

SANIBEL CITY COUNCIL REGULAR MEETING
MAY 04, 2010
9:00 A.M.

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

Mayor Ruane gave the Invocation and Pledge of Allegiance.

Request to be excused (Councilman Jennings)

Councilman Pappas moved, seconded by Vice Mayor Denham, to excuse Councilman Jennings.

The motion carried

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

PRESENTATION(S)

Proclamation proclaiming May 2nd through May 8th 2010 as Municipal Clerk Week.

Mayor Ruane read and presented the proclamation to City Clerk Pamela Smith.

Council Comments

Mayor Ruane spoke to the oil spill and that the City had issued two Press Releases and would continue to issue Press Releases to update Sanibel property owners. He further spoke to Sanibel partners meeting to identify potential sensitive areas, which had been identified on a diamond system with areas of concern identified with three diamonds.

Ms. Zimomra spoke to the following:

- To date focus on six counties in the Panhandle as well as Louisiana
- Federal Government using an environmental sensitive index map
- Turtle nesting, Snowy Plovers and Least Tern nests identified
- All sites identified by GPS
- Access points for booming storage and staging sites
- Indicated which beach access sites that could be used
- Next phase added to geographic response plan
- Research data base used to deploy booming sites
- Make sure resources available if oil effects Sanibel Island
- Need additional booming areas for deployment
- Sanibel Island very high on the environmental index
- Will continue to meet with local partners

Vice Mayor Denham spoke to his concern that off-shore drilling discussion would continue at the state level, cut-off technology should be used as it is used by European entities.

Councilman Harrity spoke to staying ahead of the disaster.

Councilman Pappas spoke to continued comprehensive stress since Hurricane Charley.

Public Comments

Barbara Cooley spoke to the need to mandate cut-off values.

Karen Storjohann asked how far the Gulf Stream was off Sanibel.

Ms. Zimomra stated that booming would be used to protect the islands assets.

Dr. Loflin answered the gulf loop was currently about 20 to 80 miles off-shore and varies. He further stated the loop was located south of the oil spill and a westerly wind could bring the oil slick to the island. He also spoke to booming the entire beach, J. N."Ding" Darling and island mangroves.

Ed Seibert asked how Island Water Association would work through the oil spill.

Ms. Zimomra spoke to today's focus would be to continue to provide focus on the boom plan and would call for a partners meeting.

Mike Valiquette spoke to having 2,000 PUURE members on an email and offer the use of the list to gather volunteers. He spoke to living on the coast in Maine cleaning wildlife and dealing with oil spills. He further spoke to enough oil in Montana that would last over 2,000 years.

Mid-year (second year) by Dr. Mike Parsons, Florida Gulf Coast University – Bioavailability and Sources of Nutrients and the Linkages to Nuisance Drift Algae

Dr. Parsons gave a brief PowerPoint presentation.

Discussion ensued regarding excess releases from Lake Okeechobee, continue to fighting the fertilizer industry because nitrogen was the principle cause of red drift algae, agree nitrogen the principle problem, asked Dr. Parsons to explain ground water traces being discharged like a bubbling spring and easier to detect depending on nutrients, Dr. Parson spoke to surface water mixing with ground water would give a different signal, could storm water run-off be a cause and Dr, Parsons answered yes, and should continue to worry about excess nitrogen.

Public Comment

Dr. Harries spoke to the linkage of ground water was there anything to be done to control.

Vice Mayor Denham answered that ground cover control would help.

Claudia Burns spoke to decomposition does not cause further growth of algae.

Dr. Parsons answered that algal was a natural process, but the case of large amount collecting on the beach, the question was how much was too much.

Council thanked Dr. Parsons.

Discussion ensued regarding no one in the world was working with no fail safes, but in the Gulf, regulation and monitoring was at a minimum, put together a letter to Senator Nelsons office, a lot of stress factors, BP in 3 months made \$60 million, stock \$32 billion in value, continue to put pressure for safety features, continue to focus, and cost of rig replacement \$560 million.

Council recessed at 10:01 a.m.

Council reconvened at 10:10 a.m.

Second Reading and Public Hearing

ORDINANCE 10-004 GRANTING TO VEOLIA ES SOLID WASTE SOUTHEAST, INC., A FRANCHISE TO OPERATE A 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

Ms. Zimomra read the title of Ordinance 10-004.

Council extended gratitude for their service to the City of Sanibel.

Mr. Cuyler spoke to the following:

- Agreement already signed by Veolia
- Memo in packet regarding two changes and incorporated within the ordinance

Discussion ensued regarding Veolia ES Solid Waste having issues in and wants to continue the services Sanibel was accustomed, too.

Jim Sutor, Veolia area representative and previous issues in the past.

Public Comment

Claudia Burns spoke to annual fee per dwelling unit would be \$316.51 and was it subject to discussion, as well as pursuing the assessment and would that decrease the cost

Mr. Cuyler explained the following:

- Two different process; 1) ordinance agreement with the franchise hauler regardless of assessment district; and 2) assessment district with the ultimate purpose was to get on the residential tax bill for parcels with one to four units
- Figures for assessment based in part of the negotiated fee with City
- Process would continue and final hearing July 20th
- Facilitates the ease of payment and a cost reduction through tax bill

Brad Avery, Waste Pro spoke to the following:

- Picked-up trash for residents not paid and continued to do so without payment
- Continue to purchase specialized containers for specialized containers for businesses
- Good partner
- Gave back a 10% reduction in costs
- Helped clean-up the algae bloom
- Did not charge the City for extra efforts during Hurricane Charley
- Other companies focus on costs
- Designed service with smaller trucks
- Waste Pro focused on being a partner
- Consider an option to re-negotiate with Waste Pro
- Disturbing that bids were thrown out and companies had the ability to copy numbers

Mr. Cuyler spoke to:

- Experience with Waste Pro was good
- Hopeful new hauler would be as responsive
- Process was a fair request for Proposals
- Set out qualifications
- Chosen hauler met qualifications and lower cost

Mr. Gates Caste, Public Works Director spoke to:

- Waste Pro performed well
- Smaller trunks incorporated in new contract
- Veolia lowest responsive bidder

Discussion ensued regarding Council's job as being good stewards and in another world loyalty would be a factor.

Councilman Harrity moved, seconded by Vice Mayor Denham, to adopt Ordinance 10-004 as presented.

Stacy Good, Sun Dial west have a compactor and how would assessment affect them.

Mr. Cuyler stated that Sundial would not be included.

The motion carried with Councilman Jennings excused.

ORDINANCE 10-005 AMENDING THE CODE OF ORDINANCES, SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126 ZONING, ARTICLE XIV SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 5 COMMERCIAL USES GENERALLY, SECTION 12-1031 BONUS OUTDOOR SEATS FOR DINING, TO PERMIT BONUS OUTDOOR DINING AT RESTAURANTS LOCATED OUTSIDE A COMMERCIAL ZONING DISTRICT WHERE THE REQUIREMENTS AND STANDARDS OF SUCH SECTION ARE MET; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Ordinance 10-005.

Vice Mayor Denham moved, seconded by Councilman Harrity, to adopt Ordinance 10-005.

Discussion ensued regarding having outside dining outside the commercial zone would require scrutiny by the Planning Department and Commission.

Public Comment
None.

The motion carried with Councilman Jennings excused.

CONSENT AGENDA

- Accept the lowest qualified bidder, Ferrier Enterprises Inc., for exotic plant control and land management activities including fire line, gopher tortoise habitat and beach dune maintenance on City managed lands and authorize City Manager to execute same (funded under the existing Island-wide Brazilian Pepper Eradication Program, therefore no additional funds are necessary)
- Approve purchase of a high pressure sewer jetter from U S Jetting in the amount of \$32,789 (this purchase was budgeted in the FY10 budget in the amount of \$35,000 in the Capital Improvement Fund (Fund 451)

Ms. Zimomra stated the above was a multi-year contract.

- c. Approve purchase of a crane truck from Bartow Ford Company in the amount of \$81,148 (this purchase was budgeted in the FY10 budget in the amount of \$80,000 in the Utility Division Capital Improvement Fund (fund 451) and the remaining \$1,148 is available in Fund 451 due to the savings on the purchase of the high pressure sewer jetter)
 - d. Accept the ranking of the selection committee, AIM Engineering & Surveyor, Inc., for Surveying & Mapping services and authorize the City Manager to negotiate a contract (services included in the FY10 budget for surveying East Periwinkle Way in conjunction with a future Shared Use Path widening/road realignment project).
- Ms. Zimomra noted the above was a multi-year project
- e. Approval of a Memorandum of Understanding (MOU) with participating Lee County entities regarding the Lee County Sexual Assault Response Team (SART) and authorize Chief Tomlinson to execute same
 - f. Approval of the purchase of ten parking pay stations at public beach and recreational parking lots in the amount not to exceed \$130,000 from Parker Systems, using a “Piggyback” bid from Lee County government, and authorize the City Manager to finalize a contract in accordance with such bid and execute same (\$130,000 is in the FY10 budget, Beach Parking Fund - Capital Improvements Plan – Machinery & equipment)
- Vice Mayor Denham moved, seconded by Councilman Harrity, to approve all items

Public Comment
None.

The motion carried with Councilman Jennings excused.

OLD BUSINESS

Water Quality

Letter dated April 26, 2010 to Senate and House legislators regarding SB 382 and HB 1445 and all State Preemption, directly or indirectly, of Fertilizer Regulation by Local Governments

Vice Mayor Denham spoke to the following:

- Successful to affect the pre-emption process
- May come up again next year
- Work hard with Regional Planning Council to ensure more municipalities have a fertilizer ordinance
- Pre-emption tagged on to an agriculture bill, rejected in the house
- NRA put a provision on agriculture bill to allow guns in vehicles, did not pass
- Eleanor Sobel a champion, Pinellas County

Public Comment

Larry Schopp spoke to the SCCF action alerts and in the house the local delegation voted the wrong way.

Legislative Update

Ms. Zimomra spoke to the inclusion in the packet.

Planning Commission Reports

Planning Commission Report of the meeting of Tuesday, April 27th

Commissioner Dr. Phillip Marks gave the following report:

- Application for a variance, then withdrew

Scheduled update from the Planning Commission regarding Resort Housing District Redevelopment Study

Chairman Mike Valiquette gave the following report:

- Proposed Schedule from May, 2010 through June, 2011
- How to handle costs calculations
- Use FEMA form due to flood regulations to remodel
- Review building inside and outside of CCCL
- Baseline ordinance
- Confer with staff liaison regarding proposed schedule
- Announce

Discussion ensued regarding concern on process, may require a separate ordinance on density, Mr. Cuyler stated charter amendment provides density could be increased, need to define the list of PC review, density was one of the trigger, qualify on schedule, last paragraph speaking to maintain hotel/motel use and may need encouragement, looking at 14 months minimum for discussion, baseline ordinance change, and not site specific.

Public Comment

Karen Storjohann spoke to her concern of cases adjudicated properties and should have information in front of Council during the discussion.

Mr. Cuyler spoke to a separate issue of an agreement reached 20 years ago and no advantages to litigation properties.

Mayor Ruane announced that Council would convene into an Executive Session as noted below with participants and would reconvene at Noon.

11:00 A. M. to NOON EXECUTIVE SESSION RELATING TO AFSCME NEGOTIATIONS

In attendance shall be only the following persons:

- Mayor Kevin Ruane**
- Vice Mayor Mick Denham**
- Councilman Marty Harrity**
- Councilman Jim Jennings**
- Councilman Peter Pappas**
- Sanibel City Manager Judie Zimomra**
- Sanibel City Attorney Kenneth Cuyler**
- Jim Isom, Director of Administrative Services**
- Sylvia Edwards, Finance Director**
- Wayne Helsby, Labor Counsel (Allen, Norton & Blue)**
- Michael Tierney, Actuary, Actuarial Concepts (by phone)**
- Jim Linn, Lewis, Longman & Walker P.A. (by phone)**

Council reconvened in to open session at 12:06 p.m.

Councilman Harrity left the meeting at 12:06 p.m.

COMMITTEES, BOARDS, COMMISSION

City Council Liaison to Planning Commission

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

RESOLUTION 10-031 APPOINTING MEMBERS TO THE CONTRACTORS REVIEW BOARD; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 10-031.

Mr. Cuyler spoke to the following:

- Three applicants for member-at-large; one had current contractor involvement
- One applicant for engineer position and has not lived on Sanibel; 1) could consider amending the ordinance; 2) advertise for the engineering position
- Mr. Barrington lives on Sanibel 5 months of the year
- Ordinance states that a member must have lived or live on Sanibel for two years

Discussion ensued regarding applying the rules, could modify ordinance, need to be a Sanibel resident, Ms. Zimomra spoke to the ordinance stating members had to live on Sanibel for two years before appointment, and could advertise to look for a Sanibel resident.

Vice Mayor Denham moved, seconded by Mayor Ruane, to re-advertise for engineer position.

Public Comment

Karen Storjohann suggested putting in the advertisement the need to be or have been for 2 yrs, a Sanibel resident

Jim Kilchenman spoke to going on the website to find licensed engineers on Sanibel.

The motion carried with Councilman Jennings excused and Councilman Harrity absent.

Discussion ensued regarding applicants, both applicants applying for member-at-large and one having an engineering background, and continue to look for an engineer applicant that met the qualifications.

Councilman Pappas moved, seconded by Vice Mayor Denham, to appoint Mr. Kilchenman to the member-at-large seat.

The motion carried with Councilman Jennings excused and Councilman Harrity absent..

Vice Mayor Denham moved, seconded by Councilman Pappas, to adopt Resolution 10-031.

The motion carried with Councilman Jennings excused and Councilman Harrity absent.

Discussion regarding draft ordinance amending the Solicitors License portion of the code

Mr. Cuyler spoke to the following:

- Ordinance in conformance with the law
- No request to approve legislation
- Would come back to Council on June 01, 2010

Appointment of a Sanibel resident to the Metropolitan Planning Organization (MPO) Citizen Advisory Committee (CAC)

Vice Mayor Denham moved, seconded by Mayor Ruane, to recommend Mr. Guzzolla for the open seat on the Citizen Advisory Committee to the MPO.

Public Comment

Karen Storjohann spoke to her concern of Council not excusing Councilman Harrity.

Mr. Cuyler stated that it was not necessary.

The motion carried with Councilman Jennings excused and Councilman Harrity absent.

CITY MANAGER

Informational Items

APPTL Update

Ms. Zimomra noted that the next phase of the APPTL was funded.

1st and 2nd Quarterly reports for the Sanibel Historical Museum & Village, Inc.

Ms. Zimomra stated that the format was changed to provide revenues and expenditures and it was Council request the report show comparisons.

CITY ATTORNEY'S REPORT

None

COUNCIL MEMBERS' REPORT

Councilman Pappas spoke to the challenges facing Southwest Florida and making alterations to the Code. He further spoke to the possibility of dealing with contentious issues and changes in other areas while Sanibel remaining virtually untouched. He also stated that Council should protect the island against change as has been seen in other areas of Florida.

Mayor Ruane spoke to being committed to the process and groundwork for the resort district redevelopment study.

PUBLIC COMMENT

Claudia Burns spoke to the numerous power outages on island and a pattern developing. She suggested that maintenance might need to be done.

Mayor Ruane spoke to the LCEC representative attending the June 01, 2010 City Council meeting to speak to the issue.

Ms. Zimomra stated the LCEC comments would be for a time certain. She also spoke to the previous power outages and the need for redundancy.

Jim Kilchenman asked if the City could waive any sections of the building code. He referred to Section 106.1.1.2. And he read the section. He also stated that his goals were to prevent problems and the need for staff to have an ipad in the field.

Mr. Cuyler stated that this was a discussion staff was having with Mr. Kilchenman.

Ms. Zimomra spoke to the City Clerk working with Mr. Kilchenman for an orientation appointment and the scope of the Contractors Review Board.

Dr. John Harries spoke to a surcharge for people building on the island and when developing alternative energy not having a surcharge.

Councilman Pappas spoke to his absence at the June 01, 2010 City Council meeting.

There being no further business the meeting was adjourned at 12:49 p.m.

Respectfully submitted by,

Pamela Smith. MCC

City Clerk