

**Captiva Community Panel**  
**MINUTES**  
**April 27, 2010**

Attending: Rick Hayduk, Dave Jensen, Rene Miville, Nathalie Pyle, Harry Silverglide, Sandy Silverglide.

Audience: 15

The meeting convened at 9:00 a.m.

Ken Gooderham opened with an explanation of the purpose of the meeting, which was to continue discussion on proposed rental restriction language being offered to the proposed draft of the Captiva Land Development Code. He introduced a handout that detailed the proposed language, compared to that which was already included in the working LDC draft approved by the panel at its March 24, 2010, and April 13, 2010, meetings. and background. He also introduced the working LDC draft as a handout, and another sheet that included the current Code definitions affecting single family home rentals as contained in the "Dwelling Unit" definition. He said that definition had been cited by the attorney for the Captiva Civic Association as the reason for stating there was a one-week-minimum for non-hotel/motel rentals, but followed that some county officials did not seem to concur with that assertion.

Gooderham related his discussion with county attorney John Fredyma the previous day, to review this language and the rental restriction issue. He said that Fredyma agreed the definition could be construed as a restriction, but noted that the issue hinged much more on enforcement than on code wording. To make any rule enforceable, it would need solid proof of a violation that could stand up in court, such as contracts, proof of offering less than one -week rentals or someone who could credibly testify that some party had been able to rent a dwelling unit for less than a week. Fredyma also warned of the peril of unintended consequences in any rulemaking process, and urged the community to focus first on what it was trying to accomplish before working to include any new restrictions in its code proposal.

Miville then read a memo Gooderham had emailed to panel members the night before based on this discussion with Fredyma, again stressing the enforceability issue. S Silverglide offered some background on how this issue had gotten included in the proposed draft, noting her concerns had been that the intent of the island's property owners needed to be heard and that there had been some rental abuses in the past. She also acknowledged that the regulatory web surrounding short-term rentals was very confusing, that there was so much language at the local and state level governing how such rentals had to be handled to comply. Jensen asked the audience who was against daily rentals. Bob Brace noted that a higher intensity of renting meant more people, more

density, a rowdier island. He felt Captiva had done well with the assumption of weekly-minimum rentals, and was not sure when we stopped assuming that. Shorter-stay rentals were attracting a nonfamily clientele. Jensen noted that when owners rented for less than a week it meant more people in units. He said the issue could be noise more than use; near him, use of the pool seemed the noisier aspect but we're not going to get rid of pools. H Silverglide said whatever the answer was for a particular property remember you need to plan to do that multiple times if the site is rented every week or even more often.

Sheila Turner said she lived on Laika lane for the past 16 years, and was concerned for Captiva. She said we all needed to ask ourselves what is Captiva...is it a nightly or part-time rental, "let's fill the dumpster" kind of place. She said she did not think nightly rentals had a place in a residential neighborhood, that they should be kept in places that were built for that. Joe Schwartzel said if you go to daily rentals, the economic model changes for that property. Investors coming in will then be very different, and you run the risk of potentially having majority of homes owned by investors looking for daily rentals, creating a very low residential density and a very high commercial density. S Silverglide gave an explanation of their personal experience with adjacent renters. She said the issue opened a can of worms and we wanted to put the lid back on it again; we assumed we had weekly rentals, but it does not appear to be the case.

Mike Mullins noted there was a lot of fears expressed when the safety shoulder was being proposed and discussed. Now that it's been in place, he lives three doors away from a public parking area and these things do not occur. This rental restriction discussion is the same – a lot of supposition with little factual outcome. Daily rentals are not the business model for me, Royal Shell Vacations, American Realty Center, etc.. so less-than-weekly rentals outside of the hotels will be very rare. This discussion has been very disparaging of renters, a lot of anecdotal information without substantiation. His research shows very little change in state Department of Revenue revenue collections and taxes paid in the past 5-10 years, which shows not a significant change in the business structure. Discussion ensued on taxes paid overall. Mullins continued that Captiva was substantially a tourist community. He felt that introducing something at the last minute that has not been discussed, while everything else in the draft has been on the table for discussion, meant the panel was creating a divisive issue in the community for something that is not happening now.

Pyle said there was no question that her neighborhood has changed and become more of a rental community. We as a community were operating under the assumption of weekly rentals, but is the language presented here sufficient? She didn't have a problem if someone takes advantage of an opportunity to rent short-term when no weekly renter is available, but she didn't want to see the units turn over on a daily basis. Mullins said she should look to her homeowners association to control rentals, that allows you to control your specific property

without islandwide rules. Big property vs. small property, don't make it an islandwide pervasive rule. Pyle said her association might not be able to impose those kinds of restrictions. Elaine Smith said she had done an informal poll among her clients, which showed that no one is looking to do nightly rentals but they don't want that option taken from them for those slower times when they could help cover expenses. Her owners felt they bought under the assumption this would be allowed. Toni Hullstrung said it was harder for smaller individual rentals to handle the nightly turnover. We can't operate like a resort or a hotel, and have always assumed a weekly basis for rental models.

Hayduk said nightly rentals dramatic changes cost structure of agency and owner, costs and maintenance. Not conducive to do that if the market will rent for longer. Shoulder months may offer opportunities, when the population density of the island is already diminished. I know how difficult it is to do it every night, we have the resources and it's not easy. Nightly rental market relies on pricing, Captiva is appropriate in terms of other areas to attract the renters you all want. Theories as to what is going to happen, substantiated in fear but not in practice. Miville said they were not asking for a daily rental rule, we have discovered there is no rule in place and some of us feel there is no need to put one in place. It's an assumptive fear, but not practical in reality. These are not real issues. If we had a real issue with daily rentals, we could act on it. We were here to address four specific things concerning the Captiva Code; this issue came up at the end but is not an issue at this point. No issue, no reason to create assumptive rules. Randy Bacik from Royal Shell Vacations said he saw no difference between one night or one month in terms of guests' behavior, if they're going to be a problem they're going to be a problem whenever. The issue is rates...discounted rates draws more people in shoulder season, a rate and whose renting problem...that's unregulated. He said you have to put your faith in who is renting those homes and properties, that they will take care of the problem.

Margarethe Thye-Miville said that renting happens all over the world, there is an economic need as well. When we rent a house, there are limitations that must be abided by in terms of intensity of use. Miville said he would recommend that you call the rental agent to explain the issue if you have a problem with neighboring rentals. It will be taken care of within 24 hours, I bet. Mullins said the panel will act based on a vote and the survey. The issue should be getting back what we pay in to the county in taxes. That's where your energy should be devoted...have a tax revolt on this island, look to Tourist Development Council for funding for enforcement and regulation. Miville said when the panel addressed the height issue, there was a fear we were taking away someone's rights. Are we doing that here, even if someone doesn't want it? An unnecessary restriction in rentals is inconsistent. Pyle asked what was the problem with saying you could have only a single renter per week? Smith said the less-than-weekly option gives us some flexibility to extend someone else's rental period.

H Silverglide said it was not the panel's job to impose restrictions, its job was to ask community what it wants to enact. He thought we needed input from island residents as to how they feel. The business model works for two days, four days or seven days...there is staff to do that. It's a quality of life issue. This is a boutique rental industry that's sprung up on Captiva, which pits quality of life vs. the business income. The panel's responsibility is to go to the community and see what people want to do. When people try to sell a home, the rental history becomes very important to the buyers. There was also an issue of taxation: If you have a home that operates as a business, you should be taxed differently according to that intensity of use, as is being done to pay for our beaches. Mullins offered a rebuttal on Silverglide's beach taxation comments. Pyle asked to keep the discussion on this issue.

Mullins said he would like to see a written opinion by an attorney. He'd recommend we leave this issue separate in any survey. People need more information on this issue in order to make a reasonable decision. S Silverglide said maybe the panel did need to hire an attorney to research on this. Paul Garvey said the opinion of the CCA attorney has not wavered. What you are proposing is what is on the books right now in his opinion. A comparison with Fort Myers Beach was discussed. Mullins asked whether we can get an opinion of counsel...if so, it's a moot point. Pyle said she thought she heard him say it's already on the books in the definition. Garvey said it's up to you whether you want to re-emphasize it, that the county intent was also included in definitions that non-hotel units are subject to seven-day minimums. The CCA is satisfied with the language that is there...obscure and unclear, but valid. All or nothing. Hayduk asked whether the CCA felt the South Seas non-hotel units were exempt or not exempt. Garvey said it applies to South Seas' non-hotel units, and that specificity will cause issues.

Schwartzel said there were other issues at play – trash pickup, for example. Could rental companies come together to develop rules that might help homeowners, and homeowners do the same thing -- develop a list of items that can be talked about and come to some resolution. Bacik said the problem was rental companies vs. owners with homes who want to be rental companies. We do try to address issues, problems are with rogue owners. Issue is undefined, and better rules are needed. Pyle asked whether the panel wanted to include seven day language in the code draft. Gooderham noted that the language was already there, so you'd need to vote to take it out. Discussion ensued as to the status of the language in the working draft, with the agreement that it was in place the final outcome.

Pyle said a survey will be done as part of the panel mission to develop LDC language. This is the draft to go to the community, not a final draft. She made a motion to remove the sentence related to seven-day minimum rentals in Section 33-564 (Jensen second). Jensen said he was not prepared to put this issue to a survey, that it needs more time and discussion. He liked the idea of trying to

resolve our issues first. Pyle said the issue is already addressed under definitions in place now. S Silverglide said the island did need to discuss it, but if it is already in place then we do not need to add further issues. H Silverglide said he was interested in what the island's owners have to say. It impacts the character of the island over the next 5-10 years, it's a quality of life issue and a business issue. Killing it was an injustice. Hayduk said the vote was not killing it, let's not let this one drop but maybe not address right now or using this language. Have a discussion with the owners and renters about the economy of the island..get sentiment of all parties involved. Status quo is working very well. The vote was called and was 5-1 to approve the motion (H Silverglide dissenting).

Miville asked if that included deleting the same language in Section 33-531(E)3 targeting RSC-2 zoning. Pyle said she felt that portion of the draft was fully vetted from at least two workshops, unlike the section the panel just voted to remove, and thus she was not comfortable voting to take it out. Miville said he did not feel this language addressed a valid issue. S Silverglide asked when this portion was discussed at prior meeting, and Gooderham said he would research the various draft versions to track when language was changed and the workshops where it was reviewed. Jensen asked if this was the appropriate time to address this. Miville wanted to remove this language until we get the evidence it was sufficiently discussed at public meetings. It was never discussed at meetings he remembered attending. Hullstrung asked whether any language concerning rental restrictions needed to be in the language.

S Silverglide suggested the panel bring the entire issue of rentals up as a separate agenda item at some later date. H Silverglide asked whether Royal Shell and the other island rental agencies be part of a committee to bring suggestions back to the panel for rules of engagement concerning island rentals...a how-to on renting properties to develop some voluntary uniformity on ways to address the issues that have been raised during this discussion. Hayduk concurred, saying voluntary rules would prevent neighbor turning on neighbor. Gooderham said the way the panel approached this issue could be driven by the level of enforcement you wanted to have, ranging from voluntary guidelines with little enforceability to full code language with a higher degree of enforcement possible. H Silverglide suggested the panel start with voluntary rules and move to code language if that doesn't prove sufficient. Miville said the committee could develop a guide for independent renters to bring to the group -- how to do it, not how you must do it. There was general consensus to put this on the agenda for the May 11 meeting for further discussion. Issues of the proposed survey were then broached but, once determined to be outside the advertised scope of the meeting, put aside for later discussion.

The meeting was adjourned at 10:40 a.m.

**-- Ken Gooderham, administrator**