

## Captiva Community Panel

# MINUTES

Nov. 8, 2016

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

**Audience:** 20

Meeting convened at 9:05 am. In the Oct. 11, 2016, minutes, a change was requested by Mintz on page 3 to reflect the vote on the panel-appointed nominee would be held at the December panel meeting. Approval as amended was unanimous (Boris/Stilwell).

**CEPD:** *Kathy Rooker:* Meeting tomorrow in Kayak Room at 1 pm. Monitoring engineers reported last month. Long term nourishment results in with 2.79 million cubic yards in place, 77% of the sand is still within system. Sunset Beach is biggest hot spot, will watch it now. Next monitoring update will be next spring. Could respond in an emergency situation, new permit allows truck-haul projects. *Walter:* What classifies as emergency? *Rooker:* Engineers would determine. Discussion. *Miville:* Blind Pass dredging? *Rooker:* This winter, bids are in.

**Hurricane committee:** *Chief Rich Dickerson:* Last report for this season. Seminar in April or May? Hermine our biggest threat this year, first storm in 11 years. No-name storms always possible, like Louisiana had this year. CFD doing SAVE training (Swift Assist Victims Extrication) at Sanibel School. Simulates an active shooter situation. *Kelly:* Budget? *Dickerson:* Rene Lynch, put out notice about increase in budget. Net amount rather than gross amount, have to re-advertise it due to error. Rate will be 9% above rollback. Discussion of rates and budget.

- **ACTION:** Remove hurricane reports until April meeting.

**LCSSO:** *Sgt. Mike Sawicki:* Sorry I missed last few meetings. After boat sinking off North Captiva, both Mike and Chris getting lifesaving award. Focusing on marine patrols and ATV patrols. Good reduction in turtle problems and litter as well. Spending more time on Captiva Drive in peak season. *Miville:* Mullet netting in Blind Pass not allowed. Take of other species very severe. *Sawicki:* Always diligent of mullet fisherman, some live a little on the edge. *Miville:* Will exclusion zone be enforced this year? *Sawicki:* Will add that in to notifications. Higher visibility with them. Will look zone up, it's very defined. Discussion. *Stilwell:* Could homeowners put signs on docks as well? *Sawicki:* Also working with Florida Wildlife Commission after its personnel have been swapped around, so they are aware of zone and other rules. Zone is buried deep in statutes so hard to find. Navigational signs have to be approved by county DNR.

*Mullins:* Welcome back to Dick Pyle.

**Planning:** *Max Forgey:* River Hall... Governor and Cabinet heard appeal from judge's ruling against BoCC. They overturned that ruling, so the BoCC decision to allow higher density stands. This decisions can be appealed to district court of appeals in Tallahassee or here. Homeowners and Conservancy supported it.

*Mullins:* Explanation why this matters to Captiva. *Forgey:* Explanation of overriding public necessity language and applicability. BoCC acted without a vote, designated higher density anyway. *Mintz:*

Explained density increase, from 1 dwelling units per acre (DUPA) to 2 DUPA. *Brown*: Even with finding, still very upsetting. Comparable to allowing double the density on captiva properties. What is definition of overriding public necessity (OPN)? *Forgey*: Means we have a public need for public infrastructure, in my opinion. Whether generating more tax revenue constitutes an OPN is for an attorney to answer, not a planning answer. *Stilwell*: Height restrictions. could that be changed? *Forgey*: While that's a sacred cow, standard set by panel and community, commissioners could do the same thing here if they can change things in River Hall.

*Mullins*: Seeking language to be put in plan to protect density and intensity if sewers were approved. Trying to find wording that could prevent BoCC action to overturn community wishes. *Brown*: Summary of action. *Forgey*: Not sure what BoCC motivation was. *Koury*: Would commissioners allow OPN language? *Forgey*: This commission, not likely. *Koury*: What can we do? Same language with clearer definition, perhaps. Did analysis in 2014, can share with you if you wish. *Miville*: More ammunition and more barriers? *Brown*: What is definition of public? All of Lee County? *Kelly*: Add anything to code? *Gooderham*: No. *Miville*: Matter of public will. Captiva will rise up against bad issues. *Mullins*: Long-term perspective and rules. No language that will stop will of politicians, but can create enough barriers to dissuade action. No reason not to propose language, it may not help but it may slow things down. *Brown*: What other options do we have? Sanibel incorporated to protect land use. *Boris*: Should we let county know about what we feel about River Hall? *Mullins*: Matlacha also having issues with county, need for growth and revenues. We need to say what we need, not what other communities are doing. *Cunningham*: Can county act to overrule Sanibel? *Mintz*: Sanibel also added requirement of a referendum for certain actions the city might take. *Miville*: County does not wake up the morning to figure out how to destroy their jewels. *Kelly*: Look at land use issues here. Barrier island, sewer vs. septic. Unique place from land use standpoint. Can use that to create language to protect a unique place. *Nathalie Pyle*: River Hall developer was waiting for a more favorable commission to get what they wanted. *Cunningham*: We want stronger language to be put in place. Plan B might be incorporation with Sanibel, if it got to that point. Proceed to do whatever we can to protect language. Not tie ourselves too tightly to River Hall. *Mullins*: County is not a monolith looking over 20-30- years.

*Brown*: Discussed initiating project to look at options to protect island development, controlled by community and not others. *Mintz* developed letter to solicit ideas. *Mintz*: Explained background with Depew. He also served as expert witness for county in River Hall case. Knowledge of Captiva and close relationship with county. Review plan and code to make it as bulletproof as possible. *Forgey* can also work on this issue, being Captiva we can do both. Drafted letter to consider acting as panel consultant. Summary of possible action. *Mullins*: County perspective? *Sharon Jenkins-Owen*: In middle of plan review, good time to make changes. *Brown*: Put a lot of work in this update, this proposed language would be for the next iteration. *Jenkins-Owen*: Comments back next week or so. Wrapped up in six months, just extended contract to reflect that. A few points in dispute with county attorney, alternative language likely to be submitted to board. *Boris*: Actually used the word "bulletproof"? *Walter*: Put language in places to make it virtually impossible to take action. *Mullins*: Put language together to submit it to a court for review first.

*Koury*: What do you think Depew will bring to help? *Forgey*: Hold him in very high regard professionally. Brings developers point of view, that's who he works for. Good at developing factual case. Captiva almost at buildout, constrained entry and exit, on a barrier island prone to natural disaster. *Koury*: Credibility with county staff to help get language adopted? *Forgey*: Yes, good relationship with staff, respect. *Walter*: Good

relationship in his dealings with South Seas and county. *Mintz*: Will that experience assist us? Or will he conflicted in his relationship with developers? *Mullins*: Hire him for one thing, what will be his real source of income in the future? Matt Uhle has represented both sides of the coin as well. *Walter*: Also mentioned needing a land use attorney in meeting with Depew. *Mintz*: Two aspects, planning and attorney. *Miville*: Depew has a strong conviction to make sure Captiva Plan is protected. *Mullins*: At South Seas redevelopment presentations, Depew stepped back and the architect stepped up. *Walter*: Delivery issues, not skills issue. *Brown*: \$10,000 his number or yours? *Mintz*: His number, may be flexible. *Cunningham*: Talk to Uhle, long history with CCA. Not sure how much of a planner he is. Skeptical of someone who has primarily represented developers. *Mullins*: Is Ralf Brooks an option? *Forgey*: Yes, city attorney for three cities in Florida. Very articulate quick on his feet. Also know 3-4 planner attorneys locally. *Walter*: Advantage in not having a local attorney? *Forgey*: Yes, useful to go outside of community to someone who is not dependent on local developer money or attorney not counting on local business. *Koury*: Same thing true of planner? *Forgey*: Less so, unless purpose is to be expert witness. Level of honest and candor in another community. *Stilwell*: Brooks is more of an environmentalist? *Forgey*: Yes. Discussion.

*Brown*: Two paths to go... Send letter to Depew to get a proposal from him. Or decide to look at other options first and discuss further. *Mullins*: Sole source or send to multiple people? *Brown*: Other options. *Kelly*: Committed to finishing current plan? *Brown*: Absolutely. *Kelly*: Third iteration valid, but should not interrupt current effort. *Mullins*: Urgency to send this now? *Cunningham*: Let's hear back from county first. *Miville*: Not committing to anything by reaching out to Depew. *Boris*: Why start if we're not going to pursue? *Miville*: Let me work on scope of work. *Mintz*: Remove price and sit down with him to discuss scope and costs. *Jensen*: Let county make its comments and see what options we have. *Brown*: Bias toward action, like to see we're moving things along. Depew is expert in this area. Concerned about unintended consequences from any sewer discussion. *Mintz*: Met with Depew months ago, aware or problem for a while. Just going to next step with him, not a commitment to use him now.

Motion (Brown/Walter) to send letter as drafted with amount removed. *Jensen*: Not precluding looking at other options. *Koury*: Letter needs to be changed, language is looking to establish retainer. *Mullins*: Make appropriate changes to request bid rather than establish retainer. *Mintz*: What is your concern? *Koury*: Not Depew, but how we're going about it. May just need a lawyer, not a planner. Who is running this topic, committee to hire people or change Captiva Plan? *Brown*: General panel. *Koury*: Not part of discussion. *Mintz*: Originally came up as part of wastewater committee work, outgrowth of sewer exploration. *Koury*: I've a fire-aim guy, want to be sure we're not working in that mode. *Stilwell*: I don't mind looking at him. Not hiring him, asking for bid. *Mullins*: Understand evolution of issue. A little premature to act on this, put other effort to bed first. *Brown*: Not just a planning issue, who's the most knowledgeable person in area to advise on how to protect density on this island. *Walter*: Not 100-yard dash, it's a marathon. What has changed two months down the road? *Koury*: Hear from Brooks on his position as to what we need to do? More a legal issue than a planning one. *Walter*: Planning language needs to support legal action. *Cunningham*: Wastewater needs planning help, does this piggy-back on larger plan pursuits? Committee bringing in someone strictly for that issue. *Brown*: Not tied solely to wastewater treatment efforts. Larger issue to control future density. Better regulation vs. central sewer, multiple ways to pursue paths. Community wanted to avoid unintended result of allowing greater density. Discussion of evolution of issue.

*Brown*: What can panel do to ensure existing density of the island, and that Captivans maintain control? Depew is a good starting point to get knowledge in place for the community. *John Dale?*: Depew is the best,

you have a letter written, so send it. *Mintz*: Remove figure, interested in scope of proposal. Develop a plan to move forward. *Walter*: Make it a Request for Proposal, send to the individuals we talked about: Ralf Brooks, Matt Uhle, others? *Walter*: Discussion of meeting and decisions. Some of us were involved then. *Stilwell*: Knows the island best from the beginning. *Brown*: Restate motion, rewrite letter and request proposal from Depew for panel consideration. *Koury*: Send letter to Brookes and Uhle as well? *Stilwell*: Discussion to use them later? *Mintz*: Could attorney look at plan and code to suggest changes to strengthen our protections? *Forgey*: More Uhle than Brookes. Not aware that Ralf has done a lot of that kind of writing. *Brown*: Somebody better than Depew out there? *Forgey*: Equally qualified. *Walter*: With intimate knowledge of Captiva? *Kelly*: Start with Depew. *Brown*: Call vote? *Kelly*: Establish committee to pursue? Unanimous approval of motion as amended. Mintz will revise letter, circulate among panel first.

- **ACTION**: Mintz will revise letter to Depew as requested. Gooderham will circulate to panel, revise and send to Depew, follow up as necessary.

**SLR symposium**: *Forgey*: Background. Jan. 13 symposium here at South Seas. Will have two halves: Morning session for professionals on how GIS can be used to run scenarios in coastal situations. Explanation of agenda, both morning and afternoon. A lot of time for discussion. *Kelly*: How will it be marketed? *Forgey*: Through Florida APA chapter, SCCF, panel, island newspapers. *Fred Newman*: Newspapers and Relators interested. Will sponsor but need to know what funds are being spent for. *Mullins*: Honorariums? *Stilwell*: Funding for marketing? Can encourage public participation? *Forgey*: Will hear divergent opinions on sea level rise here, expect it to be an interesting session. Discussion.

*Mintz*: Mike Kelly was talking about recent presentation on Lake Okeechobee and water quality. Can Rae Ann Wessel be asked to present overview to panel? *Kelly*: A multifaceted issue, that session and subsequent coverage offered no big picture perspective. *Wessel*: Need to present a lot of information in small bites, often beyond general audience consumption, hard to wrap it up with conclusions. *Kelly*: Raft of issues and players, hard to decipher necessary actions and decisions. Perhaps the panel would like to sponsor a similar session for Captiva, separate from SLR workshop? *Brown*: Could Wessel come to the next panel meeting to update us, then we can look at what the panel could do with that knowledge. *Wessel*: OK, give me feedback to clarify issues. For Dec. 13 meeting? Also note the Everglades Coalition conference will be here Jan. 5-8. *George Kohlbrenner*: A lot of pieces, but you need to move forward with something. *Kelly*: Not coordinated, runs risk of stop and go efforts. *Wessel*: I'm on the program tomorrow night at Sanibel Fishing Club, if you want to hear it over and over. *Brown*: Francis Rooney, did fund-raising for him, he addressed water quality issues with some interesting perspectives.

- **ACTION**: Forgey and Gooderham will work on finalizing symposium program and sponsorships. Wessel will be on the agenda to present at Dec. 13 meeting.

**Wastewater**: *Brown*: County study of wastewater alternatives scope, panel reviewed draft in June. We took panel input on that draft to county Utilities Director Pam Keyes. She thought it was a substantial broadening of scope, finally got meeting with her Oct. 13 hoping to move issue forward. Keyes presented revised scope, which incorporated many of our suggestions. She did not include density increases; felt it was a political issue, not utilities -- island is built out now, don't need to look at alternatives not based on current land use and zoning). Dropped primary research such as we did with SCCF, saying how can we decide what research is needed until we review the facts available? Opposed upfront public meeting to receive input from community, saying that's up to the panel to address, not the county. Could bring in additional issues

not relevant to core study. About review of existing septic systems -- we had wanted to include package plants, she did not mention that. We have asked for them to be included. Overall happy with scope she presented. She will present draft at county commission workshop to be scheduled. Public can attend but not comment. Hoping to target December or January schedule. Discussion of support.

- **ACTION:** Gooderham will follow up with Keyes on schedule, and set up briefing meeting with Manning prior to workshop date.

*Miville:* LCEC will also come to panel meeting Dec. 13 to update us on actions taken.

**Captiva Drive:** *Mintz:* Explanation of background. Proposal of what could happen, adding three feet to right of way to allow walking on west/south sides of road. 1) What steps do we need to take to protect property owners? What options to allow temporary public use? Forgey to pursue. How has this been done before without increasing liability? 2) Then set up property owners meeting. 3) Meet with utilities, Island Water Association/LCEC/CenturyLink if they need to move equipment. 4) Then look at cost to pursue project. 5) Then meet with Lee DOT with plan, price and project. *Boris:* No change to Fire District side of the road? *Mintz:* Drainage changes would make this a 30-year project. Description of end result. *Mullins:* No impact on roadway? *Mintz:* Vegetation could be trimmed better. *Mullins:* Space there? *Mintz:* Yes, but need concurrence from owners. *Jensen:* Fix drainage at same time? Would make it safer. *Boris:* Could be independent. Look at changing grate itself. *Newman:* Need better stop signs at Andy Rosse/Captiva Drive intersection. Description of other sign options, including in-street signs used on Sanibel. *Boris:* Trimming would be a big help. *Kelly:* Sanibel pedestrian crossing signage effective.

- **ACTION:** Mintz will follow up with Lee DOT. Gooderham will circulate plans and pictures PDF to media and Forgey. Forgey will look at liability options.

**Nominating Committee:** *Boris:* Named Walter as panel nominee at October meeting. If anyone else wants to submit their names, now is the time. Otherwise, vote will be held at December meeting.

**Finances:** *Boris:* Picked up additional \$1,445 this morning and \$4,500 reimbursement submitted. Close to break-even for year. Cruise is coming up. Send update of contributors to panel members so they know who's contributed so far. Discussion of mailings, a number of people did not receive August letter, Gooderham to look into issues. *Cunningham:* "Welcome Back" cruise Dec. 5, asking for reservation donation of \$100 per person. Background of changes. \$100 or more for reservations, Call Gooderham or mail check to PO box. Should develop list, need to invite Commissioner John Manning? *Brown:* Send invite to Rooney. *Cunningham:* Signs to thank sponsors: Key Lime Bistro, Tween Waters, Mucky Duck, Green Flash, Captiva Cruises. Hoping for \$7,000-\$8,000 total. Invite commissioners, Sanibel Mayor Kevin Ruane, Sanibel City Manager Judie Zimomra, Francis Rooney, all the commissioners. Gratis to sponsors. Gooderham to send invites to all. Send Ashley Goodman (Islander) cruise info. Boat departs 5 pm. Jan. 13. Question on how to deal with SLR symposium attendees regarding cocktail reception that evening. *Forgey:* In October minutes, speakers free and \$50 from attendees. Charge \$20 for symposium. *Cunningham:* Charge nothing for reception, ask for recommended donation? *Brown:* Symposium and reception are separate events. *Stilwell:* Free symposium? Consensus to charge \$10 pre-event, \$20 day of registration for symposium (to create value and get a sense of attendance); with \$50 per person or more a recommended donation for the reception. Gooderham to send letter after cruise to community to let them know about reception.

- **ACTION:** Gooderham will set up reservations system and marketing, invite commissioners and Sanibel officials. Brown will invite Rooney. Reception marketing and plans will be refined for December discussion.

**Other business:** *Newman:* Realtor signs not abiding to Captiva Code. Sanibel-Captiva Realtor Association has changed its rules to create fines for noncompliance, which will give rules more teeth. Fines get people's attention. Panel can join association at no charge. City of Sanibel comes to our meetings regularly, could panel come as well? *Koury:* Outside panel scope to be a member of other entities. *Miville:* Way to maintain a conversation with Realtors. *Mullins:* See value of this organization. *Newman:* Gets you on mailing list and get invited to things. Access to agents on the islands. *Koury:* Endorsement of association? *Boris:* Go and talk to association, let them know about Captiva. Discussion.

- **ACTION:** Schedule for next month to see if there's any interest and enable formal action.

The meeting adjourned at 12:05 .p. -- **Ken Gooderham, administrator**