

**Captiva Community Panel**  
**MINUTES**  
*May 10, 2016*

**Attending:** David Mintz, Jay Brown, Rene Miville, Peter Koury, Sandy Stilwell, Dave Jensen, Bob Walter, Mike Mullins, Mike Kelly, Mike Boris (phone)

**Audience:** 10

Meeting convened at 9 a.m. The April 12, 2016, minutes (Mullins/Kelly) were unanimously approved as presented.

**CEPD:** *Kathy Rooker:* At the April 21 Blind Pass inlet management study meeting, more than 100 attending with a good showing from Captiva. Important that Captiva has a presence there. Informational session, about study scope. Will get into data and modeling and options in next two meetings. More options about what we can do to make pass more viable. *Brown:* Summary of meeting. Commitment to keep pass open. *Rooker:* Without doing harm to adjacent beaches. TAC webinar April 26. County Dept. of Natural Resources has website for info if you cannot attend meeting. CEPD will send out info if you give us your email address. CEPD meeting tomorrow 1 p.m. in Crows Nest at Tween Waters. Tropical Storm Debbie, impact on Jensen curve, submitted FEMA claim for work done on Sanibel. Could not appeal until we got a determination from FEMA, which we got but not for the amount we sought, board agreed to appeal determination. We know where FEMA is miscalculating so we can document issues, submitted end of April to FEMA. Not promising success, but we will continue to pursue. Any money we can get can help lower the cost of the next project

**CFD:** *Deputy Chief Jeff Pawul:* Brochures brought and distributed... Hot Spot, lock box you can install so we can access your items when we arrive. Home version of commercial item that's been out for a while. Contact station for information. A way for us to access your home without waiting or having to destroy property. April busy for us, busiest ever.

**LCSSO:** *Sgt. Mike Sawicki:* Remind all that turtle nesting starts May 1 to Oct. 31, additional ordinances enforced on beach including furniture, lighting. We'll be checking things. Captiva was worst for violations at the beginning of season, then after more enforcement efforts the island was recognized as one of the best by the end of the season last year. Look for green tags, means that item needs to be removed. Work with renters on compliance. Events around beaches and dunes require additional permits during this season. *Mullins:* CEPD did postcard on turtles... any left? Could post on bulletin boards to communicate with renters. *Sawicki:* Sanibel did cards, done through a grant and they ran out. Made of window cling materials, says "After nine it's turtle time."

**Hurricane Preparedness:** *Doris Holzheimer:* April 13 seminar, 30 people attended. One seminar on Sanibel coming up. Hurricane season starts in June, so get prepared.

**Planning:** *Max Forgey:* Spoke with Sharon Jenkins-Owen, county staff is still reviewing proposed amendments from Captiva Plan update. She expected that sometime before next panel meeting we will have report back from staff. Density language provided, will discuss later. BoCC workshop last Tuesday, distributed version of PPT presented there. Will listen to workshop online. Don't see much changing according to this. River Hall status: Poster child for community planning. Background. Overriding public necessity finding by BoCC. Awaiting scheduling for hearing before governor and cabinet, will apprise on status if changes. Discussion.

**Sewer Committee:** *Brown:* Since last meeting, met with three people... Kelly Hill, David Depew, Bob Himschoot. **Hill meeting:** Very interesting, spent time explaining types of systems available. Conventional system vs. performance-based system. Description. Treatment in tank vs. treatment in leach field. Performance system is smaller than conventional system, require a lot of monitoring and DEP inspections. Water table can be as little as 6 inches below grade, need 24 inches from bottom of tank to ground water. Take-away from that was that Captiva is not an optimum environment for septics... high density, high water table, little room for error. *Mintz:* Perf systems have some fatal flaws, potentially, Susceptible to overuse malfunctioning, issue with rental units. Smell can be coming from performance systems if too many people/water using system. Aerobic bacteria processes water, if you shut it down for a period bacteria can die. Can take up to a month to get a system up and running again. If maintained properly they run beautifully... if not, potential for issues. *Miville:* Not correct. Had that system, had problems you mentioned. Was told valves were the issue, need to let water flow through without restriction. Need electric power to keep unit operating. *Walter:* With aerobic bacteria too much water and it drowns, too little and it dies. *Mullins:* Many different systems, need a lot of knowledge. Background. *Walter:* Number of septics and state of system. *Mintz:* Two experts, both said the same thing about issues with performance systems. Performance systems take responsibility to maintain and use system properly. *Walter:* Fancier systems are always done by the second homeowner.

*Brown:* **Himschoot meeting**... basically the same information as Hill. Strongly believes that septics can be successful in environment such as Captiva, but need to be maintained properly. Any system can be successful with maintenance. Seasonal usage and maintenance key. Conventional system needs to be intact – meaning an airtight tank – to work properly. Ballpark cost... \$20,000 per property plus hookup costs. Performance system about \$30,000 plus annual maintenance of \$600base plus repairs. *Mintz:* Anything installed after 1982, there's a permit on file and it was required to have 24 inches between field and groundwater. We need to create inventory of island systems. Need onsite maintenance program for septics to work properly. Monitor, inspect and pump as necessary. County looking into options, other counties considering as well. If we don't go to sewers, we could go to a septic regime of inspection. Himschoot looked at SCCF study, read and reviewed it, comments about nitrogen bump in septic area. Bacteria OK in septic area, makes sense to him. *Walter:* Wondered where testing wells were in relation to output. Measure input, output and 50 feet away from field. *Mullins:* Said 10% of all systems are in failure, so with inspections and current standards we could get all systems up to code in 10 years. *Kelly:* Tried to implement monitoring a couple of ways, turned down by county. *Mintz:* County seems to be shifting position on that. *Stilwell:* Can hire company to monitor performance systems while you're gone. *Walter:* Garbage disposal one of the worst things for systems. *Mullins:* Why did county oppose? Can we regulate what we have today? *Stilwell:* Why not establish proof of maintenance as a given for property purchase? Discussion of inspections.

*Mintz:* Have now heard twice that MSTU could be vehicle for inspection and enforcement. Need to pursue details of that. *Brown:* Long-term study, don't have all the answers yet. After these meetings, could say it was reasonable alternative to develop wastewater treatment strategy based on septic systems if they are inspected and maintained. Discussed water table, seasonality, soil types. Sewer doesn't address nitrogen issue any better than septic. Properly designed systems, maintained properly with inspection regimen, can work here. *Mullins:* Have to become expert in processing. *Forgey:* Did Himschoot mention any specific communities? Discussion of which ones he possibly discussed. *Mullins:* State focus is on springs at this point. Discussion. *Mintz:* Himschoot impressed by SCCF study, mentioned nitrogen issue. Had some methodological questions of research. Say a high load, but where is it coming from has not been identified. Focus on research on nitrogen, sources and research. *Mullins:* Measure at source then at consistent distance to see impact of dilution. *Jensen:* Other nitrogen sources mentioned as possibilities. *Mintz:* Focus on nitrogen to be convinced about the science. *Brown:* Pam Keyes attended the Himschoot meeting, gave us an update on wastewater alternative study. Background on proposal. County review of conditions and science, strategy for wastewater treatment options for the island. Expect draft for our

review in perhaps three weeks, so might be ready for next panel meeting. Would go to BoCC for approval and funding. *Mullins*: We would work to show reason to fund due to our MSTU contributions. *Mintz*: Would also run scope by an outside consultant to ensure we're on the right path. *Koury*: Was the scope increased to include Sanibel? *Brown*: Analysis of sewer would have to include Sanibel treatment options.

*Brown*: **Depew meeting**... One big issue with wastewater strategy is its potential impact on density of Captiva. Sewer could bring unintended consequence of allowing density increases on island. Aside from that project, density is a major concern in general to Captivans. To get better idea of options to protect existing density, met with Depew for a lengthy discussion. One question was what do people mean when they say density? Increase in existing dwelling size vs. additional structures and intensity. I think it means anything that allows development beyond our existing zoning laws. Discussion. Bigger structures vs. more structures. *Koury*: Could zoning be changed without our consent? *Walter*: Yes, barely. Very difficult process to enact a hostile change. Discussion. *Kelly*: Not just what's allowed now vs. what it could be rezoned to with sewer capacity. *Mintz*: County decision, they might care what Captiva thinks or they might not. How can we protect our current zoning so that county cannot make changes without our input? Recommend we seek a planner and land use attorney to fortify our plan to the best level possible. *Mullins*: Not asking to limit them to more than we have today – 3 units per acres? *Walter*: That density would lower the number of homes in some areas. *Mullins*: Would county have to overrule our comp plan to exceed current restraints? Yes, so we want to harden the restrictions. *Koury*: River Hall and Gulf Coast Town Center actions by commissioners are examples of this being possible in Lee County.

*Mintz*: Substantive issues and procedural issues. Language in the plan to restrict changes, procedural road blocks to make approval more difficult. We don't have that expertise here, work with planner and attorney to fortify our plan. Discussion of planners and attorneys. *Mintz*: Planner creates language with attorney review at the latter part of the process. *Koury*: Or we could incorporate and have our own people to handle this. Pays for itself and gives us total control. *Mullins*: Either plan relies on elected officials interpreting legal language. Can you engineer sewer system to constrain growth? *Brown*: Uncouple density from sewers, need to address this question either way. How can you design system to handle variability? *Mullins*: Like a regulator in a truck, only lets you go so fast. *Stilwell*: A density safeguard. *Mullins*: Limited capacity infrastructure can control growth. *Mintz*: Procedural safeguards are not always sound protection. The size of the pipe is not critical if you can create an increase in the flow. *Mullins*: Deep pockets could still have an impact through Bert Harris Act findings. *Kelly*: Amending SSIR PUD a major issue. *Mullins*: Recently read how Florida fails on transparency and ranks high on corruption. *Forgey*: Talking about magic words and magic numbers – supermajority votes, overriding public necessity, etc. You're asking current board to bind future board. They are disinclined to do that, legislature also tends to withhold that as well. But you can allow them a way to break their own rules. Better to have enforcement factor, tie to capacity of infrastructure. I distrust super-majorities, once they get there boards may feel they can do whatever they want. The stronger the language, the better – don't allow exceptions. Make policy so unambiguous that it can survive circuit court challenges. Everything has to be backed by data and analysis to be effective. *Mintz*: The case to limit intensification of development on Captiva is solid – narrow roads, environmental restraints, distance for emergency response. *Forgey*: BoCC doesn't want a Lani Kai on Captiva, but the vacant Rauschenberg property could be an issue here depending on its development potential.

*Brown*: Discussion? Prepared a recommendation which is in packet. *Mintz*: Background of genesis. How to work with a planner and attorney to figure out way to amend plan to strengthen current zoning restrictions and protections. Hope to better understand current zoning and density that comes with it. A lot of issues that need further research and better understanding. *Brown*: Density is No. 1 issue on Captiva. Regardless of sewer-septic decision, panel must do all it can to protect existing zoning. Don't know what it takes, need to look at existing plan to see what else we can put in there to make it as difficult as possible to get variances or make changes to zoning. *Kelly*: Will be a legal issue eventually, need to have a good

defense to that built in. *Brown*: Not looking for motion, just a sense that this is a good direction for panel to pursue. *Miville*: Why not hire them now and get started? *Jensen*: Get a price first. *Stilwell*: Depew knows Captiva, why re-invent the wheel? Worth looking into. *Miville*: Motion to hire Depew now. *Jensen*: Get a price. *Koury*: Wait until fall, by then we'll know about county wastewater study and River Hall status. *Miville*: Could work now and wait for decision. *Mullins*: Get a clearer written scope and get a more definitive price. Have low expectation we can solve this problem this way. Need a harder solution. For \$10K, it's a cheap way to avoid a mistake but not a definitive solution. Discussion. *Mintz*: Max, could this work be done under your retainer? *Forgey*: Yes. *Mintz*: Depew is saying \$10K to do this, Max would handle it under retainer. Plus existing plan is still under review. *Brown*: Do this as the next iteration, get current plan approved. Over the summer, Forgey can work on recommendations to add language to the plan to strengthen under current retainer. Also see about county actions on plan and study, River Hall outcome. In the fall, take up specific next steps. *Mintz*: Send recommendations to Depew to ask for cost as well? *Kelly*: Let current plan continue through county. Code is the next step, concrete language could end up there for strengthening. Be ready to do it. *Brown*: Max can work on this over the summer to develop options for strengthening, get county reaction to current plan and alternative study, review where we are in the early fall. Get a price from Depew. *Mullins*: Start process of getting engineering input on sewer capacity to constrain density. *Mintz*: Could be included in county scope of proposal. If it's not there, we should include it. *Brown*: Septic standards part of county scope? *Mintz*: Should be part of proposal. Options for next 20-30 years, sewers and septic and others. *Mullins*: Watch out for MSTU expenses, based on our experiences with county during the underground utilities discussion. Could this be done without forming a MSTU? *Mintz*: Include that in the scope.

- **ACTIONS**: Forgey will work on protective language options. Depew will be contacted to provide a more detailed estimate. Panel will review both in the fall to set a course of action. Panel will await and review the county's scope for a wastewater alternative study for the island, and engage Sanibel for input. Committee will meet with Sanibel Mayor Ruane and continue its fact-finding efforts. Gooderham will review materials on file for a zoning/density inventory and a septic permit inventory to see what information is still needed.

**Captiva Drive**: *Mintz*: Last meeting we had drawing showing bike/ped issues along Captiva Drive from South Seas to Andy Rosse Lane. We hope to meet with property owners of those impacted areas to discuss options to open up some space along the west/south side of the road to improve walkability. Will fine-tune plans to meet with them in the fall or before. Also reached out to island utilities about potential impacts, need to follow up. *Jensen*: On the east side of road, can we straighten out drains? *Mintz*: Separate problem, would be more costly and time consuming. That's why we went with a wider lane on west/south, shared use in roadway. Saw blue tape around poles, any idea what's going on?

- **ACTIONS**: Mintz will follow up with Gonzalez on graphics for property owners meeting, which will likely be scheduled in the fall.

**Nominating Committee**: *Brown*: Review of process. CPOA will need to appoint two people, CCA one person, panel one person by the end of this year. Need nominations by Oct. 1 in writing. Need committee for panel nominee. Mike Boris agreed to chair, will fill it out with Debi Almeida and John Dale. Brief summary of background from each of them. *Jensen*: Could committee members be considered for seats? *Brown*: Walter also is a panel designee, able to serve another term. Being on Nominating Committee does not preclude person from being considered for a seat, committee can also consider other candidates for Walter's seat if desired. Motion to approve committee as presented (Jensen/Mintz) unanimous. *Mullins*: Is Paul McCarthy on committee? *Brown*: Noncommittal on being on committee so did not include him. Bylaws changes discussion. *Mintz*: People have approached me to be considered to serve: Tom Rathbone, Tom Libernati, Dave Saunders, Paul McCarthy, Diana Szambecki. *Miville*: Did they say why they want to be on panel? Usually a trickle-up process, get involved and get appointed. Discussion. *Brown*: We tend to

create committees out of existing panel members, should stop doing that and reach out to community to get them involved. *Mullins*: Gordon Hullar interested in serving on panel? *Holzheimer*: Willing, but not avid.

- **ACTIONS**: CPOA and CCA have been notified of the need to make appointments under the bylaws schedule. Nominating Committee will work on review and selection of nominees for October meeting.

**Tax distribution committee**: *Koury*: Met with Pete Winton, assistant county manager, on MSTU; very helpful, as much as he could be. MSTU generates funds for services cities would normally do. Funded by ad valorem tax, then county adds gas taxes and license fees partially to the fund before money is spent. Asked for breakdown of how much MSTU money has come back to Captiva in last 10 years. Gotten four years so far, a total \$8,000 for those years. Captiva does not appear often on tally sheet of monies spent. Committed \$3.8 million to new Rec Center on Sanibel, to make it open to Captiva. Some road improvements out of MSTU, others from DOT. Funds gets blended often, very hard to decipher. We pay 4.5% of MSTU total, \$1.3 million per year. *Mullins*: County tries to be very transparent, but they don't account for the MSTU as well as they do for the incorporated areas. Charlie Green argued against any Sanibel expenditures, was overruled. *Koury*: We have not lined up for any projects, you won't get money you don't ask for. Discussion. *Mintz*: S curve and feasibility study two possible requests. *Koury*: Winton said to take a look at Estero. New village did a contract back with the county to perform all the same services. Have copy of Estero contract, can see the range of services the county provides to them. *Mullins*: Calculated based on percentage of population. *Koury*: Allows county to continue to provide services to a newly incorporated area. Discussion of MSTU/BU accounting. *Mintz*: Are there services that should have been provided here in these contracts? *Koury*: No, we have not been cheated. *Mullins*: Maybe, could have made some decisions. Discussion. *Koury*: County has been very helpful so far in this research. *Mullins*: Trying to identify what has been spent and where is a quagmire, can clearly identify what we've paid to the county. Puts onus on county to prove a fair share of return. Think of everything we want to do and start pushing commissioners to act. Population percentage works against us, we need to work on contributions instead. *Koury*: Could work in our favor, if figured on population vs MSTU totals. Incorporation is a viable alternative that is too often overlooked. Discussion. *Mullins*: Trying to figure out how much we pay in bed taxes, used to work through Dept. of Revenue figures. Got those figures up to two years ago, someone changed state law in 2014 to make information confidential if donors could be identified by the amounts. Blocked CEPD from getting information due to South Seas contribution being too obvious. If what we want to do is based on rentals, we should work to get more bed tax finding back as well. *Brown*: Meeting with Sanibel Mayor Kevin Ruane this afternoon.

- **ACTIONS**: Committee will continue research efforts and follow up with county and state sources.

**Financial**: Update in packet. *Gooderham*: Fund-raising letter has been drafted and sent to Jack Cunningham, he probably will have a draft for panel review at the next meeting.

*Lisa Riordan*: Can other entity waive confidentiality of DOR collections? South Seas does not get all that revenue, it goes to the owners in the rental pool. Discussion. SSIR associations could be helpful in releasing information. *Mintz*: Who pays the bed tax? *Mullins*: Agents, VRBO, South Seas management. Who pays vs. who collects. Discussion.

The meeting adjourned at 11:30 a.m.

-- *Ken Gooderham, administrator*