

**SANIBEL CITY COUNCIL REGULAR MEETING  
MARCH 16, 2010**

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

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

Members present: Mayor Denham, Councilman Harity, Councilman Jennings and Councilman Pappas.

**Request from Vice Mayor Ruane to be excused from the beginning of the Council meeting**

No action needed due to Vice Mayor Ruane arriving on time for the meeting.

**PRESENTATION(S)**

**Proclamation designating April 11 through 17, 2010 Edible Mollusk Week at The Bailey-Matthews Shell Museum**

Mayor Denham shared historical information regarding the Bailey-Matthews Shell Museum and presented the proclamation to Ms. Clair Beckmann a Museum Board member.

**Public Comments**

Mike Cuscaden complimented the City for moving the Farmers Market location to the City Hall property.

Jim Lavelle, COTI President spoke to continue working on the General Employees Pension and an article in the New York Times regarding Greece's financial problems with a debt of 113% of gnp, but when including medical and pension liabilities the debt was really 875 % of gnp. He further noted that the article also spoke to the United States having a 500% gpn when including government pensions, social security and Medicare.

Claudia Burns spoke to the International Osprey Foundation had a volunteer nest watch until chicks fledged in late April or early May. She gave statistics because the Ospreys were an indicator species for the health of local waters; 2003 – 120 Osprey chicks fledged; 2007 50 Osprey chicks fledged; 2007 109 Osprey chicks fledged in 2009. Marty Daltry would be speaking at the International Osprey Annual meeting Sunday, March 28, 2010.

Louise Johnson spoke to her interest in issues and the belief that Sanibel was a residential community and allowing restaurants out-door seating takes the City another step toward residents being a second class interest. She also spoke to overcrowding in-island with Special Events and the need for the whole Vision Statement in Council chambers. She explained her concern of Council meeting only one meeting per month and citizen getting 3 minutes for public comment at the one per month City Council meeting and volunteering her \$1,000 donation for environmental litigation for putting the Vision Statement in MacKenzie Hall.

Mayor Denham stated that it was Council's decision that the Vision Statement not be put on the Chamber walls and was not a cost issue

**Council Comments**

Councilman Pappas asked the Mayor if he was disturbed by the presentation of Mark Anderson and Bruce Rogers and Mayor Denham answered yes. Councilman Pappas spoke to the exchange not being on the Planning Commission Land Development Code (LDC) sub-committee agenda. He spoke to comments made by Bruce Rogers regarding parts of the LDC being archaic and the

recommendation to increase land use by up to 5% in addition to what was already allowed if developers use green techniques. He further spoke to his knowledge of the carbon footprint was to decrease not increase and the statements were misleading. He explained his belief that the LDC was not made irrelevant by green technology. He also spoke to the passing of the late Commissioner Bob Janes and his attributes.

Councilman Jennings agreed with Councilman Pappas' comment regarding Commissioner Janes. He also spoke to giving a Proclamation to Representative Aubuchon for proposing the Healthy Beach legislation.

Councilman Harrity agreed with comments made by other Councilmember's regarding the passing of Commissioner Bob Janes.

Vice Mayor Ruane also spoke of Commissioner Janes.

Mayor Denham gave a history of Commissioner Janes' works in Lee County. He also spoke to the memorial service March 22 at 4:00 p.m. at Harborside Event Center. Mayor Denham assed proclamation language to Council and ask consideration to plant a tree in honor of Mr. Janes inviting the family.

Ms. Zimomra stated a marker would be included and the tree would be planted at the beginning of the rainy season.

### **Planning Commission Report**

Commissioner Paul Reynolds gave the following March 09, 2010 Planning Commission report:

- LDC sub-committee meeting
- Approval of 8 restaurants to have out-door dining
- Ideas of the pursuit of redevelopment

**Please Be Advised that a First Reading of an Ordinance may take place as set forth in section 11a v of this agenda in the event that the City Council decides to proceed with the award of a Franchise Agreement to operate a solid waste, recycling and horticultural material collection service after consideration of agenda items 11a i, ii, iii and iv**

Ms. Zimomra stated that First Reading of the proposed ordinance would be discussed later in the meeting

Second Reading and Public Hearing

**ORDINANCE 10-002 AMENDING CITY OF SANIBEL INVESTMENT POLICY; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 10-022.

Mayor Denham moved, seconded by Vice Mayor Ruane, to adopt ordinance 10-022

Public Comment  
None

The motion carried.

**ORDINANCE 10-003 AMENDING CHAPTER 14 OF THE SANIBEL CODE, "BUILDINGS AND BUILDING REGULATIONS", ARTICLE III, LICENSES, REGISTRATIONS AND CERTIFICATIONS, DIVISION 2, CONSTRUCTION CONTRACTORS, SECTION 14-123, CONTRACTORS REVIEW BOARD, FOR THE PURPOSE OF INCREASING THE BOARD MEMBERSHIP BY AN**

**ADDITIONAL 3 SEATS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Ordinance 10-033.

Mr. Cuyler spoke to a proposed amendment as follows:

- Put the word “Florida” in front of the 6 different categories

Discussion ensued regarding the proposed amendments, include a licensed engineer and architect, Building Director recommended putting the word Florida in front of the 6 categories

Vice Mayor Ruane moved, seconded by Mayor Denham, to adopt Ordinance 10-0, with amendment of adding “Florida preferred” to license engineer and architect.

Ms. Zimomra stated that the chairman was present.

**Public Comment**

Jeff Molnar, Chairman Contractors Review Board stated that the Board agrees with the amendments. He further stated the Board had approved 49 contractors and heard 13 cases.

Mr. Cuyler stated that staff had not advertised and does not know if there were retired engineers and architect on-island and may want to amend to allow out-of-state retirees for the two specialties. He further advised of a concern of not finding appropriate members.

Discussion ensued regarding to locating appropriate Board members, engineers could get a non-working license, re-certification was necessary for certain careers, may need to go off island, staff would advertise, Council would interview and appoint, could use the wording of preferred Florida licensed member, license (Florida preferred), not exclude anyone from applying, ordinance indicates Florida preferred licensed member, question becomes if only a Florida licensed member, ask why Mr. Molnar expects cases to become more difficult, and Mr. Molnar answered that he expected more complex cases.

The motion carried.

Jim Kilcherman spoke to a preference to have Sanibel residents licensed as an engineer and/or architect. He also suggested invoking a performance bond for contractors to protect the homeowner.

Mr. Cuyler stated that Contractor Review Board had a “Florida preference.”

Ms. Zimomra stated there was an upcoming staff meeting with Mr. Kilcherman.

Barbara Cooley spoke to her concern of using Florida preferred and the talent on-island.

## CONSENT AGENDA

Mayor Denham asked to pull item (e) and (f)

- b. **RESOLUTION 10-028 DESIGNATING THE CITY MANAGER, FINANCE DIRECTOR, PUBLIC WORKS DIRECTOR AND THE ADMINISTRATIVE SERVICES DIRECTOR TO ACT ON BEHALF OF THE CITY TO EXECUTE INVESTMENT AND BANK ACCOUNT SIGNATURE CARDS, BANKING RESOLUTION AND CERTIFICATE OF INCUMBENCY, AND RELATED DEPOSIT ACCOUNT DOCUMENTATION; AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 10-028.

Vice Mayor Ruane moved, seconded by Mayor Denham, to adopt Resolution 10-028.

Public Comment

None

The motion carried.

- a. Approval of minutes – March 02, 2010
- c. Approval of a Memorandum of Understanding between the City of Sanibel Police Department and Lee County Sheriff's Department activating a new Records Management query program called "Extranet" and authorize the City Manager to execute same
- d. Approval to submit a proposal to Google, Inc., to participate as a location for community wide, broadband, fiber internet connectivity (no funds required to participate)
- Ms. Zimomra noted that in the past year the cleaning contract was reduced to 3 days a week cleaning, which reduced that contract amount. She further noted that the contract was also for 3 days per week.
- e. Award a 2-year City Hall cleaning contract to Alba Cleaning, Inc., in the amount of \$10,080 per year and authorize the City manager to execute same
- f. Allow Barlow of Naples to withdraw their bid, award a 2-year beach parks restrooms and Community Park restroom cleaning contract to RT Cleaning by Rimma Tyo in the amount of \$26,200 per year and authorize the City Manager to execute same
- g. Award 2010 Sewer Rehabilitation contract to Mitchell & Stark Construction Co. Inc., in the amount of \$68,840.55 and authorize the City Manager to execute same (project included in the FY10 budget and requires no additional funds)
- h. Acceptance of the Other Post-Employment Benefits (OPEB) October 01, 2009 Actuarial Report

Mayor Denham moved, seconded by Councilman Harrity, to approved Consent Agenda items a, c, d, e, f, g, and h.



**SOLID WASTE COLLECTION AND DELIVERY SERVICE WITHIN THE TERRITORIAL LIMITS OF THE CITY OF SANIBEL, FLORIDA FOR A TERM OF 5 YEARS AND CREATING A FRANCHISE AGREEMENT; PROVIDING FOR EXTENSION OF THE FRANCHISE PERIOD; SETTING FORTH OPERATOR'S OBLIGATIONS CONCERNING COLLECTION AND DELIVERY SCHEDULES, INSURANCE, BOND, AND PERFORMANCE; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE**

**Continued discussion by City Council of issues related to the Land Development regulations that affect re-development in the resort housing sector and to provide direction to the Planning Commission for addressing these issues**

**Memorandum from Director Jordan dated March 10, 2010 regarding of a Study of Re-development in the Resort Housing District**

**Previous Information provided to Council**

**Background memorandum of February 24, 2010 from Director**

**Data and Analysis from Director Jordan dated February 24, 2010 of existing conditions in the Resort Housing District**

**Existing multi-family dwellings with 3 and 4 habitable floors from Director Jordan dated February 24, 2010**

**Land Use Map of the Resort Housing District dated February, 2010**

**Density Map of the Resort Housing District dated February, 2010**

**Memorandum from Dr. Rob Loflin dated February 16, 2010 regarding coverage and clearance issues for Re-development**

**Background memorandum of January 26, 2010 from Director Jordan**

**Existing map of Resort Housing District**

Ms. Zimomra stated it was staff's attempt to recapture Councils direction.

Discussion ensued regarding emails implying positions change as Council discusses any given topic, sometimes positions change if another Council member makes a compelling argument, and laying general ground rules for re-development.

Mr. Jordan spoke to defining the purpose, improve safety, improve buildings as required by flood requirements, preserve the daily pool of resort housing district units and encourage owners to maintain units for short-term rental usage and could be rehabilitation. The focus for the Planning Commission was as follows:

- Maintain current density if same number of units maintained on ground, possibility same square footage elevated and built to code
- Under redevelopment, coverage currently applicable would not change and would redevelop with the current coverage
- Under rehabilitation possibly mitigate existing ground coverage by removing impervious surfaces and replacing with a non-permeable surface coverage for on-site amenities or on-site facilities
- No change in maximum height of 45 feet
- Setbacks would remain

- Anything seaward of the 1074 CCCL would be removed to landward of the CCCL
- Allowances for green technology when utilized with re-development
- Re-location of footprint of existing footprint in compliance with the current code

Discussion ensued regarding decision today was if there were adequate guidelines, based on information from emails that for those who want an answer and Council contemplating increased density in the current code, properties brought into conformity would bring less density, Land Development Code (LDC) must be amended, could not have residents and owners reality and the right thing to do, need basic trust in the community, would require increase in lot coverage, support green technology, but not to increase impermeable coverage, need to avoid referendums at all cost, few units as a results of re-development, timeline for a final ordinance coming back to Council for discussion, appropriate to have a frequent detailed discussion with Council to advise where the Planning Commission was in the re-development process, final document between 6 months and December 31, 2010, beneficial for Planning Commission advising Council and be able to address topics, need indication of how the processing was moving, have in depth discussion every other month and give the opportunity for the Planning Commission chair to ask for a Special meeting.

#### Public Comment

Herb Rubin spoke to considering rain water cisterns and green roofing where native plants could be laid to increase insulation of the house. He further spoke for other coverage due to solar panels that could not be used if a green roof were proposed. He also spoke to his understanding that Sanibel's forefathers that non-conforming structures would not be re-developed and density would be reduced.

Karen Storjohann spoke to the original Sanibel Plan at LDC 2.5.4 and stated density was based on scientific analysis of the carry capacity of the island. She suggested that density would open the City up for Burt Harris implications. She also spoke to the discussion was not noticed to the public. She also spoke to greening of the City code was important. She urged Council to separate the modernization of condos units, which was 68% of tourist housing. She also suggested the Planning Commission members re-read the introduction of the Sanibel Report 2.5.4.

Larry Schopp stated the guidance given to the Planning Commission would help to streamline the process. He further stated that the guidance of clearance and coverage given would be done during conditional use and variance process.

Council answered yes.

Claudia Burns spoke to her relief that Councilman Pappas brought up an irregular procedure. She stated she was surprised that a major item was discussed and asked how that discussion was brought about. She further stated that if 3 members of Council were not present Council would not know of said discussion.

Mike Valiquette answered that a citizen asked to be on the agenda of a sub-committee and was advised that there would be public comment. He asked that the minutes of that conversation be forwarded to Council and they were sent to Council.

Discussion ensued regarding that the discussion was broader than just public comment, of more interest for the community, may want to rethink discussion, Mr. Cuyler stated that the discussion was far reaching and minutes were provided, any actions would be taken during a Planning Commission meeting, needed to allow only 3 minutes for each public comment, and sub-committee did not implement a time limit for public comment.

Sonia Smith, CASI spoke to noticing that modernization was changed to rehabilitation and hope that had not changed the conception and calling everything redevelopment and on page 4 no re-development forward of the 1974 CCCL and there were 31 resorts with 600 units and pools forward of the CCCL. She further spoke to lot coverage and asked consideration of the carbon and ecologic footprint that condos occupy and disagree with Mr. Rogers to have 5% coverage and consider a trigger. She spoke to mitigation and noted that the owner have to vote on everything.

Tom Krekel spoke to Chairman Valiquette asked if everyone approved the PowerPoint presentation and the resident was giving ideas of possible considerations.

Louise Johnson spoke to the process for someone that asked for a variance.

Discussion ensued regarding keeping Sanibel special by being proactive, concern of implications, process would be followed, the beginning of the re-development process, further discussion with the Planning Commission, I.Q.'s not dropping at the same rate as property values in Lehigh Acres, public comment cut-off at the Planning Commission, residents speak with unusual candor and knowledge, Burt Harris implications important to raise, maybe certain areas that could have total re-construction inside, acknowledge and prefer that the discussion at the March 09 LDC sub-committee meeting not happen again, not issues at this time with Burt Harris, Mr. Cuyler stated that discussions were very early and very broad comments and will be ready to give an opinion when needed.

Mayor Denham moved, seconded by Councilman Harranty, to send the document as written to the Planning Commission.

The motion carried.

Council recessed at 11:03 a. m.

Council reconvened at 11:13 a.m.

**Additional responses from elected/appointed officials regarding Resolution 10-001 opposing off-shore drilling**

Ms. Zimomra noted the additional responses regarding off-shore drilling.

**Presentation by Burgess Chambers and Associates, Inc., on Investment Plan**

Vice Mayor Ruane spoke to the following:

- Firm that works with the Police Pension
- Maximize returns without further risk
- Recommended a treasury portfolio
- Work on fixed assets nothing less than a Triple A rating backed by government
- Opportunity to broaden and have ability for investments
- Management fee proposed was 17.5 basis points
- Would increase investment income
- Consistent with investment policy

Vice Mayor Ruane moved, seconded by Mayor Denham, to accept the recommendation and allocate funds with Integrity fixed income Management particular treasurer bonds

The motion carried.

Ms. Edwards stated she would contact Mr. Chambers for an agreement to forward to Mr. Cuyler for his review.

**COMMITTEES, BOARDS, COMMISSION**

City Council Liaison to Planning Commission

March 23, 2010	Councilmember Harrity
April 13, 2010	Councilmember Jennings
April 27, 2010	Vice Mayor Ruane
May 11, 2010	Mayor Denham
May 25, 2010	Councilmember Pappas
June 08, 2010	Councilmember Jennings
June 22, 2010	Councilmember Harrity
July 13, 2010	Vice Mayor Ruane
July 27, 2010	Mayor Denham
August 10, 2010	Councilmember Pappas
August 24, 2010	Councilmember Jennings
September 14, 2010	Councilmember Harrity
September 28, 2010	Vice Mayor Ruane
October 12, 2010	Mayor Denham
October 26, 2010	Councilmember Pappas
November 09, 2010	Councilmember Jennings
November 23, 2010	Councilman Harrity
December 14, 2010	Vice Mayor Ruane
December 28, 2010	Mayor Denham

**Committee Appointments and Annual Reports April 20, 2010 Council meeting**

**Ms. Zimomra spoke to the following**

- **Vegetation Committee would below the authorize strength**

- **Advertise for the Vegetation Committee and the 3 new seats on the Contractors Review Board**

**Mayor Denham moved, Vice Mayor Ruane, directed staff to advertise for the 3 new seats for the Contractors Review Board and Vegetation Committee.**

**The motion carried.**

**RESOLUTION 10-029 AMENDING THE SCOPE OF DUTIES AND RESPONSIBILITIES OF THE PARKS AND RECREATION ADVISORY COMMITTEE; PROVIDING THAT THE MEMBERSHIP OF THE COMMITTEE SHALL BE REDUCED FROM 13 MEMBERS TO 9 MEMBERS THROUGH ATTRITION (RESIGNATION OR EXPIRATION OF TERMS); AND PROVIDING AN EFFECTIVE DATE**

Ms. Zimomra read the title of Resolution 10-029. She spoke to the discussion at the March 02 Council meeting, which Councilman Jennings recommended through attrition reducing the members for 13 to 9. She further spoke to 2 accomplished tasks of a Recreation Center volunteer program a becoming a 501 c 3, which could not happen.

Councilman Jennings moved, seconded by Mayor Denham, to adopt Resolution 10-029

The motion carried.

**Parks and Recreation Committee recommendations**

**Approval of a Parks and Recreation Committee recommendation to change the name of the “Senior Center” to “Center 4 Life” 2401 Library Way**

Ms. Zimomra stated that the Chair and Vice Chair was available for discussion. She further stated that the seniors wanted to change their name from the “Senior Center” to “Center4Life.”

Director Deal stated that the Parks and Recreation Committee concurred with the recommendation.

Mayor Denham moved, seconded by Councilman Jennings, to approve the recommendation.

The motion carried.

**Status report from Parks and Recreation Committee regarding a gazebo located at Community Park located 2231 Periwinkle Way**

Ms. Zimomra spoke to the Parks and Recreation Committee had been working on this project would be in the general area of the electrical placement and an area was coordinated with Public Works and the Building Department; to meet the standards from LCEC; for reservation with a permit and fee.

Councilman Pappas moved, seconded by Vice Mayor Ruane, to approve the gazebo project with everything donated.

The motion carried.

Public Comment

Barbara Cooley asked if the gazebo was designed and if musicians were considered.

Ms. Zimomra answered yes and 2 major changes were; 1) vegetation backdrop; 2) leaves sufficient space for performer storage and a ramp for handicapped persons and could be used for equipment.

**Approval of a Parks and Recreation Committee recommendation to erect a fence around the playground area at Community Park 2231 Periwinkle Way and RESOLUTION 10-030 APPROVING BUDGET AMENDMENT/TRANSFER NO. 2010-021 AND PROVIDING AN EFFECTIVE DATE** (to transfer \$4,000 from the General Fund's reserve for contingencies to the public facilities department to build a fence around the children's playground at Community park. This amendment does not increase or decrease the FY10 budget)

Ms. Zimomra read the title of Resolution 10-030. She noted this was to be responsive for a 5-foot green vinyl fence for the safety of small children.

Councilman Pappas moved, seconded by Vice Mayor Ruane, to adopt Resolution 10-039.

Public Comment

None

The motion carried

**Annual report of the Planning Commission Land Development Code sub-committee**

Mike Valiquette gave the following report:

- **Periwinkle Way**
- **Guidelines for Town Center general**
- **LDC state/federal permits for extensions**
- **LDC 86-43**

Vice Mayor Ruane moved, seconded by Councilman Harrity, to accept the report.

The motion carried.

**CITY MANAGER**

**Informational Items**

Ms. Zimomra stated that Council approved the new bathrooms at the boat ramp and she showed a piece of a solar panel to Council. She explained it would decrease electricity and would be talking to LCEC.

**Unemployment Compensation Decision**

Ms. Zimomra spoke to the supplemental material regarding an unemployment claim and the City did not prevail. She stated that it was staff's recommendation not to appeal the decision.

Vice Mayor Ruane, seconded by Mayor Denham, to accept the staff recommendation for no appeal.

The motion carried.

**Tentative date of Wednesday, April 21, 2010 at 10:00 a.m., for an official ceremony to transfer ownership of the Sanibel Lighthouse from the United States Federal Government, Department of Interior to the City of Sanibel**

Ms. Zimomra spoke regarding the tentative date and the actual arrangement were not finalized.

**Building Department Monthly Revenue Report  
Building Department Monthly Permit and Inspections  
Planning Department Permit Activity Report  
Planning Department Code Enforcement Activity Report  
Causeway counts January, 2010**

For informational purposes.

#### **CITY ATTORNEY'S REPORT**

**None**

#### **COUNCIL MEMBERS' REPORT**

**Letter dated March 05, 2010 to Governor Crist regarding opposition to State Fertilizer Preemption of Local Ordinance as the Regional Planning Council (RPC) chairman**

Mayor Denham spoke to the letter enclosed regarding preemption of local governments on the fertilizer issue.

Councilman Jennings spoke to the Southwest Florida League of Cities (FLC) meeting at the Veranda at 11:30 a.m. Thursday, March 18, 2010. He further spoke of his concern of the US Sugar land acquisition becoming a political issue.

Vice Mayor Ruane spoke to Mr. Dick McNeill spoke to each Councilmember regarding east end dredging. He noted that Mr. McNeill asked to address Council April 20, 2010 for 10 minutes.

Councilman Pappas moved, seconded by Mayor Denham, to allow a presentation on dredging by Dick McNeill.

The motion carried.

Councilman Pappas announced that the SFWMD voted to extend the U.S. Sugar land purchase. He advised that the SFWMD vote was 28 to extend and 3 against the extension of the US Sugar land acquisition. He also spoke to an article in the NY Times that people in Florida got a good deal and US Sugar lost and was concentrated on money.

Discussion ensued regarding the letter that Councilman Pappas sent on behalf of City Council.

**PUBLIC COMMENT**

Herb Rubin spoke to a number of letters to the editor in the NY Times on the bias of the US Sugar land purchase article. He also spoke that this was an issue of eminent domain and justified.

Karen Storjohann spoke to the ACOE revitalized the lands destroyed by Sadam Hussein and it should have happened in a time of peace.

Claudia Burns thanked Councilman Pappas remarks regarding the Planning Commission public comment.

There being no further the meeting was adjourned at 11:55 a.m.

Respectfully submitted by,

Pamela Smith, MMC

Sanibel City Clerk