

**Captiva Community Panel**  
**MINUTES**  
*July 9, 2024*

**Attending:** Jay Brown, Margarethe Thye-Miville, Ken Suarez, Ken Gill, John Jensen, Linda Laird, Ann Brady, Bruce McDonald, Sandy Stillwell-Youngquist

**Audience:** 24

The meeting convened at 9 a.m. Following introductions, the June 11, 2024, minutes were unanimously approved (Jensen/Youngquist).

**LCSSO:** *Sgt. Rich Zeltman* – We’re all heartbroken over the tragedy at Blind Pass last week. Can’t express enough the dangers of that pass and the current that flows through there. Discussion. *Zeltman:* With the positive reception to the camera’s at Turner Beach, I contacted our Electronic Surveillance team and they looked at putting cameras there permanently. The July 4<sup>th</sup> weekend went smoothly, no major events.

**CFD:** *Chief Jeff Pawul* – Recent events a reminder Blind Pass is not a safe place to swim. We’re talking to the City of Sanibel to see what changes could be made to make that clear to people. There’s a big sign there already... maybe more signs, different locations. People see the calm water and the sandbar, they go out there to pick up shells, not paying attention to the tides or the weather and they get stuck there. *Thye-Miville:* When people get washed out they need something to hang on to. How about having some life preserver rings on the beach that could be thrown to someone? *Pawul:* I’m sure the city is going to be looking at a lot of options – preservers, life guards, more police presence and signage to warn people, etc. *Thye-Miville:* Our kids were washed out a few years ago, and a teen grabbed a Styrofoam boogie board and was able to get out and rescue them. *Pawul:* Unfortunately, floatation devices can encourage the average person to try to undertake a rescue and end up getting themselves in trouble if they don’t know what they are doing. That’s what happened here, two people got swept out and the other ones went after them. But something that can be thrown can help, even if the person is too far out the device will get caught in the same current and may end up reaching them. *Question:* Has anything thought of putting a monitor under the bridge to measure the current and target a warning light when it reaches a certain speed? *Pawul:* That could be an option, but the best approach is to keep people out of the pass altogether, regardless of the current’s strength. *Question:* How about warning people about sharks instead, to scare them out of the water? *Question:* Could they just ban swimming in the pass altogether? *Pawul:* That would be a great idea, but it’s the city’s beach and the city’s decision. Discussion. *Pawul:* Also, a reminder that we’re getting to the busier part of hurricane season, so make your preparations now. There is a plan to do a triathlon on the island again in September, don’t have any details on that yet.

**CEPD:** *Commissioner Linda Laird* – Yesterday’s meeting was cancelled. We’re waiting for the last measurement of the beach to be complete. We received new bids from the vendors for the next renourishment, and costs came down a little... so we have some decisions to make once we get the beach status report from Aptim.

**SCCF:** *Environmental Policy Director Matt DePaolis* – Lake Okeechobee is doing well, algae is persisting at background levels because we’re not getting any release right now. Quiet right now.

**Lee County/South Seas:** *Gooderham (for Mintz)* -- Much of this was sent out in yesterday's email, so if you're looking for the attachments that are discussed, they are linked to that. If you're not getting those emails, let me know so I can get you on the list. First up, the CCA challenge to Land Development Code amendments has been scheduled for trial Aug. 19 through Aug. 22 and continuing into the next week if

necessary. That's the administrative law judge hearing they've been working towards for over nine months now. Protect Captiva has witnesses lined up to testify against the LDC amendments the county approved, particularly the long-standing pattern of development and the increase in height and density which is against the tenets of the Lee Plan the county is supposed to uphold. The CCA has been joined by the City of Sanibel, and the county has been joined by South Seas in this effort. Apparently, when South Seas joined they immediately tried to strike a number of paragraphs of the motion mostly tied to density. Protect Captiva attorneys obviously disagree with that, and they're saying to the judge the claims that South Seas are making a borderline frivolous. As Jay mentioned, the second item is the 2003 settlement agreement the CCA had gotten with the county concerning density on the resort that's going to a judge this morning at 10 am. The county has filed to dismiss the complaint, saying that the county commissioners back then didn't have the right to act to encumber the county now, which seems to be a rather odd approach... "Well, those commissioners were crazy, but these commissioners know what they're doing." There are a number of things that could go wrong, because anytime you get in front of a judge, all sorts of interesting things can happen. But on the face of it, this should be a pretty cut and dry. Testimony is all based on the evidentiary filings, so it's basically sit down, make brief arguments in front of the judge who would review the papers. So there's a chance we would hear something in the pretty near future. *Brown*: I had dinner with David last night, and he explained it's possible we could get a decision today. But, he said, it's also likely that additional points of law could be raised and the hearing could be postponed. It seems to me that there was a contract that was created, people who live in South Seas, bought property in South Seas relied on that contract and were told that there's only going to be a certain level of density and only a certain level of building heights, people relied on that.

*Gooderham*: The third item is that the Master Plan application that South Seas has submitted for the 196 condos and 435 hotel rooms has been deemed insufficient again. Specifically the county continues to ask South Seas to prove they will have sufficient potable water, to explain how the increase in hotel rooms will impact existing properties on the resort, to document how parking associated with the new development will be met, and clarify how future employees of the resort getting to work will impact traffic. Until the county staff deems this application is complete, no hearings will be scheduled. So until they get done with this cycle, nothing moves forward. Finally, of course, Protect Captiva wants to thank all of its donors. As David mentioned last month, they've exceeded \$600,000 in donations. Now that South Seas has weighed in on the county side, Protect Captiva expects that legal costs will continue to rise and they encourage the community to support them if financially possible. *Question*: Is this a different group of planners who are reviewing this than the initial ones? *Gooderham*: No, it would be the same county staff. Usually, once a planner is assigned to a case, they stick with it simply for continuity. They might job it out to other people to assess certain parts of it – and probably, with the size of the filings, they may have brought in other planners to cover some of the aspects, but it would still go back to the same main planner, and it's still working with the same county staff. *Laird*: One other question when I was reading through the briefing, some of them it said things about 50 feet away from the water. *Gooderham*: If you're looking at a lot of the zoning, rezonings or land use issues, often you'll see certain distances from open bodies of water as a requirement. *Laird*: By Chadwick Bayou, if I get my values correct here, where the road comes right next to the water, is there any implications with that? *Gooderham*: Possibly. However, that road was there before county zoning was instituted, so it's going to be considered grandfathered. What they might require is, should it be elevated or should be it be reverted to protect it. The advantage of Chadwicks Bayou is that it is tidal but it's not storm wave driven if it is overwashed. If that was Captiva Drive by Tween Waters, obviously, they'd be much more concerned because it's near an active wave zone. Being on the bay side, they would be concerned about tidal flooding, and they probably should be looking at "Is that road high enough to stay out of the water during average tides?" But will that be a way to stop development? No, they might flag it as something that should be looked at as a conditional item of the permit. But since the road has been there so long, it's not going anywhere. The other problem is the county can only do so much about a private road. They could have requirements that it must be able to service the density that's being proposed. But it's not a public

road, so they can't come in and say, you must bring it up to these standards. You can very clearly say, "If we can't get a fire truck, or a police vehicle down there at a high tide, that's a public health and safety issue." Internally, they might come back to South Seas and say it must be elevated or revetted, or they might have to come up with an alternate route. If you look developments like this, you'll see often inside them those roads are substandard compared to a public road. They can require a certain things, but unless there's a clear risk to public health and safety, it's harder to tip the scales on that one. But, yes, they could say it should be able to withstand routine flooding.

**NFIP:** *Gooderham (for Mintz)* -- The county has filed its response to FEMA in early June, responding to the FEMA recommendation to cut the flood insurance discounts to county policyholders. This was a response to the way FEMA said Ian reconstruction was handled, about how the county was allowing permits on rebuilding structures, whether staff was looking for substantial improvement and substantial damage assessments in light of the 50% rule. The county was trying to respond to the issues of its citizens and businesses to rebuild as quickly as possible. But FEMA countered that if you allow buildings that should have been declared too damaged to be rebuilt, you're putting the overall National Flood Insurance Program at risk, which is something that they take very seriously because it's a costly item. The county has responded on the more than 400 properties that FEMA flagged with a fair amount of documentation, plus the county has established a website where people can go to find out more about this and about the process in general, it's [leegov.com/femaCRS](http://leegov.com/femaCRS). It's not a bad way for the average consumer to get a sense of what the Community Rating System, which is the CRS part of that, stands for and how it impacts your flood insurance. The county is still awaiting a response from FEMA. I spoke with Commissioner Ruane's assistant, and they've been working with our Washington representatives to facilitate and put some pressure on FEMA to get a response. However, when you're dealing with over 400 properties, that's a lot of paper. The one-month deadline to respond, I think, was aspirational, since it's already passed. But the county is continuing to work with this. And I know that the senators' offices, and I assume Representative Donalds' as well, have been involved with this, trying to keep FEMA moving forward to get as an answer as soon as possible. So, to be continued.

**Crosswalk:** *Jensen* -- We have not heard from the county on when we're going to meet. *Gooderham:* I called the person Mintz suggested yesterday, no call back yet. The state traffic code requires a minimum of 200 feet from a crosswalk to a stop sign, so they don't stack up cars so that somebody can't get through the stop sign. I don't see that that's a problem, but I didn't go out there and measure it. There may be a couple of other criteria that need to meet. I think it's just a question of staying on DOT and trying to get them to make a decision. Discussion.

**Verizon:** *Brown* -- They say they are almost done with the improved Verizon cell phone service throughout the island, and they expect that it will be completely finished by Oct. 1 and we'll have nice clear cell phone signals throughout the island. We finally got that done after we've been working on this for three or four years something.

**Nominating Committee:** *Brown* -- I have served six continuous years, so I will not be on the panel next year and I will have to take at least a year off. If the panel wants me to continue being chair of the Wastewater Committee, I'll be happy to continue. Ken Gill, your term expires at the end of this year, you're a CPOA appointee and you are eligible for another three-year term. I would suggest that you get with Rene Miville, and discuss with him whether or not you wish to continue on for another three years. The last person going off the panel next year is David Mintz, who is a panel appointee and has another three-year term available to him. So all we need to do is to form a nominating panel for panel appointees. The nominating panel has to consist of one person on the panel who recruits two other people who are not on the panel, and then the three of you determine who the best person would be to serve on the panel. Obviously, I think we would all think that David Mintz should be the appointee, given all the work he does for the panel, all the legal work and everything that he's involved in. So I think this will be just a

formality of us forming a nominating committee. Then the committee will make a recommendation to reappoint David to another term. I need somebody to volunteer to form a nominating committee. John, I think you would be great at this. Find two other people who are not panel members, and be prepared to make a nomination at the October meeting. *Gooderham*: I will reach out to Emily at the CCA because the CCA will need to nominate someone to replace you. Discussion.

*Laird*: Part of the nominating process seems a little odd to me, with the CPOA naming people to the panel, but we don't even know who's on it besides Rene. *Brown*: It's online... Rene and Sandy are on the board. *Gooderham*: It's complicated because of the way the panel was formed 24 years ago. The Captiva Island Property Owners Association is the legal entity that originally formed and continues to support the panel. That was done because CPOA has a 501c3 tax-exempt designation, so the panel can be a nonprofit. We never changed that because it would require creating a new legal entity, securing its nonprofit designation and transferring everything over to it. *Brown*: We looked at changing the bylaws, at other methods of establishing who panel members would be, and it didn't get sufficient support on the panel to replace what's in place now. *Gooderham*: So the CPOA is the legal entity... you can argue that if you contribute to the panel, you're a CPOA supporter. It doesn't have a membership roster per se, because its sole purpose for existence is to support the panel. It's not doing events, it's not dealing with property, not doing things like the CCA does. Its sole function is to support the panel. *Laird*: It's just an odd way to name panel members. I wish it could be more transparent and focused on the community, like the way the panel is going to determine its appointees. *Brown*: I understand your arguments. We looked at alternative ways of identifying people to serve on the panel, and there weren't enough panel members supportive of making a change – so we continued with the historical process. That's not to say we couldn't look at it again. *Laird*: How many seats are actually not designated by an entity? *Gooderham*: There are five CPOA appointees, two CCA appointees, and four panel appointees. The CPOA petitioned the county originally to form the panel in 2000, and submitted five names to be appointed. At the actual formation vote in 2002, it was suggested by the county commissioners to add two additional seats and make those CCA appointments to help broaden the reach of the panel and its support in the community. Shortly thereafter, when the panel first met, there was a decision to add two more panel-appointed positions; subsequently, two more were added to make the total of 11 members. *Laird*: The CPOA as an organization, does it have its members are noted somewhere, and do they have a transparent process for nominating people to the panel? *Gooderham*: The board members are listed with the state. I'm not involved with the nomination process, so I can't say. Discussion. *Gooderham*: I pulled up the Sunbiz filing, and CPOA has three officers – Rene, Sandy and Mike Mullins. Mike Kelly and Dave Jensen were on the board, but were removed when they passed away. Discussion. *Question*: If the CPOA is a nonprofit, why were they not the ones to secure the legal funds for Protect Captiva instead of the CCA? *Gooderham*: Actually the biggest reason that that CCA took the lead was the panel's bylaws require discussions in the sunshine. And the decision was made that Protect Captiva was going to be harmed if it had to have all of its discussions, right in public. You can't have an effective legal strategy, if you have to discuss it on a Zoom call in front of anybody who wants to log in. Keeping it with the CCA allowed them to maintain more effective communication without the need for such high levels of transparency. And since the CCA already had standing on a couple of the issues that were being discussed, particularly the settlement agreement, they were going to be involved anyway. They could act more nimbly than the panel could in terms of being able to have discussions and make decisions rather than having to hold meetings like this, which would just be overwhelming amounts of work for you all.

**Wastewater:** *Brown* – We have completed all but one consulting study that's necessary to be able to have a complete understanding of what our sewer system costs would be on Captiva. The collection plan was done over two years ago by Kimly-Horn; its cost estimate currently stands at \$28 million which provides for a main sewer line going down Captiva Drive from South Seas to the end of the island. It involves having side sewers on all the streets in the Village that are connected to the main sewer line and includes connecting all the houses in the Village to those lines; all the homes outside the Village will connect

directly to the main sewer line. At the time I started this project, which was back in the days when I was a very young man, we thought that would be the only significant cost involved; we assumed we could just tap into the Sanibel sewer system and use the Donax plant which had plenty of capacity for Captiva. But Sanibel wanted a consulting study to make sure it had adequate piping capacity to handle all of our wastewater. That study was performed by TetraTech, and they determined that the city did not have enough capacity to handle our wastewater, and the city would need a second sewer line running all the way through Sanibel to carry our wastewater to the Donax plant. The cost of that is \$11 million. Then they also determined there would have to be a line that would transport our waste from the Turner Beach lift station to Sanibel's northernmost waste lift station, which is called the Seaspray lift station. That pipe is \$8 million. Then they determined that Sanibel didn't have enough capacity to dispose of processed wastewater, which meant doing a new deep injection well, and the cost of that is \$24 million. So we're now up to \$76 million to complete this project, which is far beyond anything that we ever anticipated. If you do some rough calculations for a cost per property basis, \$76 million is just not doable, it's too much money. For an individual property owner, it's something like \$100,000 per property owner. So what we've decided that we have to do is to seek public funding support for at least parts of the whole system that would be required. We identified that HUD has significant amounts of grant money available, and we have made an application to have the Captiva collection system paid for by HUD. Sanibel is making a proposal that HUD fund their new injection well for \$24 million. So that would least cut costs in half if we were to get those grant funds. The grant applications have been made, and I think we will find out sometime nearer to December as to whether or not our grant applications have been approved. The last study that has to be done as an economic study, which is I think, has probably been delivered to Sanibel, but they had not yet shared the results. That study looks at how much should Sanibel be charging Captiva to process our wastewater. We should have the results of that study soon. So that that's where we are on wastewater. I think we're going to have to hope we can get substantial public assistance to bring down the cost of this; if not, we're going to have to come up with a more cost-effective plan to show that our septic systems don't pollute coastal waters and do assure that our septic systems will remain effective for the long term. *Question:* What about the Wulfert processing plant? *Brown:* Sanibel built that plant, but it's never been used apparently. I think they determined it's much more economical for them to expand the Donax plant than it does to operate that second wastewater plant.

**Stormwater:** *Brown* -- We have a proposal from Kimley-Horn to design a stormwater system for the Village. It's a \$200,000 project, and we're get trying to get Lee County to pay for it. We've been assured by Commissioner Kevin Ruane that they will pay for it, but we have no official communication that it's been approved. *Jensen:* What ever happened to the tide gauge we had installed on the Sunset Captiva dock – has it been installed anywhere? *Brown:* Don't know. *Jensen:* I know CEPD took that over, but don't know if they ever found a place to put it in (to replace the one lost in Hurricane Ian). Rebuilding our dock at Sunset Captiva should be done next week, so if they're still looking for a place it's available.

**Iguanas:** *Jensen* – Still seeing a lot of them. I've been talking to John Riegert at CEPD, and ta their next meeting they're going to discuss CEPD taking over iguana control as part of going after invasive species impacting the island. I'll plan to attend that meeting.

**Development:** *Brady* – We'll plan on putting out an appeal for support by the end of the year, and we're looking at when to schedule a "Welcome Back" cruise.

**Other:** *Thye-Miville:* Sanibel is issuing new hurricane re-entry passes, and you can fill out and submit an application online. The old passes will no longer be honored, so everyone will need to get new passes.

The meeting adjourned at 10:25 a.m. Video link is <https://youtu.be/rhD9aFnLntw>.