

Vice Mayor Ruane spoke to meeting with 3 of Lee County Commissioners to discuss the toll increase violating the agreement.

- Sanibel tolls should be separated from Cape Coral and should have separate bond coverage
- Revenue up 1% with no additional expenses
- Consultant should review and refinance bonds
- Additional public meetings

Ms. Zimomra stated that the County did instruct staff to bring back a recommendation in August.

Councilman Harrity spoke to Sanibel being a small community and Council would keep tolls on their radar.

Vice Mayor Ruane spoke to attending a Police/Firefighter Pension Conference in Tallahassee and trying to accomplish the following:

- Decision to allow actuarial to provide options and long-term projections
- Review the Florida retirement system and compare to Sanibel's system
- Recognize the long-term stability was necessary
- All municipalities reviewing pension plans

Councilman Jennings spoke to oil drilling in the Gulf and a previous statement made by Mayor Denham that there was no position, which a resolution was adopted by Council. He further spoke to the SW Florida League of Cities meeting and suggesting the League have a resolution and proclamation.

Planning Commission Report

Commissioner Paul Reynolds gave a report on the May 26, 2009 Planning Commission meeting:

- Proposed amendments to Section 86-43

First Reading of an ordinance and scheduling of public hearing

ORDINANCE 09-009 AMENDING CHAPTER 18 - BUSINESSES, ARTICLE I. IN GENERAL, SECTION 18-51 - OCCUPATIONAL REGISTRATION, TO SPECIFY A REGULATORY FEE IN THE AMOUNT OF \$50.00; AMENDING CHAPTER 62 - TAXATION, ARTICLE II. LOCAL BUSINESS TAXES, SECTION 62-45 – TAX SCHEDULE TO PROVIDE A BI-ANNUAL FIVE (5%) PERCENT INCREASE FOR ALL CATEGORIES OF THE LOCAL BUSINESS TAX; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 09-009.

Council set the second reading and public hearing for Tuesday, July 21, 2009 at 9:45 a.m.

Second Reading and Public Hearing

ORDINANCE 09-008 AMENDING CITY OF SANIBEL ORDINANCE NO. 05-011 RELATING TO ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES (“EPAMDs”); SETTING FORTH FINDINGS; DETERMINING THAT IT IS APPROPRIATE AND AUTHORIZING THE USE OF AN EPAMD BY AN INDIVIDUAL WHO IS DISABLED FOR MOBILITY PURPOSES AS DEFINED IN THIS ORDINANCE; PROVIDING THAT SUCH USE SHALL BE AN EXCEPTION TO THE GENERAL PROHIBITION ON THE USE AND OPERATION OF EPAMDs WITHIN THE CITY OF SANIBEL; SETTING FORTH THE REQUIREMENTS AND CRITERIA TO QUALIFY FOR SUCH EXCEPTION; SETTING FORTH ADDITIONAL REGULATIONS ON THE USE AND OPERATION OF AN EPAMD; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 09-008

Public Comment

Wayne Ponader suggested delaying a decision until the Department of Justice decides handicapped persons usage of segways. He further stated that items of contention should not be forwarded to Council during summer months.

Mr. Cuyler stated he did not disagree with Mr. Ponader’s comments regarding segways, but legally Council could make a decision today amend as the Justice Department amends federal regulations.

Claudia Burns spoke to the resolution allowing the use of segway by a disabled person would obtain a permit and she asked if a companion would be allowed to ride a segway.

Mr. Cuyler answered no.

John Carney spoke to his disappointment that a MD visit would be required, and charging a fee.

Billy Kirkland spoke to his agreement of segway usage under the proposed ordinance. He further spoke against a fee being charged.

Mr. Cuyler stated that the fee would be established to take care of staff time and the Chief suggested \$20.00. He further stated that there was an application form ready if the ordinance was adopted.

Discussion ensued regarding should move forward with ordinance, oxygen use should be included, oxygen was mentioned in Section 4 2.3, and Mr. Cuyler stated where Florida Statute number was in the ordinance the words “Florida Statute would be included where applicable, could handicapped placard be used for usage, and Mr. Cuyler stated that the application does required the certification needed to get a handicapped placard.

John Carney spoke to handicapped placard given permanent and on a temporary basis, as well as a card. He further stated that the card must be with persons affects when using a placard.

Mr. Cuyler stated that a provision could be added to the affect that, “if a person could provide the State of Florida card identifying a person had meet the handicap requirements.” He further stated that there would be a designation on the placard that would be put on the segway. He suggested putting a 30 day time period.

Karen Storjohann spoke to her agreement to 30 day time period.

Discussion ensued regarding had different rules.

Jane Picker spoke to not clear that operating a segway under medical conditions and should not be an automatic assumption a placard works for everything.

Mr. Cuyler stated the certification was not operating a segway, but medical conditions that a person was not mobile.

Billy Kirkland spoke a second time that a person would need medical records on the weekends.

Mr. Cuyler stated Council could include that the City would accept the equivalent from the State of Florida or from other states.

John Carney spoke a second time it having a document from ADA regarding segways being included in Ding Darling.

Marianne Sifois asked how would people know that riders would be able to operate the segway?

Billy Kirkland answered that part of the requirement that anyone purchasing would receive training.

Vice Mayor Ruane made a motion, seconded by Councilman Harrity, to adopt Ordinance 09-008, withdrawing the fee and including all amendments Mr. Cuyler spoke to above.

The motion carried.

CONSENT AGENDA

Mayor Denham pulled item (f). Claudia asked to pull item (g) and Councilman Jennings pulled item (h)

- f. Request for letters of support from Dr. José Leal, Director of The Bailey-Matthews Shell Museum for a grant submission for a new educational display

Mayor Denham advised that the letter was signed by Council.

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to approve the letter.

The motion carried. Councilman Pappas was absent.

- g. First Amendment to Agreement between City of Sanibel and Sanibel Fitness Center, Inc. (in order to continue existing fitness classes and services to the City at the Recreation Center for an additional 90 days while Requests for Proposals are being evaluated by Recreation Center Staff)

Ms. Zimomra spoke to the following:

- 14 responses
- Need more time to adequately evaluate
- Continue the current program for 90 days.

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

The motion carried. Councilman Pappas was absent.

- h. Authorization for the City Manager to negotiate and execute a sub-lease to Lee County of the City's available Tower space at Verizon's Wulfert Communications Tower for purposes of installation of public safety and emergency communications

equipment by Lee County at the County's cost for the benefit of City and County residents

Councilman Jennings spoke to Lee County's request to place a public safety device..

Ms. Zimomra stated that when the telecommunications tower was placed at Wulfert a requirement was maintenance of a high location for future use by the City and County for public safety in addition to the rent. She continued to explain that as Council was aware there had been issue with quality of communication through some of Lee County safety equipment over the years. She stated that Lee County was upgrading the equipment and staff wanted to maximize the funds for the equipment since Lee County was paying for the equipment.

Mr. Cuyler advised that the space belongs to the City, which was accounted for under the lease. Ms. Zimomra again reiterated Lee County was paying for the equipment and there were current negotiations on the equipment. .

Councilman Jennings made a motion, seconded by Mayor Denham to approve.

The motion carried. Councilman Pappas was absent.

- a. Approval of minutes – May 19, 2009 Regular Meeting
- b. **RESOLUTION 09-064 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-043 AND PROVIDING AN EFFECTIVE DATE** (To appropriate Sanibel Isles/Water Shadows assessment fees paid by property owners for canal dredging in FY09. This project is currently budgeted in FY10 but is being advanced because dredging is required before FY10. This amendment does not increase the FY09 budget)
- c. **RESOLUTION 09-066 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-045 AND PROVIDING AN EFFECTIVE DATE** (To accept and appropriate \$1,604.90 from the Martin J. Harrity Campaign Account for recreation center scholarships. This budget amendment does not increase the FY09 budget)
- d. **RESOLUTION 09-067 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-046 AND PROVIDING AN EFFECTIVE DATE** (To transfer funds from the General Fund Reserves for Contingencies to the Finance Department to defray costs incurred for: 1) Renee Lynch to finish the FEMA small project worksheet close-outs for Hurricanes Charley and Wilma (\$6,000); 2) bank charges that would normally be offset by interest earnings (\$14,951); and 3) a monthly subscription to Realty Trac to track foreclosure, pre-foreclosure and auction activity on Sanibel (\$500). This budget amendment does not increase the FY09 budget)
- e. **RESOLUTION 09-065 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2009-044 AND PROVIDING AN EFFECTIVE DATE** (To transfer funds from the General Fund Reserves for Insurance Deductibles to the Insurance Department's Other Current Charges expense line for settlement of a \$3,850.04 claim for an automobile accident on January 28, 2009. This amendment does not increase the FY09 budget.)

Ms. Zimomra read the titles of the above

Mayor Denham made a motion, seconded by Councilman Harrity, to adopt the above-mentioned resolutions

The motion carried. Councilman Pappas was absent.

Public Comment

Claudia Burns asked that item (e) be explained.

Ms. Zimomra stated that this accident involved a City employee in an utility vehicle, neither driver was found to be at fault and there was an accident report.

Council recessed at 1030 a. m.

Council reconvened at 10:41 a. m.

OLD BUSINESS

Water Quality Issues

Reports from City Council members

Mayor Denham stated that James Evans was made chairman of the Southwest Florida Watershed Council.

Council congratulated Mr. Evans.

Staff Reports

Memorandum updating information on the Water Resources Advisory Committee River of Grass planning process, schedule and public participation

James Evans gave the following report:

- Would see darker water due to rain fall
- Urban and agriculture run-off
- Need more water acreage storage

Discussion ensued regarding continue to discuss storm water issues and would continue to update.

Ms. Zimomra stated that at the TDC meeting all water quality requests were denied and it was suggested that funding may come through Lee County's Natural Resources Department.

RESOLUTION 09-068 EXPRESSING THE APPRECIATION AND SUPPORT OF THE SANIBEL CITY COUNCIL FOR THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT GOVERNING BOARD'S APPROVAL OF THE REVISED PROPOSAL TO ACQUIRE LAND FOR EVERGLADES RESTORATION; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 09-068.

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to adopt Resolution 09-068.

The motion carried. Councilman Pappas was absent.

Draft letter of appreciation to SFWMD Board Members that voted for the revised U.S. Sugar Lands acquisition

Mayor Denham stated Council had signed the letters.

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to approve the letters.

The motion carried. Councilman Pappas was absent.

Discussion of the weigh station

Mayor Denham stated that this issue was raised by Councilman Pappas.

Public Comment

Karen Storjohann agreed the discussion should be discontinued and use her precious suggestion of using Lee County's technology to add fees.

Discussion ensued regarding the issue being dead, and discussions open at the appropriate time with Lee County.

Council agreed by consensus to discontinue discussion.

Discussion and direction to staff and the Planning Commission concerning Resort Re-development

Mayor Denham felt the above-mentioned issue was important and needed to be discussed sooner rather than later. He explained that this was part of Council's goals and not unreasonable to suggest a timeline of 9 months. He also spoke to handling the buildback legislation through Council's guidance and sent to the Planning Commission.

Discussion ensued regarding giving the Planning Commission, guidance, a timeline, direction from City Council, fair with resort housing, goal set for completion prior to 2010 hurricane season, would not agree on everything, and Mayor Denham asked to prepare a timeline for Council consideration.

Public Comment

Paul Reynolds stated that Section 86-43 done without Council input and request there be no Council parameters.

Tom Krekel spoke to a misunderstanding of comments made.

Holly Smith spoke to guidelines helpful and spoke to Council understanding of the time short or long it make take.

Barbara Cooley spoke to her disagreement of a timeline.

Hazel Schuller spoke to a basic issue, belongs in Council, and speaks to the beginning of the City.

Report on County proposal on Sanibel Causeway tolls

Mayor Denham spoke to attending the Monday, June 01 Lee County Board of Commissioners Planning and Management meeting including a staff presentation regarding tolls earlier during Council comments.

Ms. Zimomra asked if Council wanted to designate a member to prepare a letter.

Discussion ensued regarding Vice Mayor Ruane preparing a letter, and meeting with staff.

Mayor Denham made a motion, seconded by Councilman Jennings, to direct staff to work with Vice Mayor Ruane to prepare a letter of response to Lee County.

Discussion ensued regarding concern regarding content of letter, provide comments to City Manager, Mr. Cuyler noted Sunshine being followed, the letter to include; 1) bring in consultant; 2) Sanibel and Cape Coral should be treated separately; 3) intent of settlement agreement; 4) bond coverage and refinancing for appropriate revenue, letter should come from all Council, Mr. Cuyler stated it was the logistics of all being involved due to cancellation of meetings, Vice Mayor Ruane would make clear that he was designated as Council spokesman, and Lee County suggested Sanibel fee structure would be reduced.

The motion carried. Councilman Pappas was absent.

NEW BUSINESS

RESOLUTION 09-069 OF THE SANIBEL CITY COUNCIL TO FIX A TIME, DATE AND PLACE FOR A PUBLIC HEARING TO DETERMINE THE PROPRIETY AND ADVISABILITY OF ESTABLISHING AND IMPLEMENTING THE SANIBEL SEWER SYSTEM PHASE 5 EXPANSION PROJECT, WHICH INCLUDES ALL LOTS AND LANDS WITHIN THE PLATTED SUBDIVISIONS OF SANIBEL BAYOUS I AND II, HERON'S LANDING I AND II, BLIND PASS CONDOMINIUMS AND THE PARCEL LOCATED IN NW ¼ OF NE ¼ OF SECTION 13, TOWNSHIP 46 SOUTH, RANGE 21 EAST, WITHIN THE CITY OF SANIBEL, AS TO THE COST AND FUNDING THEREOF, THE MANNER OF PAYMENT THEREFOR, AND AS TO THE AMOUNT TO BE ASSESSED EACH PROPERTY SO IMPROVED, PURSUANT TO SECTIONS 170.07 AND 170.08, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 09-069.

Mr. Cuyler stated if the resolution was adopted as is establishes July 21, 2009 as the hearing date for residents to come before Council with questions.

Mayor Denham made a motion, seconded by Vice Mayor Ruane, to adopt Resolution 09-069

The motion carried. Councilman Pappas was absent.

Discussion of issues raised by the Cultural and Heritage Center of the Islands

Councilmember Harrity spoke to the following:

- Issues with display and other items at the Historical Museum and Village
- Some item offensive and taken actions to remove
- Need for inclusiveness and accuracies of displays
- Suggest that he bring up with different association to bring accuracy to all historical significance and accuracy

Discussion ensued regarding Councilman Harrity would address the issue at the next Historical Preservation Committee, and would bring the issue forward on a positive note and Council agreed.

Public Comment

Hazel Schuller asked to hear from the Cultural Heritage Center representative in the audience. She further spoke to there needing to be a place for all including City government culture.

Yvonne Hill spoke to increasing the visibility of cultural section to Southwest Florida and wanted to be inclusive by telling the story from a different perspective and advocate everyone's cause. She also spoke to the lack of City financial support. She further spoke to the display going to different areas of Florida.

Judge Dixon spoke to Sanibel being a place of harmony of man, nature and all people. He further spoke to finding displays offensive when all history was not included.

COMMITTEES, BOARDS, COMMISSION

Proposed Schedule for City Council Liaison to Planning Commission

June 9, 2009	Councilmember Pappas
July 14, 2009	Mayor Denham
August 11, 2009	Councilman Harrity
September 8, 2009	Vice Mayor Ruane

COMMITTEES, BOARDS, COMMISSION

Proposed Schedule for City Council Liaison to Planning Commission

September 22, 2009 Mayor Denham
October 13, 2009 Councilman Pappas
October 27, 2009 Councilman Jennings
November 10, 2009 Councilman Harrity
November 24, 2009 Vice Mayor Ruane
December 8, 2009 Mayor Denham
December 22, 2009 Councilman Pappas

Ms. Zimomra stated that Ms. Pickerson and Ms. Schuler had raised the issue of not receiving City emails. She advised that staff had provided information and if they would see her after the meeting she would be glad to speak with them.

CITY MANAGER

Informational Items

Budget Calendar

Ms. Zimomra stated that the Council was advised of the preliminary report from the property appraiser number was 10.2% below last year. She further stated that a budget would be brought forward only with the revenues available. She also stated that in addition other revenue was also down and would continue to adjust the level of government to be within the resources available.

Employee Dependent Scholarship Update

Ms. Zimomra stated that there was in the agenda packet were acknowledgments of graduation of 2 recipients.

Renewal by Department of Environmental Protection Wastewater Treatment Plant (DEP) of 5-Year Operating Permit for Wulfert

Ms. Zimomra stated the renewal of 5-year operating permit to the Wulfert plant.

Thank You Letters for Recreation Center Scholarship Program Contributions (Sanibel-Captiva Kiwanis Foundation; Councilmember Harrity; and Kathy Smith)

Ms. Zimomra spoke to the annual contribution of \$7,000 from the Sanibel-Captiva Kiwanis Foundation, which was increased by \$4,000 from last year. She also stated that these funds would be used for children of working families to attend programs at the Recreation Center. She further stated that Councilman Harrity donated funds from his campaign fund and there was a donation from a City employee in honor of her aunt.

Abandoned & Deteriorated homes & property management homes

Ms. Zimomra stated that the City had done better than other cities, but there were some homes that staff was tracking as well as looking a model codes due to homes suffering because of the economic downturn.

Turtle Nesting Update

Ms. Zimomra spoke to the information in the agenda packet.

Community Resource Housing (CHR) Quarterly Financial Statement as of March 31, 2009

Ms. Zimomra noted the report was provided due to the agreement.

CITY ATTORNEY'S REPORT

Summary of Notice of Violation and Orders for Corrective Action from Department of Environmental Protection to Bull Dredging, Inc., Sanibel Marina, Inc. and City of Sanibel for Bull Dredging's failure to adhere to permit requirements while dredging Shell Harbor entrance canal

Ms. Cuyler spoke to the following:

- Sanibel Marina approached the City in 2007 about dredging the entrance canal to Shell Harbor
- Sanibel Marina hired a dredging company
- Dredging company worked under the City's general DEP permit
- Majority of funding would come from the private company or Shell Harbor residents
- City would pay one third of the cost due to public benefit
- Bull Dredging used the boat ramp for spoils
- Bull Dredging, Sanibel Marina and the City were sited by DEP through no fault of the City due to Bull Dredging's failure to adhere to the permit
- City and Bull Dredging due to Bull Dredging not adhering to DEP permit
- Sanibel Marina and City interested in mediation before going to court

COUNCIL MEMBERS' REPORT

Vice Mayor stated that Lee County Tourist Development Council (TDC) did appoint him to the Council and the first meeting he would attend would be July 01, 2009.

PUBLIC COMMENT

None

There being no further business the meeting was adjourned at 11:53 a. m.

Respectfully submitted by,

Pamela Smith, MMC
City Clerk