

# CAPTIVA COMMUNITY PANEL

*Sept. 12, 2023, meeting*

## AGENDA

*Meeting convened at 9 a.m. – see Zoom log-in details below*

*Email the panel: [captivacommunitypanel@gmail.com](mailto:captivacommunitypanel@gmail.com)*

- 9:00 a.m. Introductions and roll call; approval of Aug. 8 minutes.
- 9:05 a.m. County LDC and Lee Plan amendment update, legal update – David Mintz
- 9:35 a.m. South Seas HOAs – Ken Suarez
- 9:40 a.m. Updates: Order will be based on availability, not all speakers have confirmed their attendance.
- County overview – Commissioner Kevin Ruane (invited)
  - LCSO update – Lt. Mike Sawicki
  - Captiva Fire District update – Chief Jeff Pawul
  - CEPD update – Daniel Munt, administrator
  - SCCF update – Matt DePaolis or Carrie Schuman
  - South Seas update – Bob Walter
  - Additional updates – David Mintz
- 10:30 a.m. Wastewater Committee update – Jay Brown
- 10:35 a.m. Stormwater Committee update – Linda Laird
- 10:40 a.m. Iguanas – John Jensen
- 10:45 a.m. Nominating Committee update – Jay Brown
- 10:50 a.m. Other committee reports as needed?
- 10:55 a.m. Financial & D&O insurance update – Ken Gooderham
- 10:55 a.m. Panel members' comments & questions
- Audience comments & questions (e Zoom Q&A messaging to submit questions & comments)

Adjourn

### ***Next Captiva Community Panel meeting scheduled for Oct. 10***

*One or more elected or appointed local government officials, including but not limited to officials with the Captiva Erosion Prevention District, may be in attendance at this meeting.*

You are invited to a Zoom webinar.

When: Sep 12, 2023 09:00 AM Eastern Time (US and Canada)

Topic: Captiva Community Panel September 2023 meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84082375146?pwd=cjdQR3hvNnhGR3EwTEZ3SzYyd3dVZz09>

Passcode: 413792

Telephone:

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+1 253 205 0468 US

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## **2023 panel officers:**

- President: Jay Brown
- Vice president: David Mintz
- Secretary: Bruce McDonald
- Treasurer: Tony Lapi

## ***Captiva Community Panel obligations***

- 1) Publish an annual schedule of meetings after the December meeting.
- 2) Re-elect panel members (or elect new panel members) for those whose terms expire (see below). Panel officers will be elected at the January meeting after the new panel members are installed.
- 3) Develop and approve an annual budget no later than the December meeting.
- 4) Bylaws revisions will be addressed as necessary. Any amendment requires 60 days' notice prior to vote, and approval requires a two-thirds vote of the full panel at a panel meeting where a quorum is present.
- 5) The president shall appoint a Nominating Committee of at least three members (only one of which can be a panel member) by the March meeting, for ratification by the panel members at that meeting. The committee (along with the CPOA and CCA appointments) will offer a slate of candidates at the October meeting, for a vote at the December meeting. See bylaws for more detail.

### **PANEL SEAT ASSIGNMENTS:**

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

### **TERM STAT:**

- Expires in December 2023 with another three-year term possible: Linda Laird, Bob Walter, Bruce McDonald
- Expires in December 2024 and termed out: Jay Brown
- Expires in December 2024 with another three-year term possible: David Mintz, Ken Gill
- Expires in December 2025 and termed out: Ann Brady, John Jensen, Tony Lapi
- Expires in December 2025 with another three-year term possible: Sandy Stilwell-Youngquist, Margarethe Thye-Miville
- Expires in December 2026 and termed out: Linda Laird, Bob Walter, Bruce McDonald

### ***Article 6, Section 2 -- Terms of Office***

Panel Members shall serve terms running for a period of three (3) consecutive years commencing at the Regular January meeting. Panel Members may be appointed or elected pursuant to these Bylaws for a second three (3) year term, for a maximum of six (6) consecutive years. Panel Members having completed two (2) consecutive terms on the Panel shall not be eligible for re-appointment to the Panel unless and until a period of one (1) year has expired since the completion of the last term served by such Panel Member. A Panel Member filling a vacancy pursuant to Article Six, Section 6.C. for a period of 18 months or more shall be deemed to have served a full three (3) year term. Such Panel Member shall be eligible for a second three (3) year term. A Panel Member filling a vacancy for a period of less than 18 months shall be eligible for two additional three (3) year terms

### ***Article 5, Section 1 -- Election of Officers***

At its first January meeting following its annual meeting in December, the Panel shall elect Officers of the Panel who shall serve a one (1) year term or until the end of their term on the Panel, whichever period is the lesser. The terms of office shall commence at the Regular January meeting. Mandatory Panel nominations and elections as necessary shall be held for the following offices: President, Vice President, Secretary and Treasurer. The Panel may also choose to elect other officers as may be desired from time to time. Election of officers may not occur without a quorum of the Members being first established.

## **UPDATE:**

On Tuesday, September 5, the Lee County Board of County Commissioners, by a 4 to 1 vote, approved the amendments to the Land Development Code which raise building heights on Captiva from 28 feet to 35 feet above base flood elevation. This change permits the construction of a third habitable floor on Captiva homes, and could, over time, increase the intensity of use on Captiva by 50 percent. Only Commissioner Kevin Ruane voted no.

The vote also granted special exemptions for South Seas from Captiva's building heights and density rules – thereby providing Timbers Resorts the right to apply for more hotel rooms and higher buildings than previously allowed. South Seas will now be exempt from the three hotel units per acre rule, and can request buildings between 45 and 75 feet above base flood elevation.

The amendments were approved after cancelling and not rescheduling the workshop where feedback from the public meetings held on Captiva and Sanibel was to be presented, considered and discussed by the Commissioners. And they were approved after more than 13,600 people signed a petition opposing the amendments, and despite more than two hours of testimony from public speakers – most of whom were opposed to the amendments. All but one or two of the speakers in favor were employees or paid consultants of Timbers Resorts.

For the thousands of people who have been involved with this important matter, it has been difficult to comprehend how the Board of County Commissioners could ignore the overwhelming outpouring of concern from the affected communities. In the end, four County Commissioners chose increased development and countywide consistency over preserving the special environmental needs of the fragile barrier islands, or the safety of the residents of Captiva and Sanibel facing future storm events with limited evacuation routes.

Now, attorneys representing Captiva's community organizations are planning to challenge the changes that are inconsistent with the necessary protections for a barrier island, and will work to return Captiva to its longstanding height and density limitations. The attorneys will also defend the interests of Captiva should Timbers Resorts submit an application to rezone the resort for increased building heights or greater density. The Captiva community fully supports the right of Timbers Resorts and all property owners on South Seas to build back whatever was damaged by the hurricane with even greater resiliency. However, for the County after a hurricane to increase density and building heights on a narrow barrier island with limited evacuation routes makes little sense.

The Captiva community continues to raise legal funds to support this important work. Contributions to the legal fund should be made out to "Captiva Civic Association" and mailed to P.O. Box 778, Captiva, FL 33924. Please indicate "Legal Fund" on the memo line.

## **BACKGROUND INFORMATION**

Prior to the hearings, the community expressed their concerns to the County Commissioners and to County Staff. For those who were not able to follow the events as they unfolded, the concerns expressed by residents at the community meetings are as follows:

1. There is opposition from every sector of the Captiva community to the amendments that raise building heights from 2 to 3 floors above base flood elevation and exempt South Seas from the hotel density and height regulations that apply to all other Captiva resorts, hotels and residential properties. These amendments conflict with the low height/low density Goal, Policies and Objectives of the Captiva Community Plan which were carefully crafted over many years to protect the barrier island.
2. The amendments have little to do with resiliency, and will make Captiva less resilient and safe by increasing the intensity of use both inside and outside of South Seas.
3. The amendments create a discriminatory benefit for a single property owner on South Seas and set a unavoidable precedent for more intense development over the entire island. The proposed Code changes could allow for an unlimited number of hotel units and buildings from 45 to 75 feet above base flood elevation on South Seas.
4. The amendments do not address the important County build-back provisions of the Land Development Code which need to be clarified to permit Timbers Resorts and all other property owners in Lee County to rebuild buildings damaged by natural disasters to what existed before the damage, and to whatever heights are necessary to incorporate all flood and other resiliency elevations required at the time of reconstruction.
5. The amendments rezone approximately 3 acres of land owned by Timbers Resorts but outside the gate of South Seas. The 3 acres are not covered by Administrative Interpretation governing South Seas, but they are removed from the Captiva Code. This change to height and density occurs without providing notification to the adjoining property owners outside of South Seas who are governed by the Captiva Code.
6. The amendments provide exemptions for all of South Seas Island Resort when the owners of the majority of the units and acreage in the Resort do not support the amendments for their properties and were not consulted by Timbers Resorts or the County.
7. Timbers Resorts has failed to provide a concept plan for its development project despite repeated requests. No special density or height exemptions for Timbers Resorts should be considered until such time as Timbers submits an application for a new Planned Development when the appropriate County staff can review what Timbers wishes to build and what variances, deviations or Code amendments may or may not be appropriate.
8. The amendments have raised serious concerns from the Captiva Fire Department and The Island Water Association whose priorities are safety, resiliency and sustainability. Neither organization was consulted regarding these amendments.

9. The amendments, which make questionable the current wastewater calculations as a result of possible increased allowable density and intensity, jeopardize the County's central sewer wastewater project with the City of Sanibel on which significant County sums have already been expended.
10. The County Commissioners were provided incorrect or incomplete information regarding the recommendations from the citizens committees created to review Code and Plan changes. The Executive Regulatory Oversight Committee, the Land Development Code Advisory Committee and the Local Planning Agency were not provided with sufficient explanations of the amendments to make informed recommendations regarding the Code and Plan changes for Captiva.
11. The highly unusual process that has produced these amendments will inevitably invite protracted litigation. The Plan amendments are not supported by the data and analysis required by the Community Planning Act; the Land Development Code amendments are inconsistent with the Lee Plan; and spot zoning on South Seas is proposed without the required quasi-judicial process. And whether the South Seas-related amendments were "County-initiated" rather than "Developer-initiated" remains an issue of inquiry.
12. The Captiva Community Panel, which worked closely with the County for more than two decades to craft Land Development Code and Plan amendments that apply to Captiva, was not consulted prior to the drafting of these amendments. Had the community been consulted, the amendments and the process may have been different, and the controversy involving South Seas, the County and the Captiva community may have been avoided.

The community also made three recommendations.

1. **The height regulations that have been successfully working on Captiva should not be changed. The existing regulations already provide for the incorporation of base flood elevations and changing heights, and allow for two full, permissible and habitable floors.**

**Leaving Captiva's height regulations in Chapter 33 of the Land Development Code in place would also eliminate any need to amend Chapter 23 of the Lee Plan.**

2. **Clarify the build-back provisions of the Land Development Code to permit Timbers and other property owners on South Seas and in Lee County to rebuild buildings damaged by natural disasters to what existed before the damage, and to whatever heights are necessary to incorporate all flood or other resiliency elevations required at the time of reconstruction.**
3. **Remove any references to South Seas from the proposed amendments and do not consider any exemptions for South Seas from Captiva's density and building height regulations until South Seas submits its application for a new Planned Development when the County can review what Timbers Resorts wishes to build and what variances, deviations or Code amendments may or may not be appropriate.**

Captiva Community Panel

**FINANCIAL UPDATE**

September 8, 2023

Revenues:	2020 Actual	2021 actual	2022 actual	2023 Proposed	2023 YTD
Fund-raising events	\$100.00	\$0.00	\$0.00	\$20,000.00	
Solicited donations	\$79,215.00	\$71,594.77	\$46,244.76	\$40,000.00	\$61,670.16
SLR study donations	\$0.00	\$33,346.00	\$0.00	\$0.00	
Interest	\$0.00	\$0.00	\$0.00	\$0.00	\$22.88
Other revenue	\$1.54	\$0.00	\$0.00	\$25,000.00	\$250.00
From cash reserves	\$0.00	\$0.00	\$2,049.82	\$0.00	
<b>Annual revenues (net)</b>	<b>\$79,316.54</b>	<b>\$104,940.77</b>	<b>\$48,294.58</b>	<b>\$85,000.00</b>	<b>\$61,943.04</b>
Expenses:	2020 Actual	2021 actual	2022 actual	2023 Proposed	2023 YTD
Planning services	\$3,000.00	\$0.00	\$0.00	\$0.00	
Legal fees	\$390.00	\$0.00	\$0.00	\$1,000.00	
Administration	\$19,800.00	\$19,800.00	\$21,000.00	\$30,000.00	\$22,500.00
Administration -- bonua	\$0.00	\$0.00		\$0.00	\$5,000.00
Iguana eradication				\$25,000.00	\$18,000.00
Panel Communications (Mail Chmip)	\$0.00	\$384.00	\$0.00	\$1,600.00	\$344.50
Development/Fundraising Committee	\$2,778.09	\$1,856.64	\$0.00	\$3,600.00	
Captiva Code/Ordinance Committee	\$2,287.21	\$0.00	\$0.00	\$500.00	
Wastewater/Stormwater Committee	\$2,245.32	\$0.00	\$0.00	\$0.00	
Sidewalk Engineering Committee	\$11,970.00	\$3,220.00	\$0.00	\$13,145.00	
Sea Level/Stormwater Committee	\$13,394.86	\$10,375.00	\$6,570.47	\$10,000.00	\$3,875.00
Bayside adaptation study		\$16,566.90	\$16,786.37	\$0.00	
Other committees	\$0.00	\$500.00		\$500.00	
Support for ongoing prprojects/initiatives	\$0.00	\$0.00	\$0.00	\$30,000.00	\$10,000.00
Travel reimbursement	\$0.00	\$2,423.08		\$0.00	
MSTU petitions (Iguanas)	\$2,654.64	\$2,205.32	\$0.00	\$0.00	
Copies and mileage	\$976.80	\$332.20	\$256.32	\$720.00	\$320.39
Website	\$319.87	\$6,797.02	\$99.00	\$3,000.00	\$512.11
Storage	\$214.48	\$456.76	\$578.76	\$660.00	\$531.46
Advertising for meetings & events	\$18.20	\$0.00	\$0.00	\$0.00	
AV & Zoom fees	\$705.98	\$404.42	\$455.88	\$840.00	\$898.87
Insurance -- D&O and Hole-in-One	\$1,797.00	\$1,797.00	\$1,741.14	\$1,900.00	\$1,626.71
Taxes & fees	\$201.60	\$136.25	\$357.25	\$400.00	\$317.51
Processing & service charges	\$276.21	\$234.06	\$308.13	\$250.00	\$140.89
To cash reserves	\$15,798.98	\$36,841.48	\$0.00	\$0.00	
Other (1.25% Contingency)	\$487.30	\$610.64	\$141.26	\$1,538.94	\$597.90
<b>Operations total expenses</b>	<b>\$79,316.54</b>	<b>\$104,940.77</b>	<b>\$48,294.58</b>	<b>\$124,653.94</b>	<b>\$64,665.34</b>
<b>Net income</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>(\$39,653.94)</b>	<b>(\$2,722.30)</b>

Cash on hand August 2022	\$254,642.76	County grant for wastewater study	\$60,000.00	Paid, not disburse
Cash on hand August 2023	\$317,953.56	County grant for effluent study	\$45,105.00	Paid, not disburse
% change	24.86%	Iguana reimbursement	\$25,000.00	Invoiced
		<b>Total</b>	<b>\$130,105.00</b>	

**Cash flow analysis**

Cash on hand	\$317,953.56	
Escrowed directed donations	\$65,000.00	
Escrowed county grants	\$105,105.00	Does not include iguana reimbursement
<b>Cash available for use</b>	<b>\$147,848.56</b>	