

**Captiva Community Panel**  
**MINUTES**  
**Nov. 10, 2009**

**Attending:** Jim Boyle, Rick Hayduk, Mike Kelly, Dave Jensen, Rene Miville, Nathalie Pyle, Sandy Stilwell

**Audience:** 15

Meeting convened 9:05 a.m. Minutes from the Oct. 13 meeting were unanimously approved on a motion by Hayduk (Boyle second).

**Mucky Duck:** Joyce Owens provided background on the request for a parking variance, which was needed to make submitted drawings match what is being done now. Parallel parking on eastern edge of property was originally proposed, but is not being done now as there is not enough room to do that. Owens said county staff was OK with the way things are now, but we just need to update drawings for their files and we need the panel's support to approve the variance. Buffer variance was being requested; four foot buffer was sought, eight-foot buffer was required.

Hayduk asked if the people who live on the adjacent property support the buffer variance. Victor Mayeron noted that those owners have a wall on that side of their property, so they can't see anything anyway. Pyle said this was seeking approval of the way it is, even though the variance is for a four-foot buffer. Mayeron said the county historical society came out to review plans to see if they comply with historic standards, and they were satisfied with the proposal. Kelly asked whether these plans needed to go to the library for public review. Gooderham noted that no procedure for review was established in the code at this point, that was part of the Land Development Code process we have been going through. Stilwell said the neighbors will be notified when the Mucky Duck formally files for a variance. The panel unanimously agreed it had no objections to the proposed plans on a motion by Jensen (Hayduk second).

**Land Development Code:** Kelly provided some opening background on the LDC process, noting that in the process of creating a draft the panel was breaking issues into more discussable issues. He chaired a meeting on mangroves and water quality Oct. 27, which had a low turnout of about eight people. Not much controversy there, we all want to protect mangroves and will go back to the county with somewhat more restrictive language. Others say people will keep destroying mangroves, so we're proposing to tie destruction to documented proof that would require in-kind restoration. On water quality, we're trying to get to the examination of septic systems, tie it to zoning order or permits. We added a building permit trigger if it resulted in expansion of a use not permitted or a higher intensity of use, or when a property changes hands. Monitoring water quality in progress, not finished yet but can't wait until it's done

to get some improvements started. Looking at possible commercial triggers for septic review as well, need to see what triggers are already in place.

Kelly said height restrictions were the next issue to be discussed. A workshop on height will be held Tuesday, Dec. 1, at 9 a.m. in Chadwicks Square, will publicize beforehand. Miville asked is a motion to encourage water treatment centers was possible. He said Aquasource could expand, to ensure that more water is treated. Kelly said that has been discussed for a long time, any expansion could require destruction of mangroves, problems attached to it could be an issue that is very difficult to overcome. Miville said he just wanted to encourage any kind of momentum. Always leave the door open to people who want to pursue a better way. Paul Garvey said there was a history of problems with the Aquasource plant. It was under an order to improve but could not expand, then new technology made improvements possible later. Stilwell said it was not a bad idea to have some kind of resolution that we're looking down the road. Miville said we needed to be looking at options to encourage better technology.

David Depew said he was prepared to talk about a number of these issues now. He cited the Onsite Sewage Treatment and Disposal System (OSTDS) language from Florida Statutes, so everyone could become familiar with the terminology. He said you could separate wastewater based on sources into gray water (which could be recycled) and black water (which must be treated), which can reduce drainfield demand if it is used for irrigation. He has not reviewed every lot, but there could be some cases where a variance would be necessary to avoid a taking, could be a place to encourage newer technologies in these instances. Mike Mullins asked if a lift station was included in this. Depew said that was a separate animal. The state has increased the size of drainfield required for an OSTDS. Stilwell asked if an instance such as one she cited on Laika Lane would require a variance. Depew said they'd have to get one anyway.

Depew did a brief review of state regulations, and a calculation of OSTDS needs for a four-bedroom house was explained. He said there was lots of technology that can reduce overall water demand, will allow smaller systems to be permitted if these features are incorporated. Would recommend we write up some standards for this area to show them what options exist to reduce water usage. Mullins asked how do we deal with older ground-level systems. Depew said over time those systems will fail and new regulations can force better systems to be installed in their place. Mullins said an inspection process can improve old systems, but can you force changes on the transition of ownership? Depew said change will take time, will take a few years. Can give everyone plenty of warning that change is coming. He said he would like to add a few new ideas into this.

Turning to mangroves, Depew said the current code has parameters for illegal removal of trees, would like to adapt that for mangrove removal. Documentation can guide restoration, but if you can't document then include LDC regulations that would be more onerous...they'd want to document loss, since the alternative

is worse. This would be part of code enforcement process. Miville asked about riparian rights for installing a dock and trimming existing mangroves. Depew said laws should allow reasonable use. Mullins said permits are not required for trimming within certain parameters, which needs to be reviewed.

Stilwell said the meeting on height Dec. 1 might be controversial, but this is the time to voice your objections. Max Forgey then launched a presentation on the proposed height language, noting that the panel asked them to come back with some graphics about heights, and they added a few terms to the language. He provided a review of roof language, types and images. Depew said this could pique imaginations as to what options you have for the community. Forgey did a review of the proposed language. Will need to specifically define front façade (example given). A graphic showed the difference between 10% and 20% allowable, look at 6 feet vs. 8 feet, other options. Forgey said the language should give them an area and a height they cannot exceed. The panel may want to consider this as a special exception or conditional use, so if a property owner wanted to do this they will have to come in and meet an evolving set of performance criteria. This could ensure it was not an automatic gimme, and keep some control over it.

Stilwell said there were architectural review boards in other communities, was that necessary? Could you tie height allowances to lot size? Pyle asked if setback for shadowing would be considered. Could we get more info on that as it could apply to the Village? Mullins asked if lot coverage was being discussed. Depew said county language already covers that, but we can include it if you wish. Architectural review board would require a lot of work by that body, is that something the community and people who would have to serve on that board wanted. He said they would provide other examples for the Dec. 1 workshop to explore options that could work for Captiva. A lot of geniuses will come up with creative ideas, that's why you want it to come back to some kind of body for review. Stilwell said that Captiva was becoming a rental house community, there was no interest in architectural beauty but just the largest house possible.

Bob Brace asked if there was any reason to change the current restrictions. The code should allow zero variances, because the county will allow little breaks in any latitude. Mullins offered a discussion of how the current restrictions were put into place, and urged that any changes should offer a simple and succinct solution. Miville said to consider maximum height vs. slope and design. Pick a number that makes architectural sense and ergonomic sense. Pyle said we won't get what we want if you don't have more clearly defined restrictions, need setback and shadowing to be considered. This may be one area where we put it out there to see how people respond to some ideas.

Kelly asked about the flood elevations. If you have to work with higher elevations with a limit on top, you're squeezing the living area. Maybe we should start measuring from the FEMA requirement. Depew said that would be a radically

different approach, Right now you measure from seal level or grade. If you tie it to the FEMA elevations, with habitable area fixed over a required elevation, it will allow newer houses to be taller as the elevations rise over time. It can be done, but there will be consequences. Right now it is measured from the grade of the road, so no difference as sea level restrictions kick in. Kelly said basic living area space should be allowed and maintained in some fashion. Should not be squeezing people out of suitable living area. Include an architecturally attractive feature to help them avoid flat roofs, but keep the rules simple so that the burden of design does not fall on the panel. Depew said everyone should have a certain minimum area or volume to inhabit. If flood elevation is deemed wrong, raise up the same habitable area. Any legislation has to be organic. Kelly said we have an opportunity to make changes based on what we've lived with, that may need to be updated. Sharon Michie said including shadow and light could accomplish a lot of what we're trying to accomplish, in terms of building mass and setback. Stilwell asked if rules could be conditional based on lot size, location, etc. Depew said that was possible.

**CEPD:** Kathy Rooker said the Blind Pass project celebration would be held on Friday, Jan. 15, at Turner Beach. Surveys of changes in the depth of the pass were handed out and explained. Surveys will continue to determine if additional work is necessary and to see how the pass is equilibrating. Rooker said they will be discussing a comprehensive inlet plan and a maintenance management plan for Blind Pass. Mullins said John Madden was asking about a beach forming by his dock, will that be considered in the county plan. Rooker said they need to look at what was working and what's not. Miville said the county expected some scouring as the pass matures. A discussion of options for the Madden property followed. Mullins urged people to come to the CEPD meeting Nov. 11, a lot to be discussed. Captiva will be credited for 131,000 CY sand to be given to Sanibel, part of the settlement agreement that led to the Blind Pass project and cooperation. Rooker said that saves Captiva taxpayers money, we need to develop an inlet management plan to capture beach-quality sand to put back on the beaches. State money may be available to help us do this. Miville said this energy was a tribute to Mullins as the CEPD chair.

**Hurricane prep:** Pyle said the new chair for the Structural Safety Inspection committee was Ken Suarez. It was time to renew our Storm Ready community status. Committee members were planning to go to the Weather Service office in Ruskin in the coming months.

**Committee reports:**

**Finance:** Stilwell provided an update on the financial status of the panel. Gooderham noted that paperwork for the county community-planning grant had been revised as requested by staff, and resubmitted for approval. He would prepare a draft 2010 panel budget for members to review prior to the December meeting. Also, he mentioned that panel member terms and officers needed to be considered at that meeting.

**Water quality:** Jensen provided a brief update, noting that 2010 funding was secure and a reimbursement request for the final quarter of FY 2008-2009 would be submitted shortly. SCCF had planned to acquire some new equipment to aid in testing, and would be offering a brief update at the monthly Yacht Club meeting Nov. 11. A report to the panel was expected next month.

There was a discussion of terms and officers, and Gooderham reviewed the terms and officers, promising to send the update to the panel via email after the meeting.

An audience member asked a question on the status of the new cell tower construction. Hayduk said there had been a delay, but completion was expected by Dec. 15.

The meeting adjourned at 11:15 a.m.

— ***Ken Gooderham, administrator***