

Captiva Community Panel

MINUTES

Sept. 8, 2015

Attending: Jay Brown, Jack Cunningham, Mike Boris, Dave Jensen, David Rohn (phone), Mike Kelly (phone)

Audience: 12

The meeting convened at 9 a.m. Following introductions, the minutes from Aug. 11 and July 14 were unanimously approved (Boris/Jensen).

CEPD: *Kathy Rooker:* Thursday budget hearing 5:01pm at TWI, Darling room. Last three years, kept budget flat, millage shows no increase this year. Explanation. *Brown:* Blind Pass? *Rooker:* BoCC OK'd CB&I to do study, start in October, Also Redfish Pass study at the same time.

CFD: *Cunningham:* Thanks to CFD and LCSO for service to community. *Chief Rich Dickerson:* Saturday fire in home, in wall. Investigation under way. Two fires in last three months, small fires. Tri this weekend, 9/12 kids race 210. 9/13 sprint race... Closure 6:45 a.m. open 8:45 a.m. Emergency access to roads at all times. Explanation of placement. Call volume 107 Q1/108 Q2. Budget hearing Saturday morning at station. Planning to lower millage. *Mullins:* Annual increase. *RD:* Normally 300, could be 430 this year

Hurricane: *Dickerson:* El Nino has kept storms down. Grace out there, likely to fall apart. Discussion of storms. In October we look at Caribbean storms, can surprise us a la Wilma. Gerald Campbell, now at FGCU as emergency manager. Evacuation to FGCU Arena if storm is bad enough.

LCSO: *Sgt. Mike Sawicki:* Tri, 30 deputies and staff here. Volunteers or flex time. Watch out for racers and extra people on the island. Storms... Erica a wake-up call, think about prep now. Labor Day, a lot of people, no incidents. Looked at BP Bridge closely. *Cunningham:* More on fire response.

LCEC: *Dennie Hamilton:* Thanks for having us back. Reliability projects and how islands are served. Rebuilding transmission line from Cape Coral to Pine Island. Only service to islands. About 45 years old, look 10 years in planning horizon. Started process 10 years ago. DEP, Corps, said we needed to approach from Cape Coral side, had to interact with Coast Guard. Have to get permits from city of Cape Coral. ROW and temp use for poles and staging. City issued then rescinded permit, reissued with conditions about if city takes over power system LCEC would not charge them to rebuild that line – an unreasonable request. That line would be abandoned and we would construct a new line through Pine Island. Would take a longer time to achieve, be a \$20 million project in all. We expect to get what we're owed if they municipalized. Will go through appeals, it's a violation of franchise agreement. This line is not going to fall down, but the longer we delay the more exposure we face with its condition. Exploring alternatives with permitting agencies. If you have any influence with city officials, share with them your concerns. Some handouts to leave for you. *Cunningham:* Entire line? *Hamilton:* Cape Coral to Pine Island substation.

Rene Miville: Not on loop, if anything happens we're down. If we were looped, would outages decrease?

Hamilton: Would prefer if we have a choice. Reliability is important, would have to look at alternatives.

Probably an underwater cable across Pine Island Sound. Discussion. *Mullins:* When you evaluate, do you

include cost benefit against subaqueous? *Hamilton*: Always looking at best alternative. Have not discussed with permitting agencies. Discussion of Cape Coral permit issues. *Megan Mils*: Had meeting about subaqueous crossing, as a transmission line the technology is still developing to house that level of line underwater that distance. *Boris*: Will Cape Coral issue be resolved soon? *Hamilton*: Will continue to pursue, franchise expires October 2016, gave them agreement back in March. *Kelly*: If repair fails over pass, cuts islands off? *Hamilton*: 15,000-20,000 customers impacted. Looking at possible patches in the short term. Trying to pre-stage to be ready to respond if something happens. *Kelly*: Both islands have a stake in this, need to join LCEC in any suits or efforts. Big gap in service potential. *Hamilton*: Hope to resolve this before it gets to legal action, have met with county and city officials.

Cunningham: Is Cape Coral aware of impact? *Hamilton*: Yes, mayor and council won't talk to me right now. Discussion. *Cunningham*: If it comes to a point when it's appropriate to take a position, keep us in the loop. *Hamilton*: Have to exhaust administrative options before we go to court. Don't know how aware city council is aware of this issue. Council hears appeal of permit conditions, hopefully they'll reverse condition suggested by staff. *Mullins*: Panel should communicate to Cape Coral council how important connection is for islands. *Hamilton*: Wait until we file appeal, no pending action right now. *Brown*: Contact Gooderham for us to marshal support. *Mullins*: What is the city motivation to municipalize? *Hamilton*: Revenues, not service or reliability or rates. Another revenue stream. *Max Forgey*: Who issued condition? *Hamilton*: Don't know, filed open records request, something happened between staff issuance and new conditions.

DEP & Mangroves: *Megan Mils*: Discussion of LCEC request. Introduction. Oversee all permitting in Fort Myers office. Presentation. *Cunningham*: Define Mean High Water Line and mangroves. *Mils*: 19 years of tidal data to establish MHWL. Part of permit process is boundary between private and public lands. *Mullins*: Who owns land between MHWL and navigable portion? *Mils*: State doesn't claim ownership of something that isn't open water. Can be contested in court. Riparian rights explained, right to access water from your property. Larger marina rents land from the state. *Jensen*: Instances where people own the submerged lands. *Mils*: Yes, state decision as well. Butler Act impact on private property. *Mullins*: Fill requests... would mangrove fringe be put at risk, do you consider cumulative impact? *Mils*: Yes. Discussion of permitting levels, federal/state/local. *Mullins*: If no other permitting activity, how regulate? *Mils*: A different issue, can get you resources. *Terry Cerullo*: Can come back at more convenient time to discuss mangrove rules. Exemptions, general permit, individual permit explained. *Cunningham*: Any Captiva project would be an individual permit? *Mils*: Yes. *Rohn*: Mitigation done off island, why not on Captiva? *Mils*: Mitigation du jour is credits at a mitigation bank.

Mullins: DEP policy on sewers? *Mils*: Generally preferred people connect to sewer system. *Ralf Brooks*: Did Little Pine Island do mangroves, or salt marsh as mitigation? *Mils*: Don't know, probably marsh. Can mitigate out of area for small projects. *Mike Kalinsky*: Look at site-specific impacts in mitigation. Upland vs. wetlands, function and habitat? *Mils*: Explanation of UMAM scoring. Assigning a numeric quality value, not encompassing all aspects. Commercial enterprise, how legislature incentivized process. Always have opportunity to petition a permit if we do not do our job according to the rules. *Brooks*: Look at Rauschenberg property to create a Captiva mitigation bank. *Mils*: Or develop your own permitting criteria. ?? Never to be developed? *Mils*: Long-term preservation agreement. *Mullins*: Is Rauschenberg property permitted? *Brooks*: Just thinking out loud.

Mils: Regional offsite mitigation area (ROMA) affordable options for SF home development. *Kalinsky*:

Look at options closer to island. *Mils*: Offset in basin, entire Charlotte Harbor area, not looking only at island. State will look at on-site, federal prefers mitigation banks. List of resources given. *Mullins*: For enforcement, do you capture images and store? *Mils*: Rely on county and water management district. *Mullins*: If issues arises, who to contact? *Mils*: Yes, list of contacts. Compliance discussion. *Mullins*: Site permits? *Mils*: Could not consult with staff on that. No field permits on wetland side. *Kalinsky*: Public input process? *Mils*: If permit is petitioned, puts it into abeyance. *Mullins*: Time period? *Mils*: Depends on location and permissions needed. Stay aware through PASS system. Five years to construct project, can get extensions. *Rae Ann Wessel*: Does agency look at Outstanding Florida Waters impact? *Mils*: Only on state lands, doesn't extend into adjacent wetlands, we do look at possible impacts. Discussion of Outstanding Florida Waters. Discussion of OFW and public interest criteria. ??? Does panel get notice of permit requests? *Gooderham*: Yes.

Palmflower Permit: *John Folino* introduction. *Al Quattrone*: Description of proposed project and process. *Brown*: Permit status? *Quattrone*: DEP yes, USACE pending, Lee County last. *Mullins*: MHWL? *Quattrone*: Needs to be verified by surveyor. Discussion of house footprint and design. Series of pictographic images of site pre and post Charley. Discussion of drainage plan in site work. *Brown*: Grade changes not planned, so OK for adjacent properties. No change in tidal water flow. Recorded easement to allow access to existing dock. *Quattrone*: Required to purchase mitigation credits. *Mullins*: Gave history of property ownership. Studies done in the past and background. Deck will be necessary later, way too significant a house for the available uplands, was better quality wetlands at one point before the storm. *Brown*: Access was McCarthy's issue, access has been recorded with the county and moved to the north end of the property. *Quattrone*: Path is a currently raised area, doesn't inundate with water as the wetlands to the south. Discussion of adjacent houses. *Brown*: Mangrove impact and house size is a personal issue. *Mullins*: Purpose is to look at larger issue, impact on community. *Folino*: A 6,000 SF house not conducive to the community? *Brown*: Different people have different views.

Jensen: What the request before us? *Gooderham*: Owner is responding to panel's request for information. *Cunningham*: House size not issue, question is whether mangrove impact is sufficient? *Mullins*: Grander picture of what the panel does. *Brown*: Mangrove protection in plan, open to some interpretation. *Wessel*: Four permits currently being processed on Captiva alone. Incremental impact on mangrove wetlands. Important biological function in transitional areas between wetlands and uplands. Placement of house, not size. Cumulative impact of smaller projects. Critical areas for fishery nurseries. Looking at all of these as precedent setting, crucial to fishery nursery and habitat. Nothing magical about 150 feet from shoreline. Discussion of land and trees. *Wessel*: Maximize use of uplands area. Importance of transitional area, need to look at a broader benefit for wetlands, what role does it play. Discussion. *Brown*: What are his options? *Wessel*: Smaller house footprint, less driveway, less impact. Question to panel is what do you want to protect? *Brooks*: Reduce size of driveway? *Cunningham*: Pool project started this process. DEP can make decisions based on law, all we can do is comment. *Folino*: Discussion of process and changes in plans. *Cunningham*: Other properties permitted? *Wessel*: Two out for public notice, I think. *Cunningham*: What can the panel do, or want to do? *Folino*: Don't know if we can avoid impact. *Boris*: Would not go any further on this property, it's a larger issue. Discussion.

Wessel: How do you interpret and apply your panel rules. How state regulates and applies their own rules. *Jensen*: No legal standing, we need to look to the future to see what we can accomplish. *Mullins*: Bully pulpit and look at other rules as options. *Cunningham*: Had a couple of cases where the deed was done by

the time anyone noticed, So we appreciate this gentleman coming before us to present this. We now need to look to the future. *Brooks*: Panel policies should be reviewed at county permitting level, doesn't happen in reality. Supposed to rule it under Goal 13, will not review if approved by Corps and DEP. *Mullins*: Opportunity to express an opinion, chance to say reduce the footprint. *Cunningham*: Proposal to act? *Brown*: Any consensus? *Folino*: Don't pick on the first kid coming in to present this.

Cunningham: Move that panel support what has been done with understanding of further review by the suggestions made here. Panel should establish a committee or hold a future meeting to define what our policy will be. (Brown second). *Kelly*: Is motion about mangroves? *Cunningham*: Second portion of motion focuses on mangroves, how to work on future applications to DEP and Corps how we can take a position. *Jensen*: Support, but people have gotten a lot more before, this is a wake-up call. Think Folino will do the best he can to address our concerns. Environment is a big thing, a gift to the future. Unanimous approval.

The meeting adjourned at noon.

- *Ken Gooderham, administrator*