



# City of Sanibel

800 Dunlop Road  
Sanibel, FL 33957

## Meeting Minutes - Draft City Council

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Tuesday, November 7, 2023

5:30 PM

BIG ARTS - 900 Dunlop Rd

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### 1. CALL TO ORDER

The meeting convened at 5:30 p.m.

### 2. INVOCATION AND PLEDGE OF ALLEGIANCE (Mayor Johnson)

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

### 3. ROLL CALL

**Present:** 5 - Mayor Richard Johnson, Vice Mayor Mike Miller, Councilmember Scott Crater, Councilmember John Henshaw, and Councilmember Holly Smith

### 4. SET THE AGENDA

The agenda was set as published. Deputy City Manager Steve Chaipel spoke to City Manager Dana Souza being out ill and addressed issues with connectivity for livestreaming the meeting.

### 5. PRESENTATION(S)

- a.** Recognition of Island Water Association (IWA) for their efforts as first responders following Hurricane Ian

Mayor Johnson read into record and presented General Manager Diana Wilson and the Board of Directors of Island Water Association proclamations thanking them for their service following Hurricane Ian.

Ms. Wilson spoke her appreciation for the recognition and thanked the Board and her staff for their efforts.

- b.** The Sanibel School Parent Teacher Association Check Presentation - Playground Cost Share

Recreation Director Andrea Miller spoke to the playground being a shared facility between the Recreation Center and the Sanibel School, noting the equipment being replaced was damaged prior to Hurricane Ian. Vice Principal Jill Gurgal and members of the Sanibel School Parent Teacher Association (PTA) presented the City with a check for half of the purchase price to replace equipment on the shared playground. Jennifer Dorning, Sanibel School PTA President, spoke appreciation for the support and opportunity.

c. Post Ian On-island Water Quality Update and Golf Course Report Cards

Natural Resources Director Holly Milbrandt introduced the item and spoke to the purpose of the report; introducing Mark Thompson of Sanibel Captiva Conservation Foundation and Dana Dettmar, Natural Resources Department.

Mr. Thompson provided a brief PowerPoint presentation regarding water quality of the lakes and canals on the island following Hurricane Ian. Ms. Dettmar provided a brief report regarding the status of the golf courses in relation to water quality and maintenance best practices.

Council inquired if muck removal from any of the lakes would improve water quality. Mr. Thompson responded yes if the funding were available and the ability to limit phosphorous in the sediments were available. Council inquired what opportunities are available for planting around the lakes on the island. Mr. Thompson responded that challenges with freshwater lakes that can be impaired by salt water from storms.

Discussion ensued regarding the golf courses working towards recovering the courses, not necessarily focusing on the fertilization and landscaping restrictions. Further discussion ensued regarding the water quality and how salinity levels affect the marine life.

Discussion ensued regarding the types of fish in the lakes and how the changes in the water quality affect fish or cause fish kills. Council thanked Ms. Dettmar and Mr. Thompson for their reports.

## **6. PLANNING COMMISSION REPORT (Commissioner Nichols)**

Commissioner Paul Nichols provided a brief report of the October 19 and October 24 Planning commission meetings.

October 19th special meeting:

- Public hearing for consideration of a recommendation to City Council amending the Code of ordinances to adjust Maximum Building Heights with review of recommendations from the Below Market Rate Housing Review Sub-committee, as well as review of vegetation standards to the Sanibel Code. Discussion was continued to the October 24 meeting.

October 24 meeting:

- Public hearing for consideration of a long form application allowing construction of a new single-family residence located at 4767 Tradewinds Drive. The application was approved unanimously.
- Public Hearing for a code interpretation relating to architectural design standards for

a flat roof that incorporates recreational open space. The Planning Commission has interpreted the architectural standards, such that, when a portion of a roof is incorporated as recreational open space, the entire building may be designed with a flat roof. The resolution will come back at the November 14 meeting for consideration and approval.

- Public hearing for consideration of a recommendation to City Council amending the Code of Ordinances to adjust maximum building heights with review or recommendations from the Below Market Rate Housing Review Subcommittee and review of vegetation standards to the Sanibel Code. Commission forwarded recommended amendments to Council for consideration.

The next meeting is November 14, here at BIG ARTS.

Council spoke their appreciation for the Commission and Staff efforts.

## **7. PUBLIC COMMENTS FOR NON-AGENDA ITEMS**

Public Comment:

- Steve Maxwell - Sanibel Resident
- Lyman Welch - Sanibel Resident

Council spoke to issues and threats to home rule.

## **8. CITY COUNCIL COMMENTS**

Vice Mayor Miller spoke to budget documents and financial reports which are posted on the website, spoke to a ribbon cutting ceremony for FISH on November 16, welcomed Eric Jackson as the new Public Information Officer (PIO) for the City, and spoke to the implementation of the new CityView permitting software.

Councilmember Crater spoke his appreciation for those working tirelessly on the causeway repairs.

Councilmember Smith spoke to the Industry Appreciation Awards and Lee County Electric Cooperative (LCEC) being an award recipient. Ms. Smith spoke to Senate President Kathleen Passidomo being inducted into the Florida Womens Hall of Fame. She further spoke to traveling to Washington DC next week as part of the Florida Everglades Restoration Task Force. Ms. Smith noted the special legislative session in progress and the extension of Senate Bill 250 until 2024. Ms. Smith spoke to the regulations for short term rentals on the island. Deputy City Manager Chaipel spoke to the Dwelling Rental Licenses expiring on December 31st and renewal notices going out. Finally, she spoke to including fertilizer regulations in the water quality priorities.

Councilmember Henshaw spoke his appreciation for all involved with recovery efforts, the employee dependent scholarship program, concurring with welcoming Eric

Jackson, and recommending a presentation of the CityView Program.

Mayor Johnson spoke to the Veteran's Day event scheduled for November 11, including items in the legislative priorities, and the opportunity to attend the swearing in of a new Police Officer. Mr. Johnson encourage the support of local businesses throughout the recovery process.

## **9. CITY COUNCIL CONSIDERATIONS FOR FUTURE AGENDAS**

- a. Independence Day Celebration - Fireworks Display -vs- Alternatives such as Drone Show or Light Show

Vice Mayor Miller spoke to the background for the request due to the causeway not being available for such an event, requesting Staff investigate options for celebrating without including fireworks. Discussion ensued regarding the possibility of cost savings by celebrating on a different night. By consensus, Council agreed to add to future agenda.

- b. City Owned Parcels on Library Way - Possible Use for Affordable Housing

Vice Mayor Miller spoke to the Below Market Rate Housing Subcommittee recommending the donation of the property on Library Way for affordable housing. Council concurred with adding the topic to a future agenda.

## **10. FIRST READING OF AN ORDINANCE AND SCHEDULING OF PUBLIC HEARING**

- a. **ORDINANCE 23-025 OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, TO ADJUST MAXIMUM BUILDING HEIGHTS WITHIN ECOLOGICAL ZONES BY AMENDING SUBPART B, LAND DEVELOPMENT CODE, CHAPTER 126 , ZONING, ARTICLE VII, RESIDENTIAL DISTRICTS; DIVISION 4, E-1 BLIND PASS AREA ZONE, SECTION 126-334, REQUIRED CONDITIONS; DIVISION 5, E-2 GULF BEACH RIDGE ZONE, SECTION 126-354, REQUIRED CONDITIONS; DIVISION 6, D-1 LOWLAND WETLANDS ZONE, SECTION, 126-374, REQUIRED CONDITIONS; DIVISION 7, D-2 UPLAND WETLANDS ZONE, SECTION 126-394, REQUIRED CONDITIONS; DIVISION 8, F MID-ISLAND RIDGE ZONE, SECTION, 126-414, REQUIRED CONDITIONS; DIVISION 9, C MANGROVE FOREST ZONE, SECTION 126-434, REQUIRED CONDITIONS; DIVISION 10, G ALTERED LAND ZONE, SECTION 126-454, REQUIRED CONDITIONS, FOR THE PURPOSE OF AMENDING THE LAND DEVELOPMENT CODE.**

Attorney Agnew read the title of Ordinance 23-025 into record.

Second reading and public hearing scheduled for Monday, November 20, 2023 at 8:10 a.m.

Council advised that public comments could be sent to [sancouncil@mysanibel.com](mailto:sancouncil@mysanibel.com).

## 11. 5:40 - SECOND READING AND PUBLIC HEARING

### a. Resort Housing District Building Height

**ORDINANCE 23-024 OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, TO AMEND THE CODE OF ORDINANCES TO UPDATE RESORT HOUSING DEVELOPMENT REGULATIONS, AMENDING CHAPTER 126, ZONING, ARTICLE XII, RESORT HOUSING DISTRICT, SECTION 126-637, RESORT HOUSING DEVELOPMENT REGULATIONS, FOR THE PURPOSE OF UPDATING LAND DEVELOPMENT CODE REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.**

Attorney Agnew read into record the title of Ordinance 23-024. Planning Director Paula McMichael provided a brief summary of the proposed amendments.

Discussion ensued regarding the amendments not increasing density but allowing for improvements in the facility.

Councilmember Smith moved, seconded by Vice Mayor Miller, to adopt Ordinance 23-024. The motion carried.

## 12. CONSENT AGENDA

### a. BUSINESS ITEMS

- i. Adoption of Minutes - October 3, 2023 Regular Meeting
- ii. Approval of a 48-month lease agreement between the City of Sanibel and Xerox Corporation for the lease of ten (10) copiers
- iii. Approval of agreements with the Tidal Basin Group and Thompson Consulting Services for financial disaster recovery consultant services and authorize the City Manager to execute same (these services are utilized when the City is affected by a declared disaster and therefore are not budgeted in the Fiscal Year 2024 adopted budget)
- iv. Request from Sanibel Community Association (SCA) to Place a Fundraiser Thermometer in the Right-of-Way at the Community House Located at 2173 Periwinkle Way
- v. Approval of the Building Department purchase of two (2) Hybrid Mavericks
- vi. Approval of a West Coast Inland Navigation District (WCIND) Subgrant Agreement between the City of Sanibel and Lee County Board of County Commissioners in an

Amount not to Exceed \$25,000 for one Marine Patrol Officer and Authorize the City Manager to Execute Same (Funding is included in the Adopted FY24 Budget)

- vii. Approval to piggyback off a contract between Naples with Sanders Laboratories, Inc. for Utilities Division lab testing services.
- viii. Sanibel Historical Museum & Village request to serve alcohol on December 1, 2023 from 4:00 - 6:00 p.m. at the "Deck the Shores" event located at 950 Dunlop Road.  
(Supplement 1)
- ix. Sanibel Captiva Lions special event permit for Annual Christmas Tree Sale November 24, 2023, through December 24, 2023 at the Sanibel Community House, 2173 Periwinkle Way.
- x. Approval of the purchase of playground equipment for the shared use playground at the Sanibel Recreation Center and the Sanibel School in the amount of \$28,060.24.

Approval of Consent Agenda Business Items 12(b)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), and (x).

**Vice Mayor Miller moved, seconded by Councilmember Smith, to approve Consent Agenda Business Items 12(b)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), and (x). The motion carried.**

## **CONSENT ITEMS PULLED FOR DISCUSSION**

No items were pulled for discussion.

## **13. INFORMATIONAL ITEMS**

- a. Donax Update
- b. Hazard Mitigation Grant Project Updates (Tradewinds, East Rocks)
- c. Water Quality Report from the Natural Resources Department
- d. Causeway Counts - September 2023 and Calendar and Fiscal Year 2023
- e. Hurricane Ian Recovery Update

Council requested to discuss the water quality report. Natural Resources Director Holly Milbrandt spoke to a predicted wetter than normal dry season, impacts of the lake levels and drift algae, and provided an update from the South Florida Water Management District Governing Board meeting. Ms. Milbrandt spoke to the Department of Environmental Protection (DEP) requesting \$600M in Comprehensive Everglades Restoration Plan (CERP) Projects and advised the C43 Reservoir is under

construction. Finally, she spoke to the Lake Hickpochee Project approval, a presentation for the Northern Everglades Estuaries Protection Program, and an update for Lake Okeechobee System Operating Manual (LOSOM).

Council spoke to working on setting up meetings in DC to discuss LOSOM, applauded the Army Corps of Engineers (ACOE) for utilizing operational flexibility, and expressed congratulations on the retirement of Erica Skolte as Public Affairs Specialist for the ACOE.

Council requested to discuss the Donax update. Deputy Public Works Director Scott Krawczuk spoke to the reduction in carbon loading being a result of the flow through. Council inquired as to desires for resilient lift stations and control panels. Mr. Krawczuk spoke to implementing telescoping panels for the stations and connections to the control panels being fitted for portable generators and the need for additional generators. Further discussion ensued regarding which panels could be updated to telescoping panels.

#### **14. COMMITTEES BOARDS COMMISSION**

- a. RESOLUTION 23-069 APPOINTING AN ALTERNATE MEMBER TO THE LEE COUNTY METROPOLITAN PLANNING ORGANIZATION (MPO) BICYCLE PEDESTRIAN COORDINATING COMMITTEE (BPCC); AND PROVIDING AN EFFECTIVE DATE.**

Attorney Agnew read into record the title of Resolution 23-069. Vice Mayor Miller spoke to the background for the requested appointment.

**Vice Mayor Miller moved, seconded by Councilmember Crater, to adopt Resolution 23-069. The motion carried.**

#### **15. OLD BUSINESS**

- a.** Approval of an Amendment to Grant Agreement 23LE5 with the Florida Department of Environmental Protection (FDEP) for the City of Sanibel 2022 Hurricane Ian and Nicole Beach Recovery Project increasing the total amount of funding of the Agreement by \$13,889,274.46 to \$26,973,000.00.

Deputy City Manager Chaipel spoke to the background for the amendment, summarizing the first phase of the project noting the bid process will be reopened with the expectation of awarding the project at the December 5, 2023 meeting. Discussion ensued regarding the funding being separate from the FEMA funding for the emergency berm restoration. Holly Milbrandt, Natural Resources Director, spoke to the funding allowing the addition of plantings in the sand replacement areas. Council inquired if the delay would impact shorebird nesting season, Ms. Milbrandt spoke to working with SCCF for monitoring and a hard deadline relating to sea turtle nesting season.

Discussion ensued regarding permitting needs for re-nourishment projects at the Lighthouse. Council inquired as to the number of trucks being scheduled for the sand replacement project.

Vice Mayor Miller moved, seconded by Councilmember Henshaw, to approve the amendment to Grant Agreement 23LE5 with the Florida Department of Environmental Protection. The motion carried.

- b. RESOLUTION 23-070 EXPRESSING ITS INTENT TO DECLARE A SPECIAL ASSESSMENT TO FUND A PUBLIC IMPROVEMENT AS AUTHORIZED BY THE HOME RULE PROVISION OF THE FLORIDA CONSTITUTION, GENERAL LAW AND THE SANIBEL CHARTER FOR THE EXPANSION AND EXTENSION OF THE SANIBEL SEWER COLLECTION SYSTEM; SAID PROJECT TO BE REFERRED TO AS THE "SANIBEL SEWER SYSTEM PHASE 4B EXPANSION PROJECT"; ADOPTING THE PROCEDURES SET FORTH IN CHAPTER 170, FLORIDA STATUTES; PROVIDING FOR A DESCRIPTION OF THE NATURE AND LOCATION OF THE IMPROVEMENT, THE MANNER OF LEVYING ASSESSMENTS, THE ESTIMATED COST AND THE DESCRIPTION OF THE LANDS UPON WHICH THE ASSESSMENT SHALL BE LEVIED, AND OTHER MATTERS REQUIRED BY CHAPTER 170, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE**

Attorney Agnew read into record the title of Resolution 23-070. Councilmember Smith spoke to having a conflict and recused herself from the discussion and vote. Deputy City Manager Chaipel provided a brief summary of the assessment and provided a proposed timeline for public hearings.

Attorney Agnew spoke to Councilmember Smith being one of the properties addressed by the resolution which causes her financial conflict, noting the conflict form would be filed with the City Clerk.

Discussion ensued regarding this being the final phase of the sewer expansion conversion project.

Vice Mayor Miller moved, seconded by Councilmember Henshaw, to adopt Resolution 23-070. The motion carried by a vote of 4-0 with Councilmember Smith recused.

**Recused:** 1 - Councilmember Holly Smith

- c. RESOLUTION 23-072 OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, OPPOSING THE LEE COUNTY COMPREHENSIVE PLAN AMENDMENT, CPA2023-0004, AS RELATED TO BUILDING HEIGHT AND INTENSITY OF USE ON CAPTIVA, AND URGING THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS TO REJECT THE PROPOSED AMENDMENT TO THE LEE COUNTY COMPREHENSIVE PLAN WHEN PRESENTED FOR FINAL CONSIDERATION; AND PROVIDING AN EFFECTIVE DATE. (Supplement 1)**



Attorney Agnew read into record the title of Resolution 23-072. Deputy City Manager Chaipel spoke to the background for the Resolution. Discussion ensued regarding supporting and showing solidarity.

Public Comment:

- James Evans - Sanibel Captiva Conservation Foundation (SCCF)
- Peter Pappas - Sanibel Resident
- Lyman Welch - Sanibel Resident

Councilmember Smith moved, seconded by Councilmember Henshaw, to adopt Resolution 23-072 as written. The motion carried.

- d. **RESOLUTION 23-073 OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, OPPOSING ANY AMENDMENT TO THE LEE COUNTY CHARTER WHICH WOULD CHANGE REQUIREMENTS FOR VOLUNTARY ANNEXATION OF PRIVATELY OWNED PROPERTY INTO THE CORPORATE LIMITS OF A LEE COUNTY MUNICIPALITY, AND URGING THE LEE COUNTY CHARTER REVIEW COMMISSION TO REJECT ANY SUCH PROPOSAL; AND PROVIDING AN EFFECTIVE DATE.** (Supplement 1)

Attorney Agnew read into record the title of Resolution 23-073. Discussion ensued regarding the differences between the types of annexation. Attorney Agnew spoke to the types of annexation and the issues detailed in the resolution.

Vice Mayor Miller moved, seconded by Councilmember Smith, to adopt Resolution 23-073. The motion carried.

- e. 2024 Legislative Priorities

Deputy City Manager Chaipel spoke to the approval of the bridge loan extension from 2 years to 5 years and discussions that it may convert to grant in the future. He further spoke to the removal of the request for funding of the Police Department and focusing on items that are recovery items, noting the receipt of \$1M for design and construction of the Police Building.

Discussion ensued regarding supporting the priorities and changing the bridge loan extension request from 10 years to 5 years.

Councilmember Smith moved, seconded by Vice Mayor Miller, approve the 2024 Legislative Priorities, amending the bridge loan extension request from 10 years to 5 years. The motion carried.

- f. Approval of a grant from the Florida Department of Environmental Protection (FDEP) for the "Sanibel Slough Stormwater Capacity and Water Quality Improvement Project" in an amount of \$1,000,000.00 and authorize the City Manager to execute the same (This does not increase the FY24 adopted budget).

Vice Mayor Miller moved, seconded by Councilmember Smith, to approve the grant from the Florida Department of Environmental Protection (FDEP) for the "Sanibel Slough Stormwater

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Capacity and Water Quality Improvement Project". The motion carried.

## 16. NEW BUSINESS

- a. **RESOLUTION 23-068 OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, AGREEING TO SIGN ON TO THE AMICUS CURIAE (FRIEND OF THE COURT) BRIEF SUPPORTING THE IMPLEMENTATION OF THE EVERGLADES AGRICULTURAL AREA (EAA) A-2 RESERVOIR AND STORMWATER TREATMENT AREA (STA) PROJECTS AND TO ENSURE THAT THE COMPREHENSIVE EVERGLADES RESTORATION PLAN (CERP) IS IMPLEMENTED TO RESTORE, PRESERVE, AND PROTECT THE EVERGLADES, THE COASTAL ESTUARIES, AND FLORIDA BAY, AS INTENDED; AND PROVIDING AN EFFECTIVE DATE (Supplement 1)**

Attorney Agnew read into record the title of Resolution 23-068 and explained the purpose for the resolution.

Discussion ensued regarding the 11th Circuit Court of Appeals being based in Atlanta, Georgia and all appeals from Florida are heard in Atlanta. Further discussion ensued regarding impacts from the outcome of the appeal.

Public Comment:

- James Evans - SCCF

Discussion ensued regarding the agricultural industry that utilizes Lake Okeechobee as their own water supply in the Everglades Agricultural Area (EAA). Mr. Evans responded that the agricultural industry gets the water when needed, has higher yields to crops due to flood controls, and benefiting from storm water management and water supply at the tax payers expense. He further noted the harmful releases to the Caloosahatchee and estuaries.

**Councilmember Henshaw moved, seconded by Councilmember Smith, to adopt Resolution 23-068. The motion carried.**

- b. **Kayak Program Agreement Letter with Santiva Islanders (Island Seniors, Inc.)**

Recreation Director Andrea Miller summarized the request and provided a brief background. Discussion ensued regarding the current staffing at the Recreation Center being adequate to fulfill the duties and duties taking 2-4 hours per week of the designated staff member's time.

Public Comment:

- Lyman Welch - Sanibel Resident

Discussion ensued regarding the wage including benefits being full cost recovery and the insurance coverage being in negotiations.

Vice Mayor Miller moved, seconded by Councilmember Smith, to approve the kayak program agreement letter between the Santiva Islanders (Island Seniors, Inc.). The motion carried.

- c. **RESOLUTION 23-071 OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, ACKNOWLEDGING AND SUPPORTING COMMUNITY HOUSING & RESOURCES' PLAN TO OFFER PERSONS 50 OR MORE YEARS OF AGE THE OPPORTUNITY TO RESIDE AT THE CASA MARIPOSA SENIOR HOUSING DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE** (Supplement 1)

Attorney Agnew read into record the title of Resolution 23-071. Councilmember Crater, Liaison to Community Housing & Resources, provided background for the proposed Resolution. Discussion ensued regarding ensuring the residents are part of the working force, not retired. Attorney Agnew advised the Resolution does not affect the approval matrix or the qualifications, noting it is just to clarify the "senior" designation for Casa Mariposa. Discussion ensued regarding this allowing available units to be utilized by applicants on waiting lists for other affordable housing units. Attorney Agnew spoke to the senior designation originally being set by Council due to funding for the facility.

Councilmember Smith moved, seconded by Councilmember Crater, to adopt Resolution 23-071. The motion carried.

- d. Lee County Recovery Task Force (Resilient Lee) Update (Supplement 1)

Councilmember Smith provided a brief update and discussions to move initiatives to where they best fit. Ms. Smith spoke to the Working Group requesting the eight branches not be combined to four. Ms. Smith requested Council appoint City Manager Dana Souza to be her Alternate for the Working Group.

Discussion ensued regarding Council consensus to keep the eight branches, City Manager Souza being the best appointment as alternate, and what the end game for the working group is. Ms. Smith noted the meeting is November 16 from 10 a.m. to 12 p.m.

Councilmember Smith moved, seconded by Vice Mayor Miller, to appoint City Manager Souza as alternate for the Working Group. The motion carried.

## 17. CITY MANAGER'S REPORT

No further report.

## 18. CITY ATTORNEY'S REPORT

Attorney Agnew spoke to November 6th having been the deadline for any appeal to Coastal Creek, noting none were filed so the case is closed.

## 19. COUNCIL MEMBERS' REPORTS

Councilmember Smith spoke to attending the Florida League of Cities (FLC) Fast

Fly-in and will be follow up next week in DC.

## **20. PUBLIC COMMENT**

There were no public comments from the audience.

## **21. ADJOURNMENT**

There being no further business, the meeting adjourned at 8:59 p.m.