

Captiva Community Panel
MINUTES
Dec. 12, 2023

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

Audience: 36

The meeting convened at 9 a.m. Following introductions and roll call, the Nov. 14, 2023, minutes were unanimously approved (Jensen/Youngquist). Brown thanked Walter for his work on the panel and in the hurricane recovery effort, and hoped he would be able to participate in future panel meetings to provide updates on South Seas' recovery.

LCSD – Lt. Mike Sawicki: Sawicki noted this would also be his last panel meeting, as he was transferring to the Boca Grande district. He introduced his replacement, Sgt. Rich Zeltman, and discussed the transition process. The panel thanked him for his years on the island, and said he would be missed but they looked forward to working with Sgt. Zeltman. Sawicki said traffic was starting to increase which would necessitate increased traffic enforcement to ensure safety. The need for signage to replace those lost in the storm and to reflect the new parking rules tied to the chapel was noted.

CFD – Chief Jeff Pawul: A lot of smoke in the air from mainland brush fires. Be careful with Christmas decorations and trees, be sure to use outdoor lights and cords outside. The district received \$123,000 in refunds from the state from last year's tax rebates. Also want to thank Lt. Sawicki for a great working relationship between our agencies, he'll be greatly missed.

CEPD – Deputy Director John Riegert: CEPD elected a new chair yesterday, John Wade. The board selected Aptim to conduct the bayside adaptation plan. The next beach nourishment is to be put out to bid on Jan. 4, pending the engineering design. Discussion of a timeline for the nourishment project, hoping to get it done before the next hurricane season but it will depend on the construction company's ability to mobilize within a timeframe which won't be clear until project bids are received. Further discussion about the project ensued, including questions on costs to property owners and timing re: hurricane season.

SCCF – Environmental Policy Director Matt DePaolis: Disappointed with the county commission's decision last week. Lake Okeechobee is below 16 feet and trending downward. Event tonight called "All Things Must Begin," a series of eight short plays on climate change. Everyone's invited, tickets still available.

South Seas update: *Bob Walter:* Weather has delayed our golf course opening to early January. North pool deck is moving ahead well, probably open later this month. Received permits to begin demolition of hotel buildings, started that work on Monday.

Land use update – Mintz: I think it's fair to say that the Captiva and Sanibel communities feel somewhat betrayed by the Board of County Commissioners with respect to the zoning changes and plan and code changes that have taken place. It's fair to conclude that the Board of County Commissioners voted to amend our land development code and our community comprehensive plan for one purpose: To provide increased height and increased density for future development at South Seas. The county commissioners have undone years of careful planning on Captiva, and also on South Seas for that matter. During this process, they ignored a virtually unanimous community both on Sanibel and Captiva against these changes, and they've ignored the special needs of the barrier island with respect to our limited

infrastructure and all the other environmental issues that are of great concern to us, including our limited evacuation route. Wednesday's meeting before the county commissioners I felt was embarrassing for the commissioners. They were pretending what they did was not happening, when in fact it was clear to everyone in the audience exactly what was going on. It was in fact I believe a sad day for the county.

The Captiva and Sanibel communities clearly understood the issues. Speaker after speaker were incredibly articulate, I have to say they were magnificent. It was really or inspiring to see so many people so clearly understood the issues, and were able to express their sentiments and their views and their knowledge to the Board of County Commissioners. So if nothing else, the Sanibel and Captiva communities have united, have learned from each other and have worked together with each other and have come to appreciate each other in ways that didn't exist before. So now we have to take stock of where we are. Obviously the attorneys for Protect Captiva are looking at all the litigation options. The options will be explained and outlined in great detail as soon as they're finalized, for everyone to see. But we all know that one of the options is to show how the code changes violate the plan. We can also look at another option, how the plan violates the State Community Planning Act. As we all know, there was no analysis done of the changes that have taken place in the code and then the plan. No one has looked at what the impacts on our island will be for eliminating the height limitations in the in the Lee Plan for Captiva, so there are litigation options that will be defined.

This obviously an equal protection claim, we have resorts inside the gate of South Seas being treated radically different than resorts outside the gate of South Seas, with respect to both building heights, and density. As everyone knows, the heights outside the gate of South Seas have now been changed to 35 feet above base flood elevation. But inside the gate of South Seas, it's 45 to 75 feet above base flood elevation for those structures – and that is obviously an equal protection issue. We are also looking with our state legislators at the possibility of a special Conservation Act for Captiva, similar to the one on Gasparilla Island, which would memorialize our existing building heights and, and density limitations. We don't know how realistic going forward with a conservation act will be, that will become clear to everyone within the next week or two as our State Representative Adam Botana meets with other members of the local legislative delegation. Also at some point in the future, Timbers will submit an application for a new planned development, and we will then see for the first time exactly what Timbers wants to build on South Seas. At that point, the community will have the opportunity to intervene in that process, which goes before a hearing examiner, testimony is taken and issues can be litigated. I suspect will be a fairly long and drawn out process.

So there's a lot to do going forward that will involve the community. As in the past, we will be fully transparent and will advise the community of everything that's going on, and what's possible, and what we need from the community as we go forward. Then finally, we maybe will look at governance issues for the future of Captiva, so that we don't have to face these kinds of situations going forward over the next decade or so. But there's so much going on at this point, it's hard to determine exactly where we'll be a month from now or two months from now. But we will make sure that everyone in the community knows exactly what we know as we go forward. *Brown*: One of the options the panel thought should be explored was possible annexation with Sanibel as a means to gain more control over our future land use policy. I want to emphasize that I don't think anybody on the panel has concluded that annexation with Sanibel is a good idea. But it's something that at least deserves some fact-finding, and I will be spending time over the next two or three months trying to understand better what that level of that possibility might be for purposes of our community exploring all of its options to gain better control over its land use policy. *Laird*: How does the plan review process work? *Mintz*: They're independent hearing officers, they take testimony, they take evidence, they evaluate whether the plan development application is consistent with the code, the plan and the rest of the community. As I said, they take testimony from the various elements of the community that have an interest in this, and then that hearing examiner will make a recommendation to the Board of County Commissioners. The commissioners will evaluate that

recommendation, and they vote on approving that plan development or make recommendations or changes to that plan development by either accepting the hearing officer's recommendation or modifying that recommendation based on what they believe is this for Captiva and the community. Discussion of recent Siesta Key decision to overturn an approved development. Discussion of Protect Captiva's plans and funding. Discussion of proposals before the Legislative Delegation to elect county commissioners via single-member districts, and/or to establish an office of County Mayor. *Question:* If property owners incur losses due to development approvals, can county commissioners be held liable? *Mintz:* Not sure what specifically they are asking, but in general commissioners are immune from liability personally, although the county could be found liable depending on the loss.

Wastewater – *Brown:* Recap of status of studies with City of Sanibel... first had to do with handling the additional effluent from Captiva. Study has been completed but not yet presented to City Council, we will be able to have a public discussion after that. The draft I have seen indicates a significant additional expenditure will be involved to address the additional effluent. The second study is an economic analysis of the city processing our wastewater, which will be the basis of a discussion on how much Captiva property owners should pay to join the Sanibel system. Both studies have been funded by Lee County through the panel.

Stormwater – *Mintz:* The estimate for a comprehensive study and engineering plan to address flooding in the Village is about \$200,000, and that plan was submitted to the county for funding. It's under review by staff, and we will be contacted with any questions they may have. Hopefully, we will have a final answer by our January meeting.

Iguanas – *Jensen:* Alfredo is continuing to come out Mondays and Tuesdays or Tuesdays and Wednesdays, two days a week. If at some point he sees the second day is not being very helpful, he'll let us know and we can make a decision whether to continue. Discussion of level of iguanas seen on the island.

Development – *Brady:* The "Welcome Back" cruise is set for Jan. 22, with all of the open restaurants on Captiva participating. Captiva Cruises will be providing the boat and bar, and tickets will be on sale this week. Discussion of dignitaries to invite.

Nominating Committee: *Brown:* We as a panel decided not to go through a normal nominating process for the panel seat now held by Laird, who's eligible for another three-year term, in light of all the work Laird has been involved in. The two CPOA-appointed seats will be filled by Ken Suarez, who represents the homeowners associations on South Seas, and Bruce McDonald, who's eligible for another term. Motion to elect Laird for another three-year term (Jensen/Youngquist) was unanimously approved.

Schedule & budget – *Gooderham:* No changes being proposed in schedule, staying on the second Tuesday of the month to coordinate with CEPD meetings except in September. *Question:* Will the panel continue to meet via Zoom? *Brown:* Had expected to continue, but we can look into which venue might be available in case we want to go in-person at some point in season next year. Discussion of options and previous poll of panel members on in-person meetings. Discussion about how interactive in-person meetings could be given AV options and limitations. Check with venues and with regular contributors to see what impact in-person meetings would have on their participation. *Budget:* Draft budget for 2024 was presented and reviewed, suggestions were made to increase event revenue, increase iguana removal to reflect twice-a-week visits at least half of the year, include a community meeting, and other potential changes.

Verizon – Brown: All five small towers have been installed, but there was some miscommunication on the location for one of them which we're trying to correct. Hopefully, we're getting close to the finish line on this project.

Public comment: Support for keeping meeting accessible via Zoom, suggestion to look into an OWL for meetings. Thanks for the panel's efforts this year regarding the issues with the county land use changes.

The meeting adjourned at 10:25 a.m.

Video link: <https://youtu.be/ndN6PVx3zH8>.

-- **Ken Gooderham**

DRAFT