

**Captiva Community Panel**  
**MINUTES**  
**March 24, 2010**

**Attending:** Jim Boyle, Ron Gibson, Rick Hayduk, Dave Jensen, Rene Miville, Mike Kelly, Nathalie Pyle, Sandy Stilwell Silverglide, Harry Silverglide,

**Audience:** 10

The meeting convened 9:05 a.m. The latest Land Development Code Draft 12E summary was introduced. Kelly offered an introduction of the process of developing this LDC language and thanked those who had attending the many meetings and workshops for their participation, noting that the panel has tried to be as transparent as possible. Pyle noted that this session was a panel meeting, not a workshop, so the group could take action if necessary. Kelly said it was still the panel's intention to present the final draft language at the April meeting. Stilwell Silverglide noted that Pyle made the motion at the March 9 panel meeting that we could take action, that we could adopt the draft today if we feel comfortable enough. Boyle responded that bringing the final language to the April meeting was a better way to involve the community.

Max Forgey with Morris-Depew Associates offered a review of the latest LDC summary. Silverglide asked why the revised language included non-rent paying caretakers, since most are compensated. Miville said if your caretaker pays rent, there's your sole renter you are allowed. Discussion of the height proposal and sign changes followed, and Forgey noted that the new verbiage on ID signs was the same language as is used on Sanibel. Jack Samler asked about the size of real estate signs. Forgey said he had reviewed language based on discussion at the last meeting. Pyle said that maximum height for those signs had been discussed at last meeting, that agreement was to keep the bottom of the signs 12 inches from ground level to limit overall height. Forgey said that would not be difficult to add, that the maximum of the lowest point of the sign face must not exceed 12 inches above grade.

Jensen asked whether the proposed OSTDS location language would it make any lots unbuildable. Forgey said MDA staff was working to confirm the impact in time for the April meeting. Stilwell Silverglide said the panel was still planning to put the draft out for a community survey, but we're just not going to make any more revisions to this draft until we hear from the community. Miville said the county will still make changes, but this is our opportunity to indicate community intent. Silverglide asked whether the OSTDS requirements would affect smaller lots that did not have sufficient size to keep the systems away from the tidal waters. David Depew noted that such lots would need a variance, where the owners would have to prove that they will not impact water quality. He reiterated that his staff needed to look whether anyone is affected by this, but that he thought this may simply restates the state statutes' requirement.

Mike Mullins asked whether lift stations would be affected by this rule? Kelly noted that they tried to conform to existing language and state rules as appropriate, tried to track changes as they came to our attention. Stilwell Silverglide noted that the panel could adopt this draft to allow public input and proceed with a survey. Mullins asked about the RSC-2 zoned properties at the south end of the island, where the road subdivides property and you have two ½-acre lots in RSC-2 -- which means you have to grandfather them. Depew said the county now treats them as existing lots of record, meaning the planning director can give you administrative approval to build if they are actually buildable lots. He felt this concern was addressed in the current draft, but you could talk to county staff and say you would like a letter from them concerning these lots. We can deal with questionable situations as a list from county, to address a broader issue of existing lots of record as applied to an islandwide area. A discussion of how other communities handle this ensued.

Stilwell Silverglide asked about the minimum rental term proposal and how it would affect areas of the island. A discussion of rental language issues followed. Mullins asked whether the minimum term would affect condos at South Seas. Kelly said those units were likely covered by association rules for each association, and that the rentals language will be refined as we continue to receive input. Mullins said one interpretation could take a large section of South Seas condos out of the rental business, which would have a significant impact. Stilwell Silverglide said that was not the intent behind the proposal, that it was meant to focus on single-family homes elsewhere. Forgey said support for the seven-day rental limit was clear in the panel workshops.

Depew said the intent was not to restrict South Seas units, and that we will need to adjust language if necessary. There followed a discussion of the rental restrictions and evolution of the language. Depew said that South Seas is exempt from all aspects of this language on items covered by the 2002 Administrative Interpretation with Lee County. He thought the rental limitations applied to the rest of the island, to everyone outside of the resort -- but agreed that a review of the AI document was necessary to confirm that. The issue of existing rental limitations on single-family homes was discussed, with Depew and Gooderham noting that they could not find any explicit mention of a rental limitation in the existing Land Development Code. Depew said that based on his experience in other communities, unless it explicitly says something about rental limits in the code, the courts won't uphold it. Mullin asked about potential conflicts between condo documents and county code. A discussion of applicability followed.

Mullins said this issue could be a poison pill if people will vote on the entire code. But by cherry picking issues, you open it up to failure. Stilwell Silverglide said the panel was not cherry picking, but was listening to people at the workshops. We still need to define how we want to draft the survey, and would like that by the next meeting. Kelly said a survey was not necessarily a vote on approval or

disapproval, but a way to encourage people to read this code and understand its potential impact before it is adopted. Depew noted that commercial construction codes kick in by law if you rent for less than 30 days more than three times a year; there was no variance from that, but the county did not enforce it stringently. Mullins asked people doing follow up and addressing issues at the next meeting bring the language they are citing to prove the point so that everyone could understand the veracity of the source.

Gibson made a motion (Boyle second) for the panel to adopt this Draft 12E as presented. Stilwell Silverglide said this was to take it to a community survey. Kelly said that some language changes will be needed, and he hated to adopt something verbatim. Miville said there will be constant tweaking as we go along. Boyle said this will need adjustment, but that we need to move forward. Kelly said we still have some things that we need answers to by the April meeting. Gibson offered an amendment to the motion to use this draft to go forward but with adjustments to be made at the April meeting, so this can go out to the public. (Boyle agree). Jensen was concerned that the panel went from grammar changes to major issues that need answers, and that he wanted these issues to be verified first. Stilwell Silverglide said the panel could vote both the motion and amendment down and wait until April. Pyle said the CCA will only review it when we have final language to review. That's why we wanted to move it forward today. Kelly felt the sense of things is in this document, you don't need more refinement since this is the basis on which we're moving ahead. Miville added that we need to move forward. Forgey said that we also need a sense of the next step in terms of moving this out to the community. We should be done at the April meeting, but this could be viewed as the final staff draft. Gooderham added this wording would imply that the consultants' work is complete, but not that it was the final version to be submitted. Changes would be at the discretion of the panel.

Stilwell Silverglide called for a vote on the amendment, which was approved by a 8-1 vote (Jensen opposed). She then called for a vote on the motion, which was also approved by an 8-1 vote (Jensen opposed). Gooderham asked the panel for direction on the plan for a survey, so he could have some drafts prepared for discussion by the April 13 meeting. The consensus was to survey by issues, not as a whole. Miville suggested to delineate response by geographic sections as well. Silverglide suggested the survey frame this on the four major issues that were the trigger to hire Morris-Depew Associates. Mullins urged the panel to be sure to abide by your bylaws in terms of noticing meetings and publishing agendas. Miville offered kudos to Kelly, who was eminently qualified to lead this.

Silverglide asked to speak about the draft water quality article that had been circulated. Pyle said the March 9 motion for this meeting determined it would cover a single issue, so that discussion could not be allowable. The meeting adjourned at 10:25 a.m.

**-- Ken Gooderham, administrator**