

**Captiva Community Panel**  
**MINUTES**  
*Jan. 9, 2024*

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

**Audience:** 46

The meeting convened at 9 a.m. with introductions. Minutes from the Dec. 12, 2023, meeting were not ready for review and approval.

**Election of officers:** The following were unanimously elected as officers for 2024:

- *President:* Jay Brown (Mintz/Youngquist)
- *Vice president:* David Mintz (Brown/Gill)
- *Secretary:* Bruce McDonald (Brown/Jensen)
- *Treasurer:* Tony Lapi (Brown/Jensen)

**LCSO – Sgt. Rich Zeltman:** Introduction and background on his LCSO service and connections to the island, is now officially on Captiva full-time.

**CFD – Chief Jeff Pawul:** Encouraged people to turn on the heat in their homes before the middle of the night to make sure everything is working properly. Recent fire on Upper Captiva was caused by a generator on a wooden deck... manufacturers and codes require generators to be mounted on noncombustible materials or at least a minimum of 12 inches from the bottom of the generator to something combustible such as wood. Was another issue on Marco Island where a structure whose electrical service came in underground caused an explosion... deterioration of the wires' insulation due to storm surge caused a buildup of hydrogen gas which resulted in an explosion at the electrical panel. If your electric is underground, have a licensed contractor check out the wiring and monitor for hydrogen buildup.

**CEPD – John Riegert:** On Monday, the board passed a resolution to hold a referendum on May 21 to vote on securing a \$25 million bond loan for the upcoming renourishment project. That's the estimated cost of the project before any of the grants we've secured are applied to lower that final number, which will be the basis for any assessment to Captiva property owners. The vote will be held at the Sanibel Community House in conjunction with another ballot already scheduled on that date. Discussion on requesting mail ballots, CEPD staff will follow up. Only registered voters participate, must exceed 50% of the votes cast. Discussion of the status of grants and other funding, project will go out for bid this week. The hope is to complete work before hurricane season begins, or before its peak – but that depends on dredging bids and schedules. Estimating 800,000 cubic yards of sand needed, includes dunes and plantings. Work on the bayside resilience study has not begun, working on the contract with Aptim now.

**SCCF – Matt DePaolis:** Legislative session starts today. Among the bills being monitored is an effort to shift costs on challenges to DEP or water management district decisions to the losing party... which would discourage individuals and private groups from filing such challenges by requiring them to pay attorneys' fees. Discussion of ramifications. Lake Okeechobee at 15.98 feet, have not heard about any releases but would not be surprised to see some in anticipation of a wet El Niño season.

**South Seas:** No report.

**Community Housing and Resources** – *Nicole Decker-McHale*: Description of CHR, an island nonprofit providing housing for the workforce and seniors of the community. Island have a workforce of 6,000, and Covid and Ian have seriously impacted affordability. We lost 11 of our 76 apartments in the hurricane. Described plans to replace lost units to keep workers in the community. Have also made adjustments to our requirements due to the storm, but will revert to prior standards as jobs continue to return to the islands. Working to be able to take advantage of grants that will be coming to the area, both from the county and Tallahassee. Received a SHIP loan from the county, planning to apply for the CDBG post-Ian funding. Working to repair damaged units, plan for new units, deal with limited-equity ownership units which allows people to purchase a property to a reasonable cost but keeps that unit in community housing when the owners decide to sell and move on. *Question*: Do workers have to be employed by a Sanibel-based company, or can it be Captiva-based as well? *McHale*: Sanibel-based now, but that's why we're developing relationships with the county to open that up to Captiva-based as well. Units would not be on Captiva, but be for Captiva workers. Discussion of what is considered rent-burdened in terms of income based on FGCU study... \$90,000 annual income is considered rent-burdened, \$50,000 is severely rent-burdened – means they are spending 40%-50% of their income on rent. That's why for CHR the limit is 30%. Discussion of how to make Captiva workers eligible. Discussion of costs to provide a typical housing unit, how much of that is covered by rent. Comment that island businesses pay more for workers and transportation, could there be a solution with LeeTran to lower those costs. Discussion of tax benefits available to the community to provide lower-cost housing, legislature has been working on programs to assist. Have coordinated with other local agencies as well. Discussion on what role would be for panel to play once CHR has a plan for partnering with county on resources, how rebuilding businesses could also participate if they had the parking and land capacity.

**FDOT** — *Jennifer Dorning*: Presentation on status of Causeway reconstruction since Ian breach and gradual re-opening in mid-October 2022. Have worked to strengthen the bridge approaches to help them maintain integrity during storm overwash. Description of various measures taken. Traffic lanes now open, 12-foot lanes with shoulders. Bringing in armor stones to buttress approaches, will be working on that for the next year since they are coming down by rail from Alabama and Georgia. That's why the Punta Rassa boat ramp area will stay closed, using it as a staging area. Still working on the islands and mainland approach, county will restore island amenities once the roadwork is complete. Discussion of challenges faced during reconstruction, steps being taken to keep islands and motorists aware of repairs and impact on traffic. Discussion of traffic impacts of certain work projects. Expect completion of both state and county work in 2027. Discussion of speed limits and work crews. Discussion of bicycle use, when roadway will be in sufficient shape for safe use... FDOT can't bar bicycles if that is someone's only mode of transportation, but try to help them get across safely. Discussion of how to warn motorists of issues and to ensure a smooth traffic flow when possible.

Break.

**Captiva Island Inn** – *Sandy Stilwell Youngquist/Camella Cioffi*: Introduction, Ian tough on cottages, much worse flooding than the usual. Came up with a plan to replace them to avoid future flooding while complying with Historic Preservation needs. *Cioffi*: Presentation of plans... structural engineers determined the cottages could not be repaired, so we developed this plan which has been presented to the county's Historic Preservation Committee. Showed pictures of existing cottages, elevations of proposed redevelopment... same density and number of units, but compliant with flood elevation requirements and building heights restrictions. Similar look and materials to cottages. Discussion of street views and orientation with neighboring structures. Discussion of efforts to mimic cottage style and architectural elements when possible, even if more expensive to do so. May work with Captiva and Useppa fire districts to allow firefighters to train on cottage during demolition. *Question*: Is this being done under the buildback options in county rules, to allow existing nonconformities to be restored due to storm damage? *Youngquist*: Explanation of compliance with historic preservation requirements while enhancing

resilience for future storms. Clarification of question. *Cioffi*: Have not applied for building permits yet. Because these were in the historic district and deemed contributing buildings, we were given leeway with where we could place the buildings in relation to the current code. So we needed to go through the Historic Preservation Committee first for a certificate of appropriateness before we submit permit applications. Discussion about parking, whether there was much change since the new buildings will be elevated. May be more golf cart parking, but we're still limited due to the drainfield. Discussion of elevation and flood zones vs. elevation for parking. Discussion of possible number of stories with county's change in Land Development Code, historic designation limited those options even if we wanted to consider it.

**County/SSIR update** – *Mintz*: A petition was filed yesterday with the county challenging the provisions of the Land Development Code, which permit south seas to be exempt from all Captiva code regulations, which permits South Seas to be exempt from the density limitations for hotels and exempts them from the height limitations, even the existing 28 feet above base, flood and even be the new 35 feet debate above base flood. South Seas was allowed to do as you know, between 45 and 75 feet above base flood. Virtually all the new provisions which changed the rules on Captiva have been challenged as being inconsistent with the Captiva Plan, which we as a community panel have amended over the past couple of decades, and the community plan as it exists today. As a remedy, the petitioner is requesting that those new provisions of the code be repealed. The county has 30 days to respond to this petition; they can either ignore it, they could comply with our petition and undo all the changes, or they can object to it in any way they please. If we're not satisfied with the county's response, we then file this petition with the state Department of Commerce, that's the department that accused the county of creating changes under the false flag of resiliency, but it was really about increasing hotel density. Then an attorney from the department would meet with the petitioners, they would meet with the county, they would discuss the challenges and what the defenses to those challenges would be if the county had defenses, and then they would issue a decision based on their fact-finding. If we are unsatisfied with their decision, we then can file the petition with the administrative law judge, and they will be a full-blown trial with discovery, interrogatory, depositions, witness testimony, etc.

There are additional steps that the coalition is reviewing. One of them is to file a challenge to the under the Florida Constitution on the grounds that the current amendments give the county commissioners unbridled discretion to determine how many hotel rooms can be built at South Seas. The code amendments exempt all of South Seas and basically say that there is no limitation on a hotel room density for South Seas so long as it's quote compatible with the surrounding area. That gives the Board of County Commissioners a lot of discretion on determining how many hotel rooms the resort can request. They had 247 units under the administrative interpretation -- 140 employee housing units and 107 hotel units. The application they have just submitted seeks 270 condominium units and an additional up to 435 hotel units in two hotels, one at the north end and one at the south end. So they've moved from 247 units to 707 units. That kind of increase in density is not consistent with the historic patterns of development on Captiva. So that's basically the challenge.

A third possible challenge is an equal protection challenge. Obviously, they are providing a special benefit and allowances that the rest of our owners and property owners on Captiva do not have. And so that's we're looking at a federal legal protection challenge there. But while all these legal options are either commenced or we're contemplating, we're going to intervene in the process that goes before a hearing examiner. There's witness testimony, we've retained attorneys, and we retained a planner and an evacuation expert as expert witnesses. We're going to continue to retain other experts so that we can present evidence to the hearing examiner as to why the development application is not consistent with the needs of protecting of Captiva Island. A request has been sent out for contributions to the legal fund. This, this legal work will cost money. People have been extremely generous so far, but given the fact that we are now engaged in the litigation process itself, we're making a new request for legal contributions from

the community. So that's the process. We're doing everything we possibly can to protect this island, and we will continue to do so as long as what we do is reasonable, is in good faith and we have the resources.

*Question:* Could the county do a dramatic rewrite of the Lee Plan to make it consistent with the amendments they already approved? *Mintz:* They would have to go through an extended process of rewriting each of the elements. They could, but I don't think they would. There would be all kinds of environmental concerns raised that are different than they were 30 years ago, with respect to protecting what's in the plan now, protecting the limited resources and infrastructure of Captiva, they would have to jettison all of that. There would be tremendous opposition, obviously, from Sanibel, and Captiva, and there would be litigation over that. So my answer is, maybe they could try to do that. I don't think for a second they would; I think they will leave the plan as it is at this point and leave it to a court to decide whether or not the changes they made in the code are consistent with the plan. This was a very aggressive plan application, and I think even those who supported the application were surprised. Remember, they're entitled to 247 units under the administrative interpretation. Now you're going to 272 four-bedroom condo units much bigger than the employee housing units they are replacing. On top of that, they're asking for more hotel units on which there is no limit on the size under the existing code amendments. Discussion about limits on rental unit size. Discussion of competitive parity with other resort areas and other resorts on Captiva. Further discussion on possible BoCC actions on the plan and the redevelopment application.

*Brown:* There was a piece of legislation we proposed to the local Legislative Delegation to approve a Special Area of Conservation to enshrine Captiva's land use and development rules before the county amended them. Unfortunately, it is not gaining much traction with the delegation due to the fear it would be precedent-setting and you'd have other communities coming up with reasons they needed to also be a conservation district. If we can't get the local delegation to support it, it has no chance in the full Legislature. *Suarez:* What they are proposing would change the character of South Seas. Just to accommodate the parking alone for 435 hotel rooms and 267 condos would total three football fields, which means they're going to have to go higher than the 45 feet above base flood elevation the Timbers folks said they would not exceed. I just don't know how else they find the square footage for parking with the property they have.

*Mintz:* Some of the audience questions: Will we be liable for Timbers' legal fees? No, not with a challenge to the plan amendments. Will Timbers be able to start building while litigation is ongoing? They will start the plan application process, but they can't build anything until they get approval from the county hearing examiner and commission. The county attorney said the state Dept. of Commerce can't tell them what to do, so how will that impact the petition? Any decision by the state agency will not be binding, which is why we need the option of taking this in front of a judge if it can't be resolved in other ways. What is the timeframe to oppose the application? There are set timeframes for taking this application in front of the hearing examiner once staff signs off on the application. We'll make it clear what those are for those who want to join I intervening in the process. Many developers ask for more than they expect to get in processes such as this. Yes, it would not be surprising that they expect to get less than their request but more than the previous plan allowed. Discussion about communications strategies to keep the community informed and to raise funds, to put together a calendar to help people understand the steps and time each one can take. Discussion of possible funding necessary if this goes to trial or to various interim steps before that. Discussion on the impact on quality of life these additional units could have inside and outside the resort. Discussion on who is involved in the Protect Captiva coalition and how they are coordinating their actions.

**Wastewater** – *Brown:* Recap of status with City of Sanibel and required studies on the infrastructure to capture and transport wastewater to the Sanibel Donax plant for processing, and to dispose of effluent. Studies indicate \$20 million would be needed for the wastewater transport infrastructure from Captiva to Donax, plus \$25 million for a new deep-well injection disposal system. This is on top of the estimated up

to \$20 million for the Captiva collection system. This dramatically changes the cost-benefit discussion, since we had assumed Sanibel would be the least-cost option since it had existing capacity... and will have a significant impact on the costs to property owners. The other study that has not been done is an economic analysis to determine how much Captiva property owners should be charged to hook up to the Sanibel system, to reflect the investment the city and Sanibel property owners have made for treatment. In addition, I've been advised South Seas has hired Kimley-Horn to determine the real capacity of the FGUA facility and how much wastewater it really can handle. It's gotten very complicated, far more expensive; then we have the further complication of what's going to have to happen at South Seas in terms of expansion. I think for this to go forward, we're going to have to get clarity on the South Seas situation, probably rethink the all the original assumptions that were made since the Sanibel costs are so high. We have options... one is to stop, another is to go back to Commissioner Ruane and see what chances we have to get funding in light of these large costs, then there's the discussion with Sanibel annexation we may have to have. I'm open to suggestions. Discussion about potential investments in the FGUA plant tied to the proposed redevelopment at South Seas, whether the additional South Seas units would discourage the City of Sanibel from pursuing any expansion. Discussion on finishing the final Sanibel study and assuming South Seas is going to have to handle its own wastewater treatment as part of redevelopment.

**Stormwater** – *Mintz*: Waiting to hear from the county on the status of the funding for the stormwater study of the Village.

**Iguanas** – *Jensen*: Nothing new to report.

**Development** – *Gooderham*: Still room on the Welcome Back cruise if people want to sign up.

**Financials** – *Gooderham*: Revised the 2024 budget to reflect the discussion in December, will need to update the escrow numbers now that we're in a new year.

**Verizon** – *Brown*: Towers are installed, we are working with Verizon to relocate the Tween Waters tower as there was some miscommunication about where it was going to be located. Project should be up within three months.

**Other items** – *Mintz*: County DOT is sending someone out to look at shoulder vegetation and decide on what equipment needs to be sent out to cut it back. If they feel they will have to remove something major, they will contact the property owner to advise them of that.

The meeting adjourned at 12:35 p.m. Video link is <https://youtu.be/OrqTuhHs560>. – *Ken Gooderham*