

8. CONSENT AGENDA

- a. Approval of minutes- September 11, 2010, Regular Meeting
September 16, 2010 Special Meeting, and September 21, 2010 Final
Budget Hearing

SANIBEL CITY COUNCIL REGULAR MEETING
SATURDAY, SEPTEMBER 11, 2010
1:00 P. M.

Mayor Ruane called the meeting to order at 1:03pm.

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

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

PRESENTATIONS

Proclamation Horizon Council Industry Appreciation Week and Luncheon, September 13 through September 17, 2010 to be presented Friday, September 17th

Mayor Ruane noted that this proclamation would be presented at the Industry Appreciation luncheon September 17, 2010.

Planning Commission Report

Commissioner Mike Valiquette gave the following report for the August 10th and August 24th Land Development Code (LDC) committee meetings:

- Application for buildback which was denied.
- LDC sub-committee meeting regarding re-development
- September 24th review boat dock moratorium issue

Public Comments

Karen Storjohann spoke to the LDC sub-committee meeting regarding re-development and short-term units available on island. She suggested the proposed changes be model after the current available units.

Molly Foyer spoke against a potential dog park.

Chris Graham spoke to receiving a phone call from Harvey Sugerman regarding a dog park. He also asked if Council supported this proposal.

Councilman Harrity stated he advised Mr. Sugerman that he would bring the topic forward for discussion at the September 21, 2010 City Council agenda.

Discussion ensued regarding the necessity of bringing discussion forward in open session due to the Sunshine Law, no one embracing the idea, but there would be a dialogue on September 21st.

Mr. Cuyler stated that Mr. Gomberg wanted to make a comment regarding an agenda item.

Council agreed.

David Gomberg spoke to being sued and winning 3 years ago. He also spoke to a recent newspaper article regarding Raintree Place. He further spoke to his willingness to help make the Raintree Place issue go away. He spoke to City staff not being responsible, City staff was always very professional and courteous, compliant that a bathroom was built downstairs, which was untrue and dealt with Mr. Cuyler, who was always professional and courteous.

Council Comments

Vice Mayor Denham spoke to George McKellum, Hammerhead passed away this past week. He noted that Sam Bailey would be having surgery Monday.

Councilman Harrity spoke to the proposed SCA land swap. He further stated that he would not vote in favor.

Discussion ensued regarding Vice Mayor Denham agreed with above-mentioned comments, staff contacting the state regarding the payment of grant money used for the purchase and development of Community Park, commodity was staff time, need discussion regarding a dog park and not in favor of putting a dog park on Island Inn Road, and a referendum settle the matter.

CONSENT AGENDA

- e. **RESOLUTION 10-082 AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH UNITED HEALTHCARE TO PROVIDE HEALTH INSURANCE FOR CITY OF SANIBEL EMPLOYEES FOR PLAN YEAR 2010-2011 WITH THE OPTION FOR EXTENSION OF THE AGREEMENT AT THE DISCRETION OF THE CITY MANAGER; AND PROVIDING FOR AN EFFECTIVE DATE** (healthcare cost for FY 2010-11 will decrease by approximately \$45,000 from the FY09-10 cost)
- f. **RESOLUTION 10-085 ACCEPTING WASTEWATER COLLECTION AND TRANSMISSION SYSTEM EASEMENTS FROM SANIBEL PROPERTY OWNERS FOR THE SANIBEL SEWER SYSTEM EXPANSION PROJECT, PHASE 4; AUTHORIZING THE CITY MANAGER TO RECORD SAME IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE**
- g. **RESOLUTION 10-086 AUTHORIZING THE CITY MANAGER TO DISPOSE OF AN OBSOLETE OR SURPLUS FIXED ASSET; AND PROVIDING AN EFFECTIVE DATE** (Public Works Department)

Ms. Zimomra read the titles of Resolutions 10-082, 10-085 and 10-086

Vice Mayor Denham moved, seconded by Councilman Harrity, to adopt Resolutions 10-082, 10-085 and 10-086

Public Comment

None.

The motion carried.

- a. Approval of minutes – July 20, 2010 Regular meeting and August 03, 2010 regular meeting
- b. Approval of an agreement with Anthony T. Gargano, P.A. to provide Code Enforcement Hearing Examiner Services for a term of three years and authorize the City Manager to execute same (the funds for the first year of this agreement are within the proposed FY 10/11 budget)
- c. Approval of a Joint Resolution with Lee County extending the City's participation in the Community Development Block Grant Urban County Cooperation Agreement for HUD

entitlement funds for fiscal years 2011-1013 and authorize the Mayor to execute same (CDBG funding previously provided under this agreement has been used to make ADA accessibility improvements at City Hall, Big Arts and the Historical Village and Museum)

- d. Approval of an Interlocal Agreement between the City of Sanibel and Lee County School District for 2010-2011 School Resource Officer Program and authorize the City Manager to execute (the amount of the agreement is \$39,850 and has been included in the FY2010/11 budget)
- h. Approval of Amended Agreement to amend the 2009-2010 agreement with Meta Goodwin to serve as a fitness instructor by adding additional fitness classes to be conducted and increasing the amount that can be invoiced by \$12,000 to \$54,900 and authorize the Mayor to execute same (budget amendment is not required as funds are available in the 2009-2010 Recreation Department budget to cover the increase in the amount that may be invoiced)
- i. Reject bids received for the City Hall roof replacement and direct staff to re-bid the project utilizing a painted galvalume and painted aluminum option
- j. Approval of a continuation of a professional mapping services agreement between the City of Sanibel and Bean Whitaker Lutz and Kareh for a not to exceed amount of \$20,000 through September, 2010 and authorize the City Manager to execute same (the \$20,000 is included in the FY09-10 adopted budget)

Vice Mayor Denham moved, seconded by Councilman Harrity, to approve the above-mentioned items.

Public Comment

None.

The motion carried.

WATER QUALITY

Announcement regarding an amended and restated agreement for sale and purchase of 26,800 acres of U.S. Sugar land by the South Florida Water Management District (SFWMD) (Vice Mayor Denham)

Attendance at the September 10th South Florida Water Management District (SFWMD) meeting (Vice Mayor Denham)

Report on the September 02, 2010 meeting between Vice Mayor Denham and Colonel Pantano of the Army Corps of Engineers regarding releases from Lake Okeechobee and damage to the Smalltooth Sawfish Habitat, including Sanibel's nearby estuaries (Vice Mayor Denham)

Document written by James Evans and Rae Ann Wessell titled "Inequities between Different Stakeholders within the SFWMD Service Area"

Discussion regarding the Conservancy of Southwest Florida's Lake Okeechobee service area (LOSA) rule challenge against the South Florida Water Management District (SFWMD)

Vice Mayor Denham spoke to the small portion of land being purchased, land storage, freshwater releases and the protocol used to release such water. He also stated the SFWDM Board reviewed the various protocols, which would be used by staff and noted that there would be a larger amount of water released during the dry season. He further noted that it was the first time the Board disagreed with staff. He advised that City staff helped put comments together to speak with the SFWMD Board. He further spoke to meeting with City staff, Washington D.C. attorneys, and Colonel Pantano and ACOE attorneys regarding possible legal action.

Vice Mayor Denham noted the paper regarding inequities included in the agenda packet. He further noted that the Conservancy of Southwest Florida were against the SFWMD and asked Council's permission to send a letter of support. He also asked the Washington, D.C. attorneys to research the possibility of challenging the high flows. He advised that nothing was being done to help prevent a large red drift algae outbreak and asked for residents help and support.

Mr. Cuyler explained the following:

- LOSA rule challenge were against the low flows
- In the interest of Sanibel to support

Council agreed.

Discussion ensued regarding SFWMD wanting to determine if the estuaries were being harmed, 85% of seagrass gone, and Council urged residents to review the paper authored by James Evans and Rae Ann Wessell.

Letter dated August 20, 2010 from Representative Gary Aubuchon to Colonel Pantano regarding Lake Okeechobee freshwater releases

Mayor Denham noted the letter in the agenda packet from Representative Aubuchon.

Public Comment

Mike Valiquette spoke against the land purchase, but should purchase the option lands for the flow way south and asked Phil Flood for report regarding back flow pumping.

Paul Reynolds spoke to losing seagrass.

Dr. Rob Loflin spoke to 85% of seagrass was destroyed, but 2004/05 all sea grass was destroyed and some has returned due to transplants.

COMMITTEES, BOARDS, COMMISSION

City Council Liaison to Planning Commission - *REVISED*

September 14, 2010	Councilmember Harrity	Report of 9/11/10 CC Meeting
September 28, 2010	Mayor Ruane	Report of 9/21/10 CC Meeting
October 12, 2010	Vice Mayor Denham	Report of 10/5/10 CC Meeting
October 26, 2010	Councilmember Pappas	
November 09, 2010	Councilmember Jennings	Report of 11/2/10 CC Meeting
November 23, 2010	Councilman Harrity	
December 14, 2010	Mayor Ruane	Report of 12/7/10 CC Meeting
December 28, 2010	Vice Mayor Denham	

Resort Housing District Redevelopment Study reporting schedule to City Council from the Planning Commission

Tuesday, September 21, 2010
Tuesday, November 02, 2010
Tuesday, January 04, 2011
Tuesday, March 01, 2011
Tuesday, May 03, 2011
Tuesday, July 19, 2011

NEW BUSINESS

Discussion regarding the draft restated Fund Balance Policy – Implementation of Governmental Accounting Standard Board (GASB) Statement 54, Fund Balance Reporting and Governmental Fund Type Definitions

Ms. Zimomra stated a copy of the new fund balance policy required by GASB 54.

Mayor Ruane moved, seconded by Vice Mayor Denham, to direct staff to bring back legislation on September 21st meeting.

Public Comment
None

The motion carried.

Discussion regarding rescheduling the November 2, 2010 (Election Day) City Council meeting to Tuesday, November 16, 2010

Councilman Jennings made a motion to reschedule the meeting.

The motion died for the lack of a second.

Report regarding the drainage conditions at Ballfield #1 at the Sanibel School Ballfield Complex, and staff recommendation (low bidder was Soon Come, Inc., at \$17,215 and would be appropriated from the Recreation Department contingency fund; staff will be contacting Lee County and School Board officials regarding same)

Ms. Zimomra referred to the photos in the agenda packet and advised that Lee county staff was not interested in funding the repairs. She further noted that staff had sent out a bid for the project and staff recommendation was to repair before season.

Discussion ensued regarding having a written agreement, proceed immediately to make necessary repairs, fund from contingency, make sure governmental entities pay their share, . speak with Lee County and School Board and direct staff to repair if no reply and Not to repair this year.

Mayor Ruane moved, Vice Mayor Denham, to direct staff to proceed within 10 day after conferring with Lee County and School Board without reply.

Public Comment
None

The motion carried.

PUBLIC HEARING(S)

RESOLUTION 10-083 ADOPTING AND ESTABLISHING A REVISED SCHEDULE OF RATES FOR THE SANIBEL SEWER SYSTEM AND PROVIDING FOR A 3% INCREASE IN RESIDENTIAL AND COMMERCIAL RATES; AND PROVIDING AN EFFECTIVE DATE (Note: City staff has recommended that there be no increase in residential or commercial rates and this resolution will be revised in accordance with Council's final decision)

Ms. Zimomra read the title of Resolution 10-083. She stated that staff recommendation was to have no increase.

Mr. Cuyler advised that if Council could adopt the resolution and direct staff to amend with no increase to sewer rate

Vice Mayor Denham moved, seconded by Mayor Ruane, to adopt Resolution 10-083 and direct staff to amend to reflect no increase in sewer rates.

Public Comment
None

The motion carried.

RESOLUTION 10-084 ADOPTING AND ESTABLISHING A REVISED RATE SCHEDULE FOR THE SANIBEL SEWER SYSTEM AND PROVIDING FOR A 3% INCREASE IN RATES FOR GENERAL RECLAIMED WATER CUSTOMERS; AND PROVIDING AN EFFECTIVE DATE (Note: City staff has recommended that there be no increase in general reclaimed water rates and this resolution will be revised in accordance with Council's final decision)

Ms. Zimomra read the title of Resolution 10-084. She stated that staff recommendation was to have no increase.

Mayor Ruane moved, seconded by Vice Mayor Denham, to adopt Resolution 10-084 and amend to reflect no increase in reclaimed rates.

Public Comment
None

The motion carried

CITY MANAGER

Informational Items

Inquiry from Lee County regarding scheduling a joint meeting with the Lee County Board of Commissioners

Ms. Zimomra spoke to Lee County Board of Commissioners inviting all municipalities the opportunities for a joint meeting. She advised Council that there had been past joint meetings.

Mr. Cuyler stated that there are opinions that any joint meeting should be within municipal limits.

Discussion ensued regarding meeting with Commissioners in the past, individual meetings when requested and continue unless otherwise needed.

Response to Insurance Services Office (ISO) Building Department Rating and Establishment of Timeframe for Re-Evaluation Plan

Ms. Zimomra noted the agenda information.

Status of Blind Pass Shared Use Path

Ms. Zimomra spoke to this project carried forward and project ready for next summer.

Causeway counts July

Building Department Monthly Revenue Report

Building Department Monthly Permit and Inspections

Planning Department Permit Activity Report

Planning Department Code Enforcement Activity Report

January to June, 2010 APTTL Quarterly Report

Ms. Zimomra called Councils attention to the above report.

CITY ATTORNEY'S REPORT

Attached copy of August 6, 2010 Memorandum from City Attorney to City Council relating to the area north of Raintree Place and addressing related issues discussed at the July 20, 2010 Council meeting

Mayor Ruane spoke to the following:

- Information brought forward at the July 20th City Council meeting and allow Council to review the information
- David Gomberg spoke to the matter earlier in the meeting

Discussion ensued regarding lawsuits filed and won, understand Mr. Maxwell concerns, no evidence of any wrong-doing or judgments not appropriate by staff, no evidence that all documents requested were not provided, enough time spent on issue, legal matters should be dealt with by appropriate parties, which was done, appreciated any public input, and in reviewing material submitted staff did not knowingly withheld requested information.

Mr. Cuyler spoke to the following:

- Sheriff's investigation initiated by Mr. Maxwell
- Report rejected by State Attorney
- Mr. Maxwell filed state support action – no action
- Rothchild's suggested that the easement be vacated, which was vacated
- Astounding amount of staff time and money dedicated
- Staff will follow Council direction

Public Comment

Steve Maxwell spoke to the following:

- Issued could be raised and continued to be raised
- Attended the July 20th meeting due to receiving a letter from Mr. Cuyler
- City map had a typographical error
- Another letter received from City Attorney that the City never regarded Raintree Place as a road
- He worked for the City and finding a City map not showing a cul-de-sac
- Information to Council regarding court cases for easement or cul-de-sac
- Records request had City Manager writing
- Ms. Zimomra noted the writing belonged to the City Clerk's
- Records request sent to City Manager and referred to City Clerk
- Box of information in legal information
- No legal authority for 3 different maps
- Questions have not been answered
- If maps were available there would not be other documents in file

Discussion ensued regarding reviewing documents looking for facts and evidence, can not find where any City employee knowingly retained documents, Mr. Maxwell spoke to a former Planning Department employee in charge of mapping, getting a response from the clerk's office and no clue who put the documents together, Mr. Maxwell stated that he was made to be the bad guy, Mr. Maxwell stated he could show knowingly and willfully, Mr. Maxwell stated an April 08 letter to his attorney states that there are no maps showing that Raintree Place was not a street, and he believes that everyone at City Hall knew there were street maps.

Mr. Cuyler spoke to the following:

- City did not regard Raintree Place as a road
- Dealing with the LDC definition of a road

Discussion ensued regarding differences of opinion, Sheriff's detective provided a report and State Attorney's office found nothing, do not believe that any City staff knowingly withheld information, Mayor would answer Mr. Maxwell's letter and not necessary to spend taxpayer monies for an investigation.

COUNCIL MEMBERS' REPORT LISTEN 1519

Attendance at the September 02, 2010 Transit Authority Oversight Committee

Vice Mayor Denham spoke to the following:

Mayor Ruane moved, seconded Councilman Harrity, by to excuse Councilman Pappas from the meeting.

The motion carried.

Ms. Zimomra reminded Council that a Special Meeting was scheduled for September 16th at 2:00 p.m.

PUBLIC COMMENT

Karen Storjohann spoke to alerting residents again regarding beaches. She suggested recycling the H2O Matters newsletters.

Councilman Jennings spoke to the Southwest Florida League would meet Thursday, September 23 at 11:30 a.m., location at the Veranda.

There being no further business the meeting was adjourned was adjourned

Respectfully submitted by,

Pamela Smith, MMC
City Clerk

**CITY COUNCIL SPECIAL MEETING
COUNCIL CHAMBERS (MacKenzie Hall)
2:00 P.M.**

Mayor Ruane called the meeting to order at 2:00 p.m.

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

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

Public Comment
None

Mayor Ruane recessed the meeting at 2:04 p.m. and announced the following

EXECUTIVE SESSION RELATING TO UNION 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)**

Council reconvened at 2:54 p. m.

There being no further business the meeting was adjourned at 2:55 p.m.

Respectfully submitted by,

Pamela Smith, MMC
Sanibel City Clerk

**SANIBEL CITY COUNCIL MEETING
FINAL BUDGET HEARING
SEPTEMBER 21, 2010
5:01 P. M.**

Mayor Ruane called the meeting to order at 5:01 p.m.

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

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

Finalization of Council's goals for FY2010/2011 Budget

Ms. Zimomra stated the goals could be finalized today or referred to the October 5th Council meeting.

Discussion ensued regarding deleting stormwater from the proposed goals, last supporting the river of grass, but little Council could do with staff watching the process, include something on stormwater in Council goals, state putting together a stormwater rule, regional Planning Council and PURRE putting stormwater in the forefront of water issues, remove "Improve Water Management in South Florida," and replace with stormwater goal and staff prepare the replacement for the October 5th City Council meeting,

Vice Mayor Denham moved, seconded by Councilman Harrity, to eliminate the "River of Grass" subject, direct staff the put together a brief stormwater rule statement and bring back to Council October 5th.

Ms. Zimomra stated that the Natural Resources and Public Works Departments would work together.

Public Comment
None

The motion carried.

Vice Mayor Denham moved, seconded by Mayor Ruane, to accept the goals with amendments.

Public Comment
None

The motion carried.

**Reports in Response to City Council requests for information
Discussion and direction to staff regarding a \$15,000 donation from a Sanibel resident
for web-streaming**

Mayor Ruane explained the discussion of the September 11 City Council meeting.

Discussion ensued regarding \$15,000 grant would last about 2 years, helps organize records, could possibility reduce requests, allow public easy access, and may not reduce public requests.

Public Comment
None

Council by consensus did not accept the \$15,000 grant.

Statutorily required proposed millage rate review

Ms. Zimomra spoke to the following:

- Council directed staff to meet with Vice Mayor Denham
- \$104,000 moved from FY10/11 appropriation to FY11/12 for the Police Department Capital Budget (car video cameras, motorcycle and crime vehicle)
- Increase ending fund balance by \$104,000
- Delay Blind Pass Shared Use Path connection due to no cost estimates for easements from adjacent property owners, but property owners have agreed to no-cost easements and would be completed next year

Discussion ensued regarding not a particular Capital Improvement Project, but was time and staff availability and resources to complete projects within FY 10/11, and Ms. Zimomra stated that some of the work had been rescheduled.

Ms. Sylvia Edwards spoke to the following:

- Adopted proposed millage rate of 6.1561 and a decrease in tax revenues by 6.9%
- \$44,059,108 budget adopted September 11, 2010
- 2.1561 millage rate adopted September 11, 2010

Public Hearing and adoption of RESOLUTION 10-096 ADOPTING THE FINAL OPERATING AND VOTED DEBT SERVICE AD VALOREM MILLAGE RATES FOR TAX YEAR 2010 FOR THE CITY OF SANIBEL, FLORIDA; AND PROVIDING AN EFFECTIVE DATE

Public Hearing and adoption of RESOLUTION 10-097 ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2010-2011 FOR THE CITY OF SANIBEL FLORIDA; AND PROVIDING AN EFFECTIVE DATE

Ms. Zimomra read the title of Resolution 10-096 and 10-097.

Discussion ensued regarding the possibility of taking the millage rate lower, before the economy down turn the legislature determined government cost to much, 3 elements, employees and cost and the project picture, growth with the Recreation Center, have temporary employees, employee costs look the same as 4 years ago, should review all recreation programs, may consider reducing staff in a manner that would not be voluntary, small number of residents attending the final budget hearing, consider further reducing debt, reduced debt by approximately \$9 million, union negotiations on-going, public should be informed of the possible kind of difficulty facing the City, Council asked if there was any problem with discussing pension liability, Mr. Cuyler said no, not in a generic way, should wait until pension process was over to discuss and reserve very prudent, should continue to work on City goals reserves and pension), cost \$1.8 million to operate the Recreation Center, the old Recreation Center impacted the budget by \$900,000 and not Capital Improvements, continue to review process when reviewing trends to find a better way of doing things, could take the millage rate lower, but the danger may be depleting reserves, some Councilmembers in the past wanted to reduce reserves, and Florida 45th in most recovery analyses.

Public Comment

Claudia Burns spoke to her confidence in sitting Councilmembers and staff. She further stated that she paid taxes to Lee County and Sanibel receives only a 17% return.

Discussion ensued regarding 46% of taxes goes to the Lee County School Board and 26% to Lee County, and Ms. Zimomra stated that on the trim notice Sanibel receives 14.7%.

Public Hearing and adoption of RESOLUTION 10-096 ADOPTING THE FINAL OPERATING AND VOTED DEBT SERVICE AD VALOREM MILLAGE RATES

FOR TAX YEAR 2010 FOR THE CITY OF SANIBEL, FLORIDA; AND PROVIDING AN EFFECTIVE DATE

Vice Mayor Denham moved, seconded by Councilman Pappas, to adopt Resolution 10-096 and adopt a millage rate of 2.1561.

Public Comment
None

The motion carried.

Public Hearing and adoption of RESOLUTION 10-097 ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2010-2011 FOR THE CITY OF SANIBEL FLORIDA; AND PROVIDING AN EFFECTIVE DATE

Vice Mayor Denham moved, seconded by Councilman Harrity, to adopt Resolution 10-097 and \$44,059,108 for the FY11 budget

Public Comment
None

The motion carried.

There being no further business the meeting adjourned at 6:00 p.m.

Respectfully submitted by,

Pamela
Sanibel City Clerk

Smith,

MMC