

Minutes

**Regular Meeting of the
Captiva Erosion Prevention District**
15951 Captiva Drive, Captiva, Florida 33924
May 11, 2011 @ Noon

Commissioners Present: Mike Mullins (Chairman); Doris Holzheimer (Vice Chair); Dave Jensen (Treasurer); Harry Kaiser (Secretary); Rene Miville (Commissioner).

Consultants Present: Kathleen Rooker (CEPD Senior Administrative Consultant); John Bralove (CEPD Administrative Consultant).

Guests: Lee County Staff: Karen Hawes, County Manager and Steve Boutelle, Division of Natural Resources. Sanibel City Council: Mayor Kevin Ruane, Mick Denham, and Doug Congress. Lee County District 1 County Commissioner John E. Manning.

1. Call to Order

The meeting was called to order by Commissioner Mullins at 12:01 p.m.

2. Roll Call

The roll was called and the results are outlined above.

3. Approval of March Minutes

Mr. Kaiser moved and Mr. Jensen seconded a motion to dispense with the reading of the minutes from the April 13, 2011 meeting and approve them. The motion passed without dissent.

4. Public to be Heard

Mr. Mullins invited the public to comment as the issues they were interested came up on the agenda.

5. Financial Report

Mr. Jensen presented the financial report. He mentioned that the yearly loan payment of \$477,000 was made, bringing the loan balance down to about \$1,500,000; the final payment to CP&E for 5-year monitoring had been made; and the reconciliation with DEP continues and is going well. Mr. Mullins explained some of the history of this and the reconciliation with the Army Corps of Engineers. Mr. Jensen mentioned that the financial statements were through March 2011.

6. Old Business – Report of the Senior Administrative Consultant

a) Welcome Commissioner John E. Manning

Ms. Rooker welcomed Commissioner John Manning and City Manager Karen Hawes. She recommended the agenda be reordered to accommodate their schedule and the recommendation was accepted.

8. New Business

Lee County Division of Natural Resources Blind Pass Ecozone Restoration Invoice #1726

Ms. Rooker discussed this invoice which appeared on page 33 of the agenda materials. She mentioned that the actual fees were more than the \$13,210 originally proposed and that CEPD had approved in June 2010. Mr. Jensen moved and Ms. Holzheimer seconded a motion to approve the percentage that CEPD had agreed to and discuss the difference with Robert Neal separately. The motion was approved without dissent.

The discussion then turned to Blind Pass. Mr. Miville asked Mr. Boutelle in his role as engineer on the project what is not working and why? Mr. Boutelle responded by first correcting Mr. Miville: that he supervises the engineers but his background is in biological oceanography. He went on to say that his team is not sure that anything is not working now and were not as concerned about Blind Pass as many people who are looking at it daily. There was a lot of sand movement to the south this winter. The data shows that it is an "ebb dominant system" which means that more is going out than coming in. That observation in the winter time suggested that the template should not be dramatically modified, just tweaked on the beach side and the gulf side. Mr. Boutelle added that if it reached the point where the pass needed to be dredged every two years, he thought that plan was not sustainable and would not recommend it. The department will continue to monitor the pass, he said, and if the data suggests that other things need to be done, they will look at the feasibility of doing them. But right now, "we are essentially holding our course."

Mr. Miville asked Mr. Boutelle whether he is comfortable with the Pass as it is now and is it stable? Mr. Boutelle responded that it is an unstable system, but the question is can it be made stable enough so that maintenance frequency is reasonable both financially and otherwise. Right now, Mr. Boutelle said, his team is not convinced that it is not. They are trying to get the Pass on a 5-year stability curve and right now they are not in any great hurry to deviate from the plan until it is apparent that it is necessary.

Mr. Miville then said that in the permit modification, putting sand further south sounded to him very exciting. He asked Mr. Boutelle whether he is comfortable with the short-term permit solution? Mr. Boutelle said that moving the sand further away on the south side will help but the Captiva template on the north side should also be examined to minimize the infilling rate. He also said that there must be a balance between the Blind Pass interests and erosion interests on Sanibel. He thinks that moving that sand further south, which still addresses the concerns of Sanibel, is a very logical and prudent step.

Kate Gooderham, representing the Bayous Preservation Association, asked what the status was of the biological opinion, and if the county did decide to do some sort of maintenance dredging, what would be the timeline. Mr. Boutelle responded by saying that the U.S. Fish and Wildlife Service had until September 14 to issue its report. Regarding a deadline, he said that it was difficult to say since it is not known what the permit will say regarding conditions or restrictions. Those conditions and restrictions, and all other considerations, will have to be known so that all the information can be

discussed with the Board of County Commissioners (BoCC). That may happen in August, in anticipation of the issuance of the biological opinion in September, with a decision from the BoCC in September or October.

Mr. Miville mentioned that CEPD had commissioned a study on a long-term plan for Blind Pass. Mr. Mullins stated that the County had received a copy of this report. Mr. Boutelle said that one of the recommendations in the study talked about a different channel alignment on the inside of the pass. This idea was part of the original application for a permit but was found not to be permissible. That situation has not changed, he said.

Ms. Gooderham suggested that once the county says go, getting a date would calm everyone down. Mr. Mullins commented that new rules from the DEP could provide more latitude and make projects easier. Mr. Boutelle said that it was hard to say since there are currently so many interpretations and few actual rulings. He also cautioned about inadvertently causing other consequences that in the long run prove more costly environmentally and aesthetically. The new rules probably shift more of the risk to the permittee. He said that the consequences of these changes remain to be seen and new DEP rules only affect state-permitted projects; federal rules are still in effect and projects will have “to play to the most restrictive common denominator.”

Chap Vail, Safety Officer for the Sanibel Power Squadron and a Captain in the Sanibel Emergency Response Assistance Team, raised the issue that the shoaling of Blind Pass and inner channels created marine safety issues for emergency responders since they might have to come from Sanibel if the Pass and inner channels are not navigable. Mr. Boutelle responded by saying that the purpose of opening Blind Pass was not to solve a navigation problem. He said that the County may look at the inner channel navigation at Wulfurt and Dinkins Bayous but not Blind Pass navigation issues. Mr. Miville asked whether the issue of navigation should be debated. Mr. Boutelle said that previously navigable channels that were closed by this project were up for discussion. Mr. Mullins thought that this should be part of another discussion but the navigability of Blind Pass is not part of CEPD’s purview. Sanibel Mayor Ruane said they the city was aware of the shoaling of some of the inner channels and was working on the issue. Mr. Kaiser mentioned that there is something positive about the shoaling at Blind Pass: families and visitors love the new beaches and recreational opportunities that have been created.

7. Old Business

a) 2005 Interlocal Agreement Presentation by Chairman Mike Mullins

Mr. Mullins presented a PowerPoint display entitled “Lee County Beaches: Dollars & Sense” and talked of the history of the interlocal agreement. He reviewed economic data, cost-sharing percentages, project costs, and the amount contributed to projects by the County, Captiva, and other jurisdictions and agencies. He displayed data showing that while Captiva’s property tax base percentage had increased dramatically over the years, Lee County’s fund share percentage had decreased dramatically over the same period of time. He concluded by asking “How do we ‘right-size’ the County’s fund share?”

Ms. Hawes strongly urged that the County and CEPD sit down and work things out. She said that the TDC members should be a part of this meeting. She also said that the County had been waiting since January for data from CEPD to reconcile the discrepancies between the County's records and CEPD's regarding the 2005-06 project. That meeting needs to be held so that both parties can move forward.

Mr. Mullins instructed Ms. Rooker to send CEPD's numbers to Ms. Hawes and arrange for a meeting. He also mentioned that CEPD needs to find out how else and where else the District can find money to fund future projects. Mr. Manning said that the Board of County Commissioners was unanimous in their support of Blind Pass and future nourishment projects. Ms. Gooderham made three points: 1) there was a 320:1 return on investment in taking care of our beaches-we get back \$320 for every dollar spent; 2) citizens should be pessimistic about federal funding but there is still hope; and 3) districts and local governments need to work harder with its Florida state legislators.

Mr. Mullins thanked everyone for coming and invited people to stay or leave depending on whether their concerns had been addressed.

The meeting was recessed for 15 minutes and resumed again at 1:25 pm. Commissioner Miville did not return after the recess.

6. Old Business – Report of the Senior Administrative Consultant

b) TDC Grant Workshop

Ms. Rooker presented a list of what will be submitted to the Lee County Board of Commissioner for approval as recommended by the TDC. She explained that the two CEPD requests were approved by the TDC: one for the full amount of \$15,593 for Hagerup Beach Lot Maintenance and one for \$5,250 for the Hagerup Beach Picnic areas. She said that the full amount was not approved for the second request since TDC did not pay for picnic tables. She added that the money is not available until October 1. Mr. Mullins asked that CEPD request the detail supporting the \$898,000 that was approved for Sanibel.

c) PACE Visit

Ms. Rooker reported on her visit to PACE and how rewarding the experience was.

d) Preliminary Budget Workshop

Ms. Rooker reminded the Commissioners that there is a preliminary budget workshop scheduled for the Commissioners on June 8 at 10:00 am. Mr. Mullins asked that Commissioners give thought in advance to what they want to accomplish in the new fiscal year.

e) June Board Meeting

Ms. Rooker reminded the Commissioners that the June Board Meeting is on June 15 instead of June 8.

f) Update on 99LE2 and 02LE2 DEP Grant Agreements

Ms. Rooker reported on progress with reconciling these agreements with the DEP. She explained that the DEP had grouped the two contracts together which had added to the work that had to be done. She has now sent a new spreadsheet to Vince George at the DEP with consolidated figures. She also said that she has asked him to explain why he has not included post-construction monitoring expenses in what is reimbursable. Finally, she thought that the amount CEPD might owe to the DEP is now lower than first thought.

7. Old Business

b) FY 11, FY 12, and FY 13 Financial Statements Audit Proposal

Mr. Jensen moved and Mr. Kaiser seconded a motion to accept the proposal presented by Stroemer and Company for audit services for FY 11 for \$7,600, FY 12 for \$8,000, and FY 13 for \$8,600. The motion passed without dissent.

c) Florida Statute 161.141 Property Rights of State and Private Upland Owners in Beach Project Areas

Ms. Rooker explained that she was asked from the last Board meeting to bring this information to the Commissioners and called attention to the Statute contained in the Commissioners' agenda materials. A comment from the audience from Jack Cunningham recommended that an article in a CEPD newsletter explaining what the statute means and allows would be a good idea.

d) CP&E/Shaw Group Contract Update

Ms. Rooker reported on the path of the contract - that Shaw Group's proposed original contract for an \$80,000+ project had been reviewed by CEPD's attorney, Nancy Stroud, and she had sent them her revisions on behalf of CEPD. They, in turn, responded to her revisions, and she in turn had responded to their revisions of her revisions. The concern is that CEPD may lose TDC grant money if this contract cannot be agreed upon shortly and work begun. Mr. Jensen moved and Mr. Kaiser seconded a motion that CEPD get bids from other firms for this work. Discussion involved whether there was a need for the sand source work that was part of this contract and whether CEPD had the resources to evaluate other bids. Ms. Holzheimer moved to amend the original motion to include the development of criteria to evaluate the bids that might come in. After further discussion, Ms. Holzheimer withdrew her motion to amend. On a vote to approve the original motion, the motion failed to pass with 2 yeas and 2 nays. Mr. Miville had left the meeting during the recess and was not in attendance when this vote was taken.

9. Commissioner Comments

Ms. Holzheimer asked that an electronic version of Mr. Mullins' PowerPoint display be sent to her and that it be put on the CEPD website. She also said that she had learned that Captiva has a new fire chief, Rich Dickerson, who is replacing the retiring chief as of May 31, 2011.

Mr. Mullins announced that Mr. Miville had decided to resign his position. He wanted to thank Mr. Miville for his 16 years of service to the CEPD and regretted that he was unable to do so since Mr. Miville had left the meeting early.

10. Adjournment

The meeting was adjourned at 3:12 pm.