

**Captiva Community Panel**  
**MINUTES**  
*Dec. 11, 2012*

**Attending:** David Rohn, Susan Stuart, Jay Brown, Jerry McClure, Mike Kelly, Paul McCarthy, Mike Mullins, Jack Cunningham

**Audience:** 10

The meeting convened 9 a.m. Mullins acted as chair in the absence of Rick Hayduk, and noted this was Hayduk's last month on the resort, and that Bob Walter from Clearwater Beach was coming in to replace him. Stuart offered praise for the Captiva Fire District, who came to David Nelson's rescue yesterday. The minutes from Nov. 13 were unanimously approved (McClure/Kelly).

**Captiva Fire District:** Chief Rich Dickerson reported he had toured the new county Emergency Operations Center, which would be opening in January or February. The structure would be much larger and stronger, and a grand public opening was expected sometime this spring. He noted the county had received some 180 applications for the Public Safety Director's position. Following the medevac helicopter story, it appeared that AeroMed is replacing Medstar, which is moving to Charlotte County. Backup may be Bayflight out of Tampa, who has worked in the county before. Dickerson said the county will go to private service, probably in March-April the board will make a decision. He handed out a flyer on a new device the district was testing, a CPR compression device coming this week which does CPR perfectly on its own. The district will demo it for a year to try it out, and the cost is \$14,000-\$15,000 per unit. They were still negotiating with the architect and contractor on the new district building, bids came in a little high then dropped in price quickly. He expected a contract to be signed next month, and that they would break ground over the summer?

Mullins noted that Lee County Sheriff's Officer Joe Poppolardo had been promoted to captain, which meant there would be three deputies plus some of Poppolardo on the island.

**CEPD:** Administrator Kathy Rooker said the Corps of Engineers had issued its permit for next beach renourishment project, but had added U.S. Fish & Wildlife Service restrictions about monitoring for piping plover three months before the project starts and for the next three years. This means the district will do bimonthly surveys and conduct public education campaigns about plovers. They are a migrating species which might pass through the island en route to nesting areas (not nesting here). This requirement will cost the district some money due to the review and reports required. The district will contract with SCCF to do surveys, and turtle monitoring will have to continue as well. She's been told this is happening in other places as well as new permits are issued.

The bid announcement to dredgers for the next beach project is going out today, and is on the CEPD website now for public review. No bid opening date had been set yet, not certain which day is best to open bids due to emergency supplemental funding. She said President Obama requested additional funds for storm emergencies, but it is not certain how the Corps will allocate funding once and if funds are appropriated. The next CEPD meeting is Dec. 12 in the Wakefield Room beginning at 2:30 p.m.; the start was moved due to the memorial service for Tim Gardner which will be held at 11:15 a.m. that morning. Brown asked about the current projected cost for the next project. Rooker said it would be an estimated \$20 million, but they were hoping for supplemental funds from Corps and county funding to lower the amount to be paid by Captivans. She said they did not have a grant agreement with the

county yet, nor firmed up with the Corps. Brown asked if the best case was that they'd face the same assessment as last time. Mullins noted that the CEPD kicked in some funds from reserves last time which lowered the island's share. Rooker said the assessment could total \$8 million from island owners, but that depends on other funding agreements and actual bids for construction. We're competing with Sandy beach restoration work in the Northeast, so there are a lot of uncertainties. The district is looking at what it can do to lower the cost, such as starting the project earlier, and hoping for bid competition between dredgers. The window is June 1 to Sept. 1 to start project, with completion by Dec. 31, 2013.

Mullins said he was not sanguine about the county coming up with a significant share. Manning's response to the panel letter on beach share from TDC funding was not promising either. Last time we got \$3.5 million, but only \$2.5 million ended up on Captiva with the rest going for the Sanibel part of the project. Cunningham suggested CEPD lead the charge on beach issues for the island. Rooker said the district had been working with the two new county commissioners about interlocal agreements around the county as opposed to the terms Captiva was been offered. This discussion was eye-opening to the new commissioners; we have their ears and will continue our collaboration with them.

Mullins said Manning's letter speaks to need to educate Manning as well. His discussion of funding was dated, with the focus on the importance to baseball to the county. The drop in funding share was not mentioned, and that the county committed substantial funds to baseball in the interim. It's an insult to the community to think we're unaware of the reality of this funding. Cunningham asked if we were on a collision course with Manning... we made our case, he responded with specific percentages and a commitment to beaches. Either he knows more about figures or he's off base, and the differential in facts is a concern. We need to be careful as to how we pursue this with him. Mullins said he thought the county would step up based on the interest expressed by Captivans. You need to look at where they put their money to see where a politician's heart really lies. The percentage is incorrectly stated, and the formula from interlocal agreement is also flawed. Cunningham said that Manning is hanging his hat on those percentages, so we need to shoot those numbers down if they are inaccurate. Gooderham said it was not past but future revenue that was the issue, that stadium construction was bonded using the TDC funding as the revenue stream... and if that stream is less than projected for any number of reasons, the county would have to look at either general revenues or other TDC funds to make up any shortfall. That's where beaches could come up short.

Mullins said the county did a baseball study, so there needs to be a similar cost-benefit analysis for beaches. He had shared a CEPD analysis that should a \$100 million impact from the island's beaches with a low cost to the county, but the county is not willing to step up to study this accurately. What can we do to get them to embrace a true cost-benefit analysis? Even before the Twins deal, there probably wasn't not enough TDC money to pay the Red Sox bond at that point. He said we need to close the loop from the panel's perspective; he was supportive of the CEPD but they should be leading the drive. Kelly asked if there was a timing issue to make this case. We're looking at now, not the future, about the next project we're doing to see if we can get as much money as we can for the project that's coming up now, and we're not worried about what's going to happen in five years. Cunningham said we need a Corps decision first, and then we go to the county for its share. Mullins said the county used to run a separate ordinance to raise the county share, but now it comes from the bed-tax funding.

Cunningham asked if it would be a TDC decision plus some money from the general fund. Mullins said they were working through the TDC, and had worked to get Sanibel Mayor Kevin Ruane appointed to the TDC. Cunningham asked if there is money in the general revenue fund for us to pursue. Mullins

said the Unincorporated MSTU funds should be a target. Assessments for the next project could be higher, and those who will be paying more should be working on this. He felt the panel should write a nice letter, point out the glaring holes in Manning's response, and acknowledge that he wasn't the commissioner when this was passed. Kelly suggested we should say we want a share of the bed tax now, and we can worry about the baseball impact later. A discussion of funding history followed.

Cunningham asked whether the CEPD should respond to Manning's letter, or should the panel. Mullins said we should co-author something and ask him to clarify issues. We should give them the opportunity to work with the panel, and respond by the end of the year. Cunningham said if the CEPD chooses not to lead, we should put something together to discuss at the January panel meeting. McCarthy said the island should take the bull by the horns, and say this is what we need today. No other community is paying this percentage of the cost; we don't care about baseball's share or anything else. The next project will cost \$20 million with \$4.5 million coming from other sources, so we want the county to pay half of the remaining \$15 million cost. We're paying both shares, but we want them to kick in more of their (our) money. This is not about baseball; it's about paying to protect the community and this resource to benefit the entire county. People don't understand the numbers. The cost to maintain the beaches on Captiva and Sanibel (a little) is this much every this many years; residents are willing to pay this share but the county should step up as well.

Mullins offered a discussion of prior negotiations. He suggested the panel draft a letter, invite the CEPD to participate, and be very supportive if CEPD acts. Discussion of options followed. Rooker said the CEPD has been taking the lead on this, that McCarthy was close to the target of approach we've been taking on this -- not an exact number, but not comfortable with a formula. The county should pay a minimum of half of the remaining local share. Discussion followed. Consensus was to draft a letter for discussion at the January meeting, and to share that letter with the CEPD.

**Hurricane preparedness:** Ann Bradley noted that, at the recent Captiva Chautauqua, Doris Holzheimer and Kristie Anders gave a great presentation on the Storm Ready program and hurricanes on the island – including Charley and the Upper Captiva impact. She said the Structural Safety Inspection committee was still seeking volunteers. Seminars were planned for this spring, as well as a presentation on the storm watcher program.

**LDC:** Planner Max Forgey noted that pedestrian safety was No. 1 concern as expressed by public comments after the last meeting, so he asked Andy Getch from Lee DOT to come to the January meeting, or to have Randy Cerchie or Steve Jensen to come to an upcoming meeting. He said that to launch the effort to draft landscaping code language, he would follow up with island landscapers to pursue their ideas for LDC language. Brown asked where he could find a final version of the new LDC language, and was told that a version should be posted on the panel website. McCarthy asked what the new sign regulations said about maintenance signs... why do we want people to be advertising their services on other people's property. Discussion followed.

**Communications:** Stuart said that Realtor Phaidra McDermott added a panel link to her website.

**Financial:** Kelly said since the panel would be running out of money this year, do we need to cut? Meet every other month? Make expenses match income? This year we're OK, but next year we won't be... what do we want to do about that? Mullins said the head of the fund-raising committee (Hayduk) is leaving, what do we do next? Discussion of funding. Mullins asked McCarthy if he was volunteering to head the fund-raising committee. McCarthy said he would, but the panel members need to take a role

as well. He felt it was better to write a check rather than spend weeks to put together an event. Mullins said the message could be: We have a record of accomplishment, now give us some funding. McCarthy said the entire board has responsibility for financial health of the organization. People need to know what they're giving for and why it is needed.

Cunningham said this was sounding like the federal government: Let's raise taxes rather than looking at expenses. McCarthy suggested that Forgey and Gooderham as consultants come back with proposals for 2013, with a target to increase revenues to \$25M and cut expenses by 30%. Cunningham suggested Forgey offer a quote to tackle the landscape code work only. Mullins said he felt there was a way to drop \$10,000 from expenses, which would balance budget for this year while we plan to increase revenue for the future. He would work with Forgey and Gooderham to present something next month. He proposed the 2013 budget be adopted with an adjustment in expenses to \$30,000 and an increase in revenues to \$25,000 to balance budget with cash on hand (Kelly second). Cunningham reiterated that the panel would get more specifics at the next meeting. With the panel's cash position coming out of 2013, this will be an ongoing process every year. The motion was unanimously approved.

Brown asked whether the panel needed to continue to comply with Sunshine Laws in the absence of county funds. That discussion was scheduled for January.

**Priorities:** After discussion of the initial public feedback, the suggestion was made to narrow down the list of priorities and resend it to the Captiva list, ask the CCA and CEPD to send it to their lists as well. Cindy Brown asked what were the main accomplishments of the panel over its years of existence, what has been accomplished. Put that front and center on the website. Kelly said the panel's purpose is addressing island land use. Cunningham said it had been straying from that. Brown said the panel accomplished a major project in adopted the Land Development Code and it's now struggling to find out what to do next. McCarthy said when the panel was formed the objective was to reconnect Captiva and the county in terms of input and influence. The island had been faced with a choice to create a city or create a community panel – but we needed some entity that would look out for our interests, a voice for the people of Captiva to the county that would bring together a coalition of people and interests. Kelly said the island has to have a relationship with the county, and that should be added to the potential priorities list – fostering a beneficial relationship with county officials and staff.

Mullins noted the numerous variance or exception requests that had come before the panel and the island – something that did not happen previously. Cindy Brown asked if the panel needed to redo its mission to state what McCarthy had just said. McCarthy agreed that the relationship with the county is much better now. Mullins said project such as the safety shoulder, road improvements, and a list of accomplishments will reveal what the panel has done. Cindy Brown said the panel needed to be clear on its mission. Cunningham said the mission is land use and zoning, but it was now acting more like a town council. If we change our mission to encompass this broader range, will that allow us to comply with the county definition of a community panel? McCarthy said the panel operated more as a town forum than a town council. Forgey said that county officials and staff regard this panel as being a responsible forum and communicators for the island. Cindy Brown urged the panel to clarify its goals as to action. McCarthy said the panel attempts to make county government work better for the people of Captiva. Mullins noted that (mostly) people come out to panel meetings when they want something, then we never see them again. Cunningham said the Bylaws Committee could take a hard look at the mission statement. Mullins agreed that the Bylaws Committee needs to look at many issues.

**Panel nominees:** McClure noted that, as reported at the November meeting, Mullins, McCarthy, Stuart

had been re-nominated for second terms. The CPOA recommended Sandy Stilwell to fill the position it was tasked to appoint. In looking for a South Seas representative, Hayduk suggested Robert Baugh as someone who was established on the islands and likely to stay in place for a while. Brown motioned to accept the Nominating Committees recommendations (Kelly second) concerning the appointment of Baugh to the panel seat. Approval was unanimous. Mullins suggested that the selection of 2013 panel officers be delayed until Jan when the new members were seated, and asked panel members to express any interest in serving as an officer to Gooderham prior to the January meeting. Gooderham would check on the willingness to serve and list the current officers prior to next meeting.

**Flood insurance:** Mullins pointed out that FEMA has changed rules for flood insurance, and now only allowed insurance on primary residences. He urged property owners to check the status of that. As for wind insurance, Citizens is gone so you should check on your coverage.

**Bylaws:** Mullins noted the committee was meeting after this meeting. McClure asked whether the panel believed the purpose of this committee was to change the structure of the panel. Mullins asked the panel to give committee members the chance to articulate their position on any changes to the panel before discussing this.

**New business:** Property owners Craig Scott asked to discuss the continuing issue he was having with the loss of road right-of-way to allow access to his vacant lot, where he was planning to construct a new home. He offered background on the issue, noting that he originally owned two lots, sold one house with the intent to build something smaller on the other lot. He then ran into an issue with access to that lot when the Davis family purchased the road right-of-way from the last surviving heir of the original family who platted the subdivision. He had met with Commissioner John Manning and a county attorney to discuss the county's signing over the road access to the Davis family, and finally got a 99-page memo stating the county urged the two property owners to work it out. He asked whether the people of Captiva were willing to let an individual buy a road for \$5,000, or will the panel help fight this with the county. The road provides access to the bayfront for kayaks, etc., as well as to my lot. Is it acceptable for someone to buy a road to block access to public right of way? The county would not fight for road, so the island needs to.

Cunningham asked whether he had gone as far as you can with the Davis family. Scott said the Davises want me to go back to people who bought my old home to get access, but the county told me to put in a septic drain field in a location which blocks access to my other lot. They would have to tear up that system and all that landscaping to make access possible. McCarthy said that for county-owned land, the county usually says no to any request for vacation of rights. Who owns that property? Scott said the county never received a deed for that property, and can't find maintenance records for that property. The Davis family looked up original records, and found the land was never deeded to the county. Brown asked who they bought the property from. Scott said from the last known heirs of the original developer from the 1920s.

Brown said he was sympathetic, but what can the panel do? The Davises are being unreasonable, but they did not violate anything. Scott said they cut off public access to the water, and the county has given up that presumptive right. I'm asking the panel to say this is not acceptable to give up the road. The county says it is a county road, but I can't use it to apply for a permit to build on my lot. McCarthy said the access is there, but you can't legally claim it. Mullins suggested Scott bring the panel something concrete we can discuss and get behind. McCarthy asked whether Scott could buy an easement from the Davises. Scott said we'll use title insurance to file a lawsuit for access if necessary.

The real question is whether this is acceptable behavior for Captiva or if, because someone can find a loophole this is allowed? Mullins said the panel should look at other risks to the community?

The meeting adjourned 11:20 a.m.

The Bylaws Committee met following, with Cindy Brown, Jerry McClure, Mike Mullins, Jay Brown, Jack Cunningham, David Rohn, Max Forgey and Ken Gooderham in attendance.

*-- Ken Gooderham, administrator*