

## Minutes

### Regular Meeting of the Captiva Erosion Prevention District

Tween Waters Inn, 15951 Captiva Drive, Captiva, Florida 33924

September 6, 2012 @ 3:00PM

**Commissioners Present:** Jim Boyle (Chair); Dave Jensen (Treasurer); Mike Mullins (Commissioner)

**By Telephone:** Doris Holzheimer (Vice Chair)

**Absent (excused):** Harry Kaiser (Secretary)

**Staff Present:** Kathleen Rooker, CEPD Administrator; JoAnn Paul-Young, CEPD Accountant; John Bralove, CEPD Assistant to the Administrator

#### 1. Call to Order

The meeting was called to order by Chairman Boyle at 3:00 p.m.

#### 2. Roll Call

The roll was called and the results are outlined above

#### 3. Approval of August Meeting Minutes

Mr. Jensen moved and Mr. Boyle seconded a motion to dispense with the reading and approve the minutes as presented from the August 9, 2012 Board Briefing Meeting and the August 15, 2012 Regular Board Meeting. The motion passed unanimously.

#### 4. Public to be Heard

Chairman Boyle called upon Steve Boutelle, Lee County Division of Natural Resources, who was in the audience, to report on the progress of the Blind Pass Dredging. Mr. Boutelle said they are done with the dredging with the exception of removing some of the pipe. He said because of the size of the dredge, it was determined it would not be able to get through Roosevelt Channel and around to the inland side of the pass. He said approximately 24,000 yards of sand within the inside template could not be removed. Everything seaward was completed and surveys were received today. Mr. Boutelle added that alternatives are being considered but none so far have been found to be economically feasible.

#### 5. Financial Report

##### a) Monthly Report

Mr. Jensen referred Commissioners to the financial documents in the Agenda Materials for both the Capital and General Accounts. He said that after review by Ms. Rooker, Ms. Paul-Young, and himself, he is recommending a budget amendment as outlined in Agenda Item 5(b).

##### b) Budget Amendment

Discussion took place about whether a budget amendment was necessary. Ms. Rooker read from the Rules of Procedure, 2.04.b, Bank Accounts: "Each year, any budgeted and collected funds, that were not expended, shall be rolled over to the project reserve fund." Mr. Mullins said he thought there was another option available. To shed additional light on this issue, Ms. Rooker then read from the Rules of Procedure, 2.04.d, Project Reserve Fund: "If

excess funds accrue in the Project Reserve Fund, these funds can be used to offset non ad-valorem expenses such as being applied against future project costs, community-wide assessments, funded interest, etc.” Chairman Boyle asked if there were a motion to approve the budget amendment. Mr. Jensen moved and Mr. Boyle seconded a motion to transfer unexpended budgeted professional fees and equipment purchases totaling \$27,000 to reserves that neither increase nor decrease the FY 11-12 budget. Discussion ensued about when this amendment needs to be done or should be done. Mr. Mullins said he would like to see what millage rate is recommended before he votes on this motion. Chairman Boyle ruled without objection to table the motion until the discussion of the 12/13 Tentative General Budget, which was the next Agenda Item.

**c) 12/13 Tentative General Budget Update**

Mr. Jensen walked the Commissioners through the spread sheets contained in the Agenda Materials. Chairman Boyle commented that the information displayed reflects discussions held at two different budget workshops held earlier in the summer. He said the major item that was increased was reserves. There was no additional discussion.

Chairman Boyle turned the discussion back to the budget amendment motion. Mr. Mullins summarized for Ms. Holzheimer that he thought the choices were either to roll the unexpended funds to capital reserves or reduce the ad valorem tax for the following year. He thought CEPD did not need reserves at a higher level than they are now, the budget amendment is not needed, and the money should be allowed to roll forward to reduce the ad valorem taxes for next year. There was discussion regarding when the budget amendment transferring these funds can be done or needs to be voted upon. Chairman Boyle consulted the Rules of Procedure. He said the timing of Board Meetings still remaining in the fiscal year is such that there would not be another meeting in the fiscal year when the Board can vote on this. Mr. Mullins disagreed and asked Ms. Rooker for a copy of the Rules of Procedure so he could locate the rule that supported his opinion that an option was available. He requested that the Board discuss other items and come back to this issue. Chairman Boyle ruled without objection to retable both the motion and the discussion of the Tentative General Budget and move on to the next item, Legal Fees.

**d) Legal Fees**

Mr. Jensen summarized what appeared in the Agenda Materials. Ms. Paul-Young said that another bill had just come in that added \$4,400 on top of what was presented in the spread sheet, bringing the total to \$8,875 for the management consultant search. There was no discussion.

**6. Old Business**

**a) Renourishment Project**

Chairman Boyle said that Ms. Rooker would cover this item when she reports on Agenda Item 8(a). He said right now CEPD is looking at two options: partnering with Longboat Key and Collier County or going it alone. He said one thing to keep in mind is the money appropriated by the Florida legislature has an 18-month clock which started on July 1, 2012 and will end on December 31, 2013.

**b) CEPD/Collier County Partnership**

Mr. Mullins reported that Ms. Rooker is the interface with Collier County and has been unable to set up a meeting. Chairman Boyle said it appeared to him that Collier County and Longboat Key have reached a tentative interlocal agreement, a copy of which is in the Agenda Materials. He added that Longboat Key seems to want to do their project in two stages, moving to Collier County between the first and second stage. He said it seemed this would add to mobilization costs not reduce them. He added that comments from the DEP in Tallahassee appear to be saying the same thing so he is not sure how this would all flow out economically to everyone's benefit. Ms. Holzheimer also said she was unclear how working with Collier County and Longboat Key would be cost effective and Chairman Boyle said he shared Ms. Holzheimer's lack of understanding as to how this would save money. Mr. Jensen called Commissioners' attention to the two budgets, one assuming a start date of June 1, 2013, and the other assuming a start date of August 15, 2013. It was pointed out that neither budget showed the effect if there was shared mobilization cost.

Mr. Mullins suggested CEPD should target a project plan starting on June 1, 2013 whether or not it is able to complete a deal with Collier County because it increases the probability of completing the project by December 31, 2013. Chairman Boyle said he had no problem with pursuing the idea of a June 1 start date from a budgeting point of view. However, he said there is some sensitivity with the SCCF in starting this early due to turtle nesting season. SCCF called the CEPD office after last month's meeting, and Mr. Boyle said he met with Eric Lindblad after that meeting and saw him again late yesterday. Mr. Boyle said SCCF's view is they realize they are not a permitting agency but they do not prefer or support starting in June. They would much prefer to start late August/September 1 because the peak of turtle nesting season is for the most part over. Mr. Boyle said there is also an issue on the north end near the groin regarding tern nesting. That area cannot be worked on while the terns are nesting, the season going from May 15 to August 15. Mr. Boyle said he thought this could be overcome by starting at the south end of the project and work north. Nesting season would be over by the time the north end was reached. He added that in his discussions with SCCF, they made it clear they would not stand in the way. But he wanted to assure the Commissioners and the public that CEPD is not ignoring the SCCF's concerns. He added that SCCF would like to be involved no matter when the project is started and be the ones to move nests if this were required. Mr. Boyle said he told SCCF that he would bring that message back to the Board.

Regarding state funding, Mr. Mullins asked if CEPD did 90% of the project by December 31, 2013, would it receive 90% of the funding or "was it all or nothing." Chairman Boyle said he thought the mobilization, dredge, and fill fees were all or nothing. Mr. Mullins stated this was even more reason to start early. Ms. Rooker said that Debbie Flack's reading on this is that if CEPD were generally in the construction mode of the project and had most of the construction done, CEPD's grant would be okay. Mr. Jensen suggested CEPD get a clarification on the "all or nothing" issue and Chairman Boyle agreed to do so. Chairman Boyle summarized that the Board generally agrees on a June 1, 2013 start date for the Capital Budget. Mr. Mullins asked whether a motion was needed. Chairman Boyle responded "yes." Mr. Mullins moved and Mr. Jensen seconded the motion. The motion passed unanimously.

## 7. New Business

### ○ Office Lease

Ms. Rooker summarized the terms of the proposed new lease: 4 years with no increase in rent for the next 4 years. She thought this was a good lease in light of a trend of escalating rates over the next 4 years. She reported South Seas and Royal Shell had no available office space on Captiva. Locating the office on Sanibel was discussed. Mr. Jensen asked for Ms. Rooker's opinion on this and Ms. Rooker said she had 3 concerns about not locating on Captiva: 1) the distance to the Hagerup Parking Lot and the Captiva Post Office; 2) the monitoring of Captiva's beach, particularly during a storm or other emergency situation; and 3) the feelings of Captiva citizens if the office were located on Sanibel or elsewhere. Chairman Boyle echoed the need to be on Captiva in case of an emergency, as was shown during Tropical Storm Debby. He also said from a public relations point of view, Captivans would rather have the District Office on Captiva. After discussion of the specific terms of the lease, Commissioners requested that Ms. Rooker:

1. make sure that the automatic renewal term that was in the first lease is not in this one;
2. secure 2 assigned parking spaces;
3. confirm CEPD's understanding that it can use the office space to hold meetings;
4. have the lease reviewed by an attorney

Ms. Rooker agreed to do so and get back to the Commissioners at the next Board Meeting.

### ○ Resolution 2012-9 (Office Lease)

Based on the discussion on the previous Agenda Item, this item was not discussed.

## 8. Administrator Report

### a) Lobbyist Update

Ms. Rooker reported on the CEPD's lobbyist, Greg Burns, activities. First, Mr. Burns was successful in getting the code removed in the files of the ACOE that the CEPD project is a reimbursable project. She added she had confirmation from the ACOE of this removal. Continuing, Ms. Rooker reported that Mr. Burns is currently working on strategy to determine how much federal funding is out there. She said he is pursuing two areas: supplemental funding appropriated by Congress at the current cost share; and Flood Control and Coastal Emergency (FCCE) funding at 100% funding. Also, he is looking at the ACOE work plan funding for next year.

Ms. Rooker also mentioned that Mr. Burns will be in the CEPD office at 3:00 p.m. on September 25 and will attend the FSBPA meeting on September 26. She asked that Board members let her know if they want to meet with Mr. Burns on the 26<sup>th</sup> at FSBPA. They will be individual meetings so as not to violate Sunshine Laws.

Mr. Mullins asked about the cost-benefit ratio that Marlowe and Company quoted in the proposal they had submitted for lobbying services. Ms. Rooker said she had verified that the cost-benefit ratio was 1.00 to 2.05 not 1.00 to 1.05 as Marlowe had stated.

**b) Army Corps of Engineers and FEMA Emergency Funds**

Ms. Rooker reported that all the CEPD requests had been submitted to the ACOE for assistance for supplemental emergency funding. She said she had also been in touch with J. Keiser of the ACOE, who said that she was working to qualify Captiva for the FCCE funds, which are paid at 100%. Ms. Rooker said it might be as long as 3 months before CEPD heard anything.

Regarding FEMA, Ms. Rooker said CEPD has received from FEMA an agreement and they have all the paperwork from CEPD they need. The next step is that FEMA will send a representative to Captiva to sit down with CEPD and write out a work plan to set out what is needed to restore the beach to what it was before TS Debby.

Mr. Mullins asked if the letter that was discussed last month had been sent to the DEP since he had not seen it. Ms. Rooker confirmed that it has been sent, and Mr. Mullins said he thought that it was a good idea that Commissioners see any document like this in similar situations. Chairman Boyle said he thought this was a good idea.

**c) DEP Rule Making**

Ms. Rooker explained that there was nothing in the Agenda Materials on this item since the phone meeting just took place this morning at 10:00 a.m. She said this was a conference between DEP staff and FSBPA on rule-making with others such as herself and Steve Boutelle from Lee County, listening in. She distributed her notes to the Commissioners.

Ms. Rooker reported on the following items, which she said were discussion points but not rules yet:

Eliminating the resort condo credit - Ms. Rooker reported everyone agreed that the resort condo credit should not be eliminated but that local sponsors were having trouble getting the numbers. Also, to do it yearly was very cumbersome and inaccurate. Participants agreed that a more general view needed to be taken and Ms. Fondren of the DEP agreed that DEP needed to lessen the burden to give resort credit. The next step will be to develop a more general matrix and this task was put in the hands of Lisa Armbruster, Alex Reed, and Danielle Fondren.

Second Row Development - Ms. Rooker reported the DEP will consider counting for eligibility hotel/motel or resort condos within a quarter of a mile radius of a beach access point and it does not have to be a beach front accommodation.

Alternative Transportation - Every four spaces on a bike rack counts as one car parking space as long as the rack is within one quarter mile of the beach access was discussed. For bus and trolley qualifying, they must run year round and allow people to board carrying their beach accessories. It must stop within one quarter mile of the beach access. Credit will be 4 parking spaces per each beach access with a maximum credit per access of 20 spaces.

Commercial Properties – Consideration will be given to include restaurants and commercial properties along the beach as eligible shoreline.

Ms. Rooker said DEP and FSBPA will continue talks and also engage with others at the FSBPA Conference. Rulemaking workshops are likely in October in hope that the rules will be completed by the end of the year.

**d) TS Debby Post Storm Survey Update**

Ms. Rooker called Commissioners' attention to the Agenda Materials containing the "Post-Tropical Storm Debby August 2012 Survey Analysis." She reported this is a preliminary report and CP&E is working on the final report. Ms. Rooker said this analysis had already been sent to the ACOE and pointed out that this preliminary survey shows significant sand loss between February 2011 and just after TS Debby.

Chairman Boyle then moved back to Agenda Items 5(b), Budget Amendment, and 5(c), 12/13 Tentative General Budget, which had been tabled earlier.

Mr. Mullins said that he did not find anything in the Rules of Procedures to support his opinion other than the fact that there are significant conflicts between what they say relative to TRIM. He said he did not find anything that specifically addressed ad valorem. Perhaps, he said, it is in the enabling legislation.

Chairman Boyle repeated the motion that had been tabled earlier and called for the vote. Ms. Holzheimer and Mr. Mullins voted against the motion and Mr. Jensen and Mr. Boyle voted for the motion. Since the vote was a tie, the motion did not carry and was lost.

**9. Public to be Heard**

Jack Cunningham said he wanted to go on record as favoring CEPD maintaining its office on Captiva, asked questions about the nourishment project funding, Lee County's participation in funding, and ACOE funding for next year's project. He also asked whether TS Isaac had changed anything and Chairman Boyle said it had not.

**10. Commissioner Comments**

Mr. Mullins thanked the Sanibel Police for their professionalism in a personal situation in which he was involved the day before.

**11. Adjourn**

There being no other business, the meeting was adjourned at 4:55 p.m.