

**Captiva Community Panel**  
**MINUTES**  
*Aug. 8, 2023*

**Attending:** Jay Brown, David Mintz, Sandy Stilwell Youngquist, Ken Gill, Bruce McDonald, Bob Walter, John Jensen, Tony Lapi, Ann Brady, Linda Laird, Margarethe Thye-Miville

**Audience:** 84

The meeting convened at 9:03 a.m. Following introductions and roll call, the July 11, 2023, minutes were unanimously approved

**Lee County Property Appraiser – Matthew Caldwell:** Everything about property taxes and the tax roll – who owns it, what its value is, what condition it is in, etc. -- is based on the status of things Jan. 1. The only exceptions are special tax breaks for disabled veterans (which can take effect when the property is purchased) and tax relief following a natural disaster, as occurred after Ian. There has been confusion about the terminology being used to reflect changes in status or value – specifically “deletions,” as when something gets deleted from the tax rolls. That can mean anything from complete destruction of a structure, or whether a split or combination of parcels has occurred, or that some physical change in real property occurred that resulted in a loss of value. The state Department of Revenue requires all additions and subtractions to be reported by the various taxing authorities. With the hurricane, Lee County has seen a lot of deletions – some 90,000 condo units, 13,000 single family parcels, and some 1,800 commercial properties. This assessment of losses is done on a mass appraisal model, focusing on the biggest variables that matter... your view, size of house, number of bathrooms, if you have a pool. Something such as landscaping might not show up, but damage to a roof would. We typically fly the county for an aerial survey in the first week of January to document these changes, which allows us to get a level of detail needed for this review. Last year, we planned an extra flight around the second week of October to capture damages from Ian. That allowed my staff to tag every single property that had the potential for damage. Then the field staff worked through November and December to document damages in a three-dimensional manner, after we eliminated the ones that were obviously destroyed in seen in the October aerials. We also did a general call to the community to tell us about damages their properties suffered, along with reported damages made to fire districts, the county, state emergency management, FEMA, etc. – all of which we could then confirm in person. Normally we try to personally inspect a property every five years – so, for 550,000 properties countywide, that’s about 100,000 per year. This year, we’ve had more than 200,000 interactions, which resulted in about 19,000 refunds. Even with that, we still expect there are property owners who have not communicated with us about damages that could affect values. Once we send out the TRIM (Truth In Millage) notice later in August, we expect more valuation issues to come to our attention. In a typical year we get between 8,000 and 10,000 owners contacting us based on the TRIM notice; this year, we expect double that number. Unfortunately, those owners who ignore the TRIM and don’t contact us until they get their tax bill in November will be out of luck... once the TRIM period closes in late September, I lose all of my discretion in the valuations.

*Question:* What about structures that are uninhabitable, that can’t be fixed in a timely manner due to contractors being backed up? *Caldwell:* The property is valued based on its ability to be used for the purpose for which it was designed – not necessarily on the certificate of occupancy. If, on Jan. 1, the structure is substantially done – the air conditioner works, the toilets flush – but it’s only awaiting an inspection, it’s going on the tax rolls. Inversely, if you can’t live there, it’s going to be classified as uninhabitable – and how it gets valued depends on its physical condition, the level of destruction, the likely financial feasibility of rebuilding. How that works differs between a single family home and a condo based on the ownership structure – a single family homeowner still owns the land even if the home

is destroyed, and that land still have value, where a condo involves shared ownership of both the structures and the land but with different ownership rights. Especially on the islands, the land is where the value is.

*Question:* The refunds worked well after the storm, but there's been no way to contact your office to say that someone's house is uninhabitable since the first of this year. They've been rebuilding. But the house has been uninhabitable for eight months. What's the obligation of the homeowner to do if they couldn't get back into the house as of today? *Caldwell:* That goes back to the basic premise of how we do the tax roll, and how the refund last year was one of only two aberrations from the norm. The norm is you're assessed based upon Jan 1, regardless of what happens the other 364 days of the year – what the condition and value of the home was on Jan. 1 controls how it's treated on the tax roll. If it's uninhabitable on Jan. 1 and all of the sudden the parts arrive and the contractors do their work and it's habitable as of Jan. 2 – the homeowners gets a whole year with the home being considered uninhabitable. That refund, which was based on storm damages, was a temporary partial-year reduction in value – a specific departure from normal tax roll processes. So while the TRIM notice deadline is the last chance to adjust the tax roll, homeowners can communicate with our office throughout the year, through the website, by calling us or visiting our offices in person.

*Question:* So if you received a refund that was good through the end of last year, there's nothing more you need to do because the property assessment will be adjusted based on that status. *Caldwell:* Absolutely. *Question:* And for people who had damage but their homes were still habitable and they didn't claim a refund, we should go to the website to report that damage? *Caldwell:* That will make it extremely helpful to us. If the damage was visible from the exterior, we likely caught it. It's the interior damage where we will have the most interactions... for example, in the South Cape where it was almost exclusively a flood event involving 1960s-era concrete block houses, we may not be able to see from the outside what happened to the home. But everyone who had exterior damage should have been tagged by that aerial review. But if there was interior damage due to flooding or roof damage, that kind of damage we need to be reported. *Pawul:* Can you touch on the rollback rate and what impact these deletions have? *Caldwell:* So the rollback rate is the millage that's calculated to reflect no net change in actual taxes – your rate if no budget change from last year is adopted, to generate the same amount of revenue to the taxing authority. That's challenging in a situation such as we had post-Ian. If you take the scenario on Sanibel, where the city lost about 40% of its taxable value due to the storm, to collect the same amount of money as you did the previous year you'd have to raise taxes on the remaining 60% of value to make up for that loss. It's not perfect and can be confusing to property owners. In communities with a significant lose in value, you're going to see a pretty big gap in the rollback rate.

*Pawul:* To put that into perspective on Captiva, our operating value for the island is \$1.7 billion. We had about \$251 million in deletions and another \$8 million in additions, so a total drop of \$243 million for a islandwide valuation of \$1.457 billion. With this, the rollback rate will reflect hitting the same amount of revenue to the district from this lower valuation, which means a millage increase. That's not an increase in our budget beyond the usual adjustment for inflation, that's just to bring in the same amount as last year rather than cutting services to reflect the drop in valuation. *Caldwell:* True, in typical years the change in the millage rate will track closely to what a property owner is paying in taxes. This year, you'll have a much higher rate just to collect the same amount in revenue. Owing to the nature of damages to the island, this should be just a one-year event unless the damage was so severely it won't be repaired by next Jan. 1. *Question:* For property owners who did not have damage, are you saying they will pay significantly more in taxes to make up for the deficit driven by the deletions? *Caldwell:* If the goal of the district is to provide the same level of service, that's the next result. The only way around that is to look to the Legislature to backfill that gap in operating costs at state expense rather than at local taxpayers' expense. That or accept a reduced level of service from the district. *Pawul:* The district has applied for multiple avenues to recapture some of that revenue loss. The unfortunate thing is none of those revenue

options are going to be available or funded prior to us having to set this year's budget and millage rate; those funds won't come in until we've already started our next fiscal year. So with that uncertainty and with the properties coming back on the tax rolls, this next year could be tough but the one after could see valuations return to pre-storm levels and we can bring the millage back in line.

*Question:* One more question about habitability: If your structure didn't suffer significant damage but the elevator is not working and that's the only way you can access your home, and if the repair or parts companies are backed up so it will be a while until that can be fixed, is that something that should be reported to your office? *Caldwell:* They certainly should report it, and we'll have to evaluate the situation. The Florida building code requires an elevator if a structure is over a certain number of stories, so the lack of a working elevator is not meeting the building code. In a low-rise condo, say, the loss of the elevator might not make it uninhabitable but it could impact the valuation – particularly of the upper-floor units. *Question:* How does this work for commercial properties if they were getting insurance? *Caldwell:* While we spend most of our time talking about residential values because that's about 400,000 to 500,000 properties in the county, the way you evaluate commercial properties has the same dynamic: Can the property be used for purpose for which it was designed? We have to make our evaluation based on that and what the owners tells us is going on with their property. *Question:* Would having commercial properties such as South Seas rebuilt and operational help with the large deficit? *Caldwell:* Yes, South Seas is obviously a huge chunk of the taxable value on the island and the damage it suffered is a big part of what you see reflected here. *Question:* Will this be available in future years if the home is still uninhabitable? *Caldwell:* Yes, reducing value due to uninhabitability is standard, not just a reflection of the storm. If some kind of disaster makes your home uninhabitable as of Jan. 1, if you tell us that should be reflected in the valuation that year. Discussion. *Pawul:* So if a property has a deletion Jan. 1 but if back online by the next Jan. 1, how is that captured and what impact does that have on a homesteaded property? *Caldwell:* So any property that's had a deletion as of Jan. 1, we look at them as the year progresses to see signs of repair or other indications it's been restored to its former value. As for homesteaded properties, we have automatic renewal which saves taxpayers a lot of money, but we're always looking for fraud – most of which is unintentional, someone forgot to move their exemption or update their information. If you're tearing down your home and living somewhere else while you rebuild, you can move your exemption to the new home temporarily. If you decide to rent during the rebuild, you have a three-year window of portability. If the rebuild takes more than three years, we'll have to work with the Legislature to figure out how we don't inadvertently punish people in that situation. *Question:* How are timeshares valued? *Caldwell:* The same way we do hotels, motel and condos. Even if it's uninhabitable, there still is a land value that can be reflected in fractional ownership. We still have to look at this case by case to be equitable in our valuation. Discussion. *Riegert:* A question about the budget advertisement: The CEO would like to be able to add a fine-print line about the rollback rate so it's not so shocking to people who see the increase in the ad. *Caldwell:* Both the TRIM notice and the budget advertising is strictly dictated by state statute, so they are identical in form and substance in every jurisdiction... so the answer is probably going to be no. On the TRIM notice we're going to add a small box that gives people contact information to reach out with questions due to the unique circumstances of the storm, as long as it is consistent with the statutes. *Pawul:* Discussion of the impact of the deletions on the district budget and steps taken. Since the district can't explain this in the notices, it falls to meetings such as this and district board meetings to communicate what's driving this. Discussion on how CFD and CEPD can make sure taxpayers understand what's behind the millage changes.

**LDC -- Mintz:** Recap of activity. County commissioners voted June 20 to continue the public hearing on the proposed land use changes to Sept. 5-6. County staff was instructed to hold community meetings on Captiva and Sanibel prior to that continued hearing. A public meeting was held on Captiva July 13 with representatives of a variety of island organizations speaking. On Aug. 2, another meeting was held on Sanibel at BIG Arts, with representatives of the panel and CCA as well as SCCF and the City of Sanibel voicing their objections. Staff was to compile these comments to present to county commissioners at a

workshop the afternoon of Aug. 29, both to update commissioners and get any direction from them they may wish to offer. Commissioners could decide to request staff to revise the proposed amendments, which could necessitate a continuance for the Sept. 5-6 hearings, or they could decide to proceed as is with the changes. That means the board could either approve the changes in September as proposed, or reject them completely and request staff start over using the community input to help guide their actions. There will be one more public meeting on Aug. 9 in downtown Fort Myers, likely a much less formal meeting although I don't know the format for the meeting. Recap of the panel's position on the proposed changes as approved at a prior meeting.

The coalition of groups opposing these changes has retained an attorney, both to advise the coalition on actions and to compile any potentially unlawful actions involved with these amendments. The coalition is also looking at petitions or some other form of community engagement to show commissioners how the community feels about these changes. One of the aspects discussed at the public meetings was the buildback provisions of the Code, to address some ambiguities all parties feel exist in the current language. However, the county made it clear that it supposed the right of property owners to build back what they had previously, with adjustments for current federal and state regulations, even if you have a nonconforming building. There had been discussion at a prior panel meeting about posting a handout the county developed on the panel website, which I explained contained some misinformation I felt needed to be corrected before disseminating it further. The county has revised that with information more consistent with what we have been discussing in the community. I believe the island communities have made it clear how they stand on these proposals, and county staff is aware and able to communicate those concerns to the commissioners.

*Brown:* It sound like the Aug. 29 workshop will be a key meeting in terms of understanding the commissioners' intent. *Mintz:* Absolutely. There was a misunderstanding that the existing building height language for Captiva did not incorporate base flood elevations, which it does. Also that the potential increase in density by allowing bigger buildings undercuts our wastewater studies by increasing the potential amount of wastewater from Captiva, both inside and outside the gates of South Seas. There's also a recognition that the language in the amendments pertaining to South Seas has nothing to do with resiliency, which even Chairman Hamman raised in his comments on June 20. So the workshop will be the chance for commissioners to hear the public comments from county staff and make a decision on how the board wants to proceed. *Laird:* Will commissioners give us any clue at the workshop as to their thinking on this? *Mintz:* I'm hopeful they will, both so people know if the public hearings on Sept. 5-6 will have meaning and so that, if revisions are needed, staff can set a schedule to bring them back for discussion. *Question:* Is the workshop open to the public? *Mintz:* Yes, but public comment is not planned. I expect a lot of the public and press will attend. *Question:* Will it be on Zoom? *Mintz:* Not sure, it may be on the county's TV channel. Discussion.

*Question:* Is there anything you can say about what the attorney is working on? *Mintz:* They are looking into the county's actions and direction for things that were not done properly during the entire process. For example, when you look at the original instructions on Jan. 17 where staff was asked to look at resiliency issues, they clearly went far beyond that in the amendments offered, proposing changes that would increase Captiva's density, misunderstanding how building heights were calculated on Captiva. There were approvals by county review committees that were claimed but never actually occurred. It was after the hurricane and staff had a lot on their plate; some think it was a chance to take advantage of a crisis. Nevertheless, the community has been clear expressing what they think is wrong with this language, and we hope the commissioners will listen to that and fix this. *Question:* Will you or anyone from Captiva be able to participate in that workshop? *Mintz:* No, normally the staff presents and the commissioners discuss. *Question:* How is fund-raising for the legal costs going? *Mintz:* That's being handled through the Civic Association, but my understanding is it's going very well.

**HOA – Suarez:** We were fortunate to have a couple of the timeshare association presidents at our last Presidents Council group, and their general counsel is helping facilitate. The Timbers CEO put out some communications to all the South Seas owners that they would be hosting webinars to explain their position on these changes; I think there were eight meetings. Timbers has taken away the ability for a back-and-forth dialogue, controlling the narrative by the questions they've chosen to answer in these webinars. In a lot of their discussions, it's been clear that Timbers is looking for 45 feet in building heights. But in working through their calculations, they seem to want to raise the parking area under the buildings at least eight feet above grade, then have 10-12 feet inside the parking area to accommodate their vehicles in inclement weather... all of which adds up to building heights about 68 feet above grade – which is 45% taller than the tallest building inside the resort. The impact to the resort will be tremendous. *Walter:* What was said on the call was he wanted parking plus three floors, with parking maybe graded up 2-3 feet above grade as they are now (some are even below grade today), and an eight-foot-high parking area. *Suarez:* That's not what was on his slides. Discussion. *Suarez:* Another confusing and misinformed part of the presentation was that there was a surge of 8.5 feet. I asked SCCF and they had the surge on that part of Captiva at three feet above grade. That agrees with what I saw at the tennis courts and on my building, where the water line was 18-20 inches from the ground. Discussion. *Suarez:* At the July 13 meeting, which Timbers people attended, it seemed clear that the county was going to deal with the buildback questions and that existing building could be rebuilt without losing any size. However, at these webinars Timbers representatives were still saying that if your' building is knocked down you wouldn't be able to build back. They barely spoke about density... in a 75-minute webinar. It maybe was mentioned for 15 seconds. This controlling of the narrative is causing concern among owners who haven't participated in all the meetings and heard what other people are saying. I go back to what someone said at the Sanibel meeting, that Timbers did their due diligence when they bought the resort and knew what they were getting themselves into. Discussion about Timbers engagement with the Presidents Council.

*Mintz:* Regardless of whether there are disagreements or misunderstandings, the problem is when Blackstone owned South Seas and they wanted to change the Administrative Interpretation to replace the 140 units of employee housing with condos at the north end, they came to the panel and said: "This is our plan, this is what we want to do and these are the variances and deviations we need." Some people thought it was great, some people objected to it, it went to the Hearing Examiner and it was approved. Prior to that, in 2005 a similar change was sought and the same process took place. This time, they want to change our Captiva Plan and take South Seas out from under the Captiva Code where it's always been – and they're doing this without anyone seeing a proposed plan from Timbers for what they want to do. I don't know what my reaction would be to any proposed plan until I see it. That's why these amendments have to be rejected, because they're asking to make changes to our code without having before us to help us know what that would mean.

**Green Flash – Brown:** There was a public meeting conducted by Tim McGowan, with about 20-30 people in attendance, to go over what they want to do as part of this rezoning. The two most important are they want to create an outside dining area on a porch under a roof, and they want to significantly increase the amount of boat dockage at the restaurant – about 50 slips so boaters could come in and dine at the restaurant as a destination like Cabbage Key. That would also help him solve the issue of not having enough parking for the numbers of diners the restaurant serves. At the meeting, the overwhelming response to the boat slips was going to cause problems and he would have difficulty getting that permitted. *Mintz:* The issue is the county doesn't have jurisdiction over the slips and dockage, so he has to deal with multiple jurisdictions. So the county can say if you get 50 slips we'll let that mitigate the parking situation, but if he can't get that many slips from Florida DEP or the Corps of Engineers, then he'd have to go back to the county to deal with the parking problem. So he needs to have a Plan A, B and C, not to assume he'll automatically get all those slips and have a way to deal with a variety of options. It could also take a long time to get the slips resolved, and I don't think he wants to wait that long for the

restaurant to re-open. So he's got a bit of juggling to do, and I expect we can find out more from the county about the process he'll need to go through. *Youngquist*: The problem is not just the docks, but it's the sewer or septic. He quoted someone from Crews about the costs, but having been through that it's not a \$30,000 fix. Even if sewers are installed, it's going to be several years before we're hooked up. The docks were going to solve his parking problem, and he needed the parking to expand his seats – but they won't do the seat until they have the septic problem taken care of. It's a three-legged stool. *Brown*: Should the panel be taking any action on this now? Or do we let this ride and see what he's going to do as a result of the comments he got? That many slips may not be good for Roosevelt Channel or the rest of Captiva, so perhaps the panel should take a position. *Mintz*: I think our role should be to communicate to the community what's going on, educate them, talk about the process. But it's not in our interest to be weighing in on various private business matters on a case-by-case basis. He's not asking to change our code or our plan, so it's a private initiative. If there was something that would be detrimental to the community, we might need to weigh in.

**LCSO** – No report:

**CEPD** – *Deputy Director John Riegert*: We'll update the commissioners on the budget at a workshop on Aug. 31 at 1 p.m. Our regular board meeting is scheduled on Monday, Sept. 11, at 3 p.m., and the tentative budget hearing will be that day at 5:01 p.m. The second budget hearing will be Tuesday, Sept. 19, at 5:01p.m. On another topic, the Corps of Engineers has decided they are not able to fund our project, due to our easements not having a perpetuity clause. So funding gets pushed to FEMA for a decision next. This is good news because the process was stuck with the Corps, and this easement concern is an issue that's common with waterfront communities. This decision not to fund allows us to move forward. *Brown*: Based on what you know, is it unlikely property owners will face an assessment to restore the beach after the hurricane? *Laird*: That's my opinion. *Walter*: Not this year, but there are a lot of steps before a project gets under way – a vote to proceed, getting cost estimates and determining funding sources including the state and federal governments. *Laird*: Having the Corps deny us early is a good thing, because many other funding sources were on hold until the Corps made a decision. Now we can pursue other funding.

**SCCF** – *Carrie Schumann*: For Lake Okeechobee, the Corps is operating under some flexibility right now, so they've been keeping the lake a little higher – which is good for us since it keeps some of the damaging flows from being released and limiting our exposure to blue-green algae. But if we start seeing storms on the horizon or El Nino brings us wetter weather, we'll see some release down the line. This flexibility is a feature of LOSOM, the Lake Okeechobee System Operating Manual, which will be coming online in December barring any further delays. Another issue is the Chiquita Lock in Cape Coral, and how its removal would or would not affect water quality. Matt did a good summary of the issues in a recent article in the *News-Press*, and you can always reach out to him for more information; his phone is (239) 413-6915, and his email is [mdepaolis@sccf.org](mailto:mdepaolis@sccf.org). David already discussed the land use issues, and SCCF remains supportive of the efforts by the panel and the community.

**South Seas** – *Walter*: An update on where we are in the restoration... the golf course is progressing nicely, and our target completion is mid-November. The north pool is being repaved and the tiki relocated. The south pool is targeted to open at the end of September. The main pool deck target is still December. Bayview fishing pier, the former T dock, is completed and look fantastic. But it's not opened yet, we had some erosion in front of the dock so we have to repair that before we open. We have added two food trucks, one at Sunset Beach and one at Chadwicks Square. Both of the marinas are open and running. Discussion about groin conditions at Redfish Pass. *Lapi*: Do you have any units that you all own actually operational right now? *Walter*: Right now, I think there are 16-17 units not owned by us that are open. We're slowly adding and hoping to have maybe 50 units open in October.

**Wastewater** – *Brown*: Still stuck, awaiting feedback from the City of Sanibel on their consulting study looking at how to handle the additional wastewater from Captiva. It was supposed to be done, at least a first draft, in June, but I haven't gotten any updates. *Mintz*: What I'm hearing informally is that it would be difficult for Sanibel to agree to accept wastewater from Captiva if they don't know the amount Captiva will produce going forward. Under the current Captiva Plan, the county was able to calculate how much wastewater could be generated. But if building heights outside the gate are going up which could increase intensity by up to 50%, that increases the amount of wastewater to be processed. That impacts the capacity upgrades at the Donax plant, the size of pipes bringing the wastewater from Captiva, etc. So Sanibel doesn't feel it has a handle on how much wastewater could be generated. Discussion.

**Stormwater** – *Laird/Mintz*: Kimley-Horn has provided an updated stormwater proposal for the amount we previously discussed, \$198,000. That proposal has been submitted to the county, and we're hoping to get it funded as part of the Recovery Task Force recommendations, since it deals with resiliency and flooding in the Village.

**Iguanas** – *Jensen*: Alfredo has been coming out every Tuesday, but the question is whether he is keeping up with the iguana population? I asked him if money was no object what would you do? He said he would put out traps one day, then come out again the next day to remove the iguanas. So coming two days in a row would help. Then Tony had an idea about teaching someone at Tween Waters how to put out traps properly on his property, and I could do the same at ours, put them out the day before Alfredo comes so he can remove the iguanas when he get here. I don't know how many traps Alfredo has, but it's worth a try. *Mintz*: We're not keeping up with the population when you see all the little iguanas running around. I spoke with Alfredo when he was out here and he said the same – come out Tuesday and Wednesday, set the traps Tuesday and clear them Wednesday. That would double our cost, which the panel needs to think about, going back to the county to get a commitment for more funds or put some of our money into this to try to get it under control. Discussion. Motion to add an additional day to Alfredo's schedule each week for six months, and an additional \$12,500 (Jensen/Laird). Unanimously approved.

**Financials** – *Gooderham*. Detail in packet. Have been working on finding another carrier for the panel D&O coverage, since the current carrier increased its premium five times over last year's -- \$8,400 instead of \$1,700. Got a month's extension to allow time to shop it, and found a carrier who's willing to provide the same coverage for \$1,700 for two years. *Mintz*: What's the coverage? If it's just a million, that's not much – and is it as a whole or per individual? *Gooderham*: It's as a whole, since the premise is the panel would be sued as a group based on its collective actions, not individually. *Mintz*: Can you get quotes on additional coverage?

Discussion about affordable housing studies being done countywide. Discussion about statue of wastewater studies. Discussion on whether a special panel meeting was needed after the Aug. 29 workshop (consensus was no).

The meeting adjourned at 11:37 a.m. A video link for the meeting is at <https://youtu.be/eXJPUfhacco>.

-- *Ken Gooderham*