

Captiva Community Panel

MINUTES

Oct. 9, 2018

Attending: Mike Boris, Tom Rathbone, Mike Lanigan, Dave Jensen, Jay Brown, Mike Mullins, Rene Miville, David Mintz (p), Antje Baumgarten (p)

Audience: 10

Meeting convened 9 a.m. Mullins chair. Introductions and roll. Approval of Sept. 11 minutes (Brown/Boris) unanimous.

CFD: *Chief Jeff Pawul:* Slow right now doing a lot of training with new employees. Reminder that Daylight Savings Time ends next month before next meeting, change batteries in smoke detectors. *Jensen:* Thought that wasn't happening this year. *Pawul:* Still hurricane season don't get complacent. *Mullins:* Any side effects? *JP:* Wind a tides maybe some showers.

LCSO: *Lt. Mike Sawicki:* Also pretty quiet right now. Being vigilant, fewer eyes mean more issues sometimes. Nick Garber is the new deputy out here. New sheriff, Carmine Marceno appointed interim sheriff. *Miville:* Bring him out here? *Sawicki:* Work on putting that together when more residents are back.

CEPD: *Jensen:* Board meeting tomorrow, working on preparing for referendum in March on next beach project. Meeting with economist to work on apportionment plans, 1 .p.m here tomorrow. Passed 2019 budget at Sept. 27 hearing.

Library: *Colleen Barany:* Island Hopper good turnout, Musical group downtown, Adult coloring group. List of recent events. Discussion of programs. Now have digital way to check out magazine, as of Oct. 10 automatically allow to check out new issues of magazines. Limited for Economist subscriptions. October programming announced. *Mullins:* Attendance? *Barany:* Quiet except for Hopperfest.

Lake O: *Mullins:* Joint petition, sent to panel members. Explanation of petition, to compel SFWMD to change release schedule. Asking panel to joint in support of petition. *Mintz:* Petition release in dry season for river estuary. Corps handles wet season release, district does dry season. 650 cfs to protect estuary from too much salinity. Also focusing on daily salinity measurements in lieu of a monthly average, does not offer enough protection to estuary. Challenging new rule as capricious, arbitrary and vague. Petition to hold hearing, in about 30 days. Our impact can be through petition to intervene, would have to hire attorney to file motion to intervene. *Mullins:* Salinity is issue, plus more dry-season releases keeps lake level lower to create more storage. Ruane and group went before district at last meeting, rejected unanimously. Why this position? Ag areas EAA/sugar want access to that water in dry season for irrigation purposes. District benefits agriculture over the coasts. *Mintz:* Does the panel feel comfortable supporting this petition to challenge rule? Would have to rely on expertise of cities. Makes sense, but we don't have independent expertise. *Mullins:* Asked BoCC to join as well, did anyone hear about that outcome? Find out. *Mintz:* If comfortable, retain attorney to file petition to intervene. Don't know if panel will have standing to represent Captiva. Depends on how judge views our role vs. Lee County. *Mullins:*

CEPD asked its attorney, said we could do amicus brief. Motion to move forward? Motion to be intervener RM/TR. *Jensen*: Don't have the umph or background to do this. Help some other way by communicating our support. *Mullins*: Amicus lends argument in support. *Mintz*: Not complicated issue, amicus more costly to pursue and not appropriate at this point. Hearing, will take evidence on rule's basis and sense, petitioners submit letter brief supporting position. Description of process. Would have to have someone at hearing to hear arguments.

Miville: End game is petition to force hand of district to increase releases. *Mintz*: Release more water in dry season. *Miville*: Governor will gut board if elected, if they keep campaign promises. Create toehold into bigger petition to convince USACE to stop using Caloosahatchee as their personal toilet. Way to get to the next level against Corps. *Rathbone*: Any idea of cost to be an intervener? *Mintz*: If granted reason is to participate in hearing, then file brief on behalf of intervener after that. Could be more than \$5,000. *Boris*: Standing determination? *Mintz*: Judge will decide if we have standing to intervene. Is there some way to act without intervening? Not adding much on more than Cape Coral, Sanibel and Fort Myers Beach, will have to say. Could submit a letter on their behalf to support their arguments. Contact an attorney and ask for options, cost to file to intervene by filing letter from panel in support of this position. *Mullins*: Sanibel leading the charge on this, Mayor Kevin Ruane asked for our support. In favor putting a ceiling on the amount of money. Willing to engage in support of Sanibel. What's reasonable amount? *Mintz*: \$5,000 tops.

Brown: Whatever we do will not effect outcome. Purpose is to strengthen relationship with Sanibel. Not clear what's the best way to support them. Establish budget, authorize Mullins to determine best way to support Sanibel. Not set a definite path, but let you find the best way to support Sanibel's position. *Mintz*: Ralf Brookes probably does this kind of work. Contact him whether petition is a good path or what else we could do to show support. *Mullins*: Any reason besides cost not to go forward? *Mintz*: Supportive on paper, but what do we bring to the proceedings besides the name Captiva? Suggesting there may be a way to do this without full-blown intervention. Not much new for us to bring to the table. Not against motion, would like to ask Ralf on other approaches. *Jensen*: Support an excellent point. Against spending money because it won't mean anything, but hope discussion will lead to support for Sanibel. *Miville*: Would have an effect, good for branding and political capital clout basis. Sends a message, a good investment. *Mullins*: Motion to be intervener, hire an attorney. Since added a ceiling. Jay proposed give authority to me to move. *Mintz*: Time constraint, affects sunshine. Contact Ralf, tell him his end game, ask his legal advice on petition to intervene, sense of cost. Come back via email to inform panel of results, make recommendation and more forward. *Mullins*: Authorize me to go forward all the way, make modifications based on Ralf. Full intervention with cap of \$5,000 to file petition or take other appropriate legal action, inform panel as to action. *Jensen*: Possible \$5,000 could be spent. *Brown*: Left to MM judgment. *Max Forgey*: Ralf working with Evans at Sanibel already. Intervener statue is best approach, can do it for \$5K, looking for additional experts above Sanibel. Ralf here shortly. *Mullins*: Call motion to authorize MM to move forward 6-1 (Jensen nay). Oct. 29-30 hearing. County said no, I think, held off due to county attorney.

Code review: *Mintz*: Research on 31 issues almost complete. Create binders with research and summaries for panel to review and discuss. Hope to get it to you prior to November meeting. Also received Depew memo with his recommendations on changes to plan, integrate that into other research topic by topic. Get panel all this prior to November meeting to begin discuss potential code changes. May not need plan

changes, can accomplish some of that in the code. *Mullins*: Conversation with Max on research material. *Mintz*: 200 pages of research provided to us. Depew memo, research. Working on memos, trying to put it all together in form that works for panel. Not making decision or recommendations but assembling material in a way that the panel can use. *Lanigan*: Well before the November meeting. *Forgey*: Product each of 30 topics has one-page summary, learned and idea to approach, then background materials on each topic. Other communities, white papers, other materials. Everyone can read the sections they are most interested in. Discussion. *Mintz*: Intent is to make summaries as concise as possible, what county has now and what other communities have done. Trying to boil them down a little more. Everyone on panel will get all the backup. *Mintz*: Code funding request to board, no response from Commissioner John Manning. Called his office, was told commissioner is reviewing with county manager, requested expeditious response from him.

Wastewater: *Brown*: Timing of public presentation of TKW study. Recap of last meeting. Additional research needed before a recommendation could be made, develop environmental, SLR, possible regulations and help with funding. Requests to Sanibel, SCCF and Hans Wilson. Difficult time getting responses due to water quality crisis. Tentative meeting with Ruane and Evans to discuss project. Willing to push for later date if that's what everyone wants. Response from SCCF, still buried with water quality issues but want to assist us in research. Hans Wilson interested in working with us on sea level rise impact. No specific proposal in mind yet. Regulation possible working through Dept. of Health. When to have TKW public presentation? Had been thinking mid to late November, some suggested to wait until mid to late January. Also gives me a few more months to develop additional information to share with public. TKW OK with delay. *Jensen*: Delay to January (Lanigan second), unanimous. *Mullins*: Rae Ann Wessel in December, Mike Baldwin, Ding Darling Society. Do both in December? *Brown*: Agree to post TKW study on website. Publicity campaign to promote meeting. *Brown*: Hold at night, separate meeting, 2-hour session. Discussion. 7 p.m.? *Mullins*: Reach out to resort to see what they are willing to do. *Brown*: Any expertise on getting outside assistance for project like this? Discussion. *Jensen*: Election may change the perspective in Tallahassee. Be on their butts after the election. *Lanigan*: Remember when Rep. Francis Rooney came to meeting, bring elected officials at least one a year. Discussion. *Brown*: Zimomra letter sent in response to Sanibel City Council meeting. Discussion.

Development: *Lanigan*: Noting new, planning for welcome back cruise, looking at last week of November working with Captiva Cruises. *Miville*: Bring out politician? *Boris*: Or someone from SCCF, not for them but as part of our agenda.

Communciations: *Mullins*: Website up info posted, start working on newsletter seeking help.

Captiva Drive: *Mintz*: Will start working this once I get back, need to meet with DOT need to work through engineering, Easements figured out, need to coordinate with engineering report. Will meet with DOT and figure out how to proceed.

County taxation: *Mullins*: Miville, Boris, Rathbone included on committee. TRIM notice shows taxes to be levied on Captiva properties. Can't get bed tax info due to confidentiality issues. Happy to meet with them to persuade them otherwise. CEPD economist has done some work, South Seas not shy about stating their payments. Report will not include bed tax, we want reliable information on what is being sent by Captiva. Discussion of tax worksheet. \$20,119,000 total taxes paid to county. Includes everything. Discounts mean a 95% revenue for budgeting purposes, then back out local numbers by districts. Final

report will be prepared and available before next meeting. Unincorporated MSTU, \$1,158,000 annually, geos to county for uncertain services. Had meeting with county tax collector Larry Hart, should accumulate in a reserve account for all unincorporated areas. Discussion. Asking for accountability for these numbers. You can request prior information and get on list for information. Something not on the agenda... *John Riegert*: Time for words is gone, Ruane can make requests and be turned around at the door. IN a landlord-tenant dispute, you create an escrow account to collect rent until dispute is resolved, look at bed tax as rent we pay to keep our homes clean. *Mullins*: Look into idea of not paying district tax? *Riegert*: Bed tax, show good-faith payment of these taxes, ask them to make our living conditions right. What laws could be enacted? *Mullins*: District is who we're trying to punish. Ralf, any thoughts?

Ralf Brookes: Can look into statutes on this, get familiar with this. Combined with intervention and other things going on. Sea change in how lake is managed, time is right. Discussion on attorneys involved in petition. *Brookes*: Willing to help for a flat fee. Intervener status means you stand in the shoes of the other parties. Also Estero, Cape Coral, Fort Myers Beach, Sanibel was an original. Bonita now an intervener. Allows us to participate as full parties in proceedings, call witnesses if necessary. Impacts if both too low and too high releases. *Mullins*: Stay after meeting to discuss? *Brown*: \$5,000 fee to become interveners, seeking to support city of Sanibel. Does that mean ongoing involvement beyond just standing shoulder to shoulder with Sanibel, committing to other series of actions and ongoing expenses? *Brookes*: As much or as little a role as you want. Let Sanibel to the heavy lifting, be there in a support role, join in their order, add paragraphs if we want to. No filing fee, copies electronic now, witnesses would not charge to appear. *Mintz*: If we decide to do that, what we do we do well. Not intervene then disappear and do nothing. Show we take it seriously. Reputation is important. Since so much funding comes from resort and rentals, we need to get handle on bed tax. *Mullins*: Agree, info so far does not include bed tax, want to do some homework to be as reasonable as possible. *Riegert*: Bed tax since every business is involved and 30% is supposed to go to beaches and water quality. *Mullins*: Just don't want to affect credibility of argument with the county.

Nominating Committee: *Mintz*: Three open seats, one panel (Mullins), CCA (Brown) and CPOA (Miville). All three have agreed to serve another three-year term. Nominating Committee met quickly and did panel seat. CCA is renominating brown and CPOA is renominating Miville. Panel seat is announced at this meeting. At November meeting any other submissions can be given then, vote in December is held.

Financial: *Rathbone*: Good numbers, but always need to keep funding up. *Boris*: Clearly starting to spend more money.

New business: *Miville*: Attended Erin Brockovich meeting on water quality. Great turnout. Discussion of presentation. Glades a big mess, took 50 years to create will take 50 years to fix. Mainlining heroin vs. chewing a coca leaf. DOH has to act to complaints, if you feel effects of tide, call DOH to get on their radar. Vote for people who will make a difference. Get involved write letters to elected officials. Decision makers are not feeling the effect because they are not here. *Mullins*: Can share link from DOH. Discussion. *Miville*: Thinking about the practices on Captiva, too much pesticides and fertilizers. *Mullins*: Rae Ann meeting, can discuss things that can be done. Things we can do individually, and work to change the laws. *Riegert*: Also Peace and Myakka Rivers, point source pollution from phosphate mining? Glyphosate spraying to kill Brazilians pepper, feeds algae. Discussion.

Meeting adjourned at 10:45 am