

## **Minutes**

### **Regular Meeting of the Captiva Erosion Prevention District**

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

May 8, 2013 @1:00 P.M

Draft 2

**Commissioners Present:** Jim Boyle (Chair); Doris Holzheimer (Vice Chair); Harry Kaiser (Secretary); Dave Jensen (Treasurer); Mike Mullins (Commissioner)-arrived at 1:43 P.M.

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

**Consultants:** Steve Keehn, CP&E, Attorney Mark Raymond (conference phone)

#### **1. Call to Order**

Chairman Boyle called the meeting to order at 1:00 P.M

#### **2. Roll Call**

The roll was called and the results are outlined above.

#### **3. Approval of Meeting Minutes**

Mr. Kaiser moved and Mr. Jensen seconded a motion to dispense with the reading and approve the minutes as written from the April 4, 2013 Board Briefing Meeting, the April 10, 2013 Regular Board Meeting, and the April 10, 2013 Special Meeting. The motion passed unanimously.

#### **4. Public to be Heard**

Chairman Boyle recognized Sanibel City Administrator Judie Zimomra, who was in the audience, and thanked her for her support and guidance in his recent dealings with the Sanibel City Council. He reported that as a result of this, the Council had approved CEPD's request to do the Sanibel segment of beach nourishment on a 24/7 basis and use the Turner Beach parking lots as staging areas as long as both were not used at the same time.

##### **• Ben Jones – Revetment**

Chairman Boyle introduced Ben Jones and called Commissioners' attention to the series of emails contained in the Agenda Materials regarding his request for an adjustment to the apportionment calculation on his property for storm protection because of his concrete revetment. Mr. Keehn provided information pertaining to the situation via a PowerPoint presentation. He said the CEPD Board had adopted the Army Corps of Engineers model which took into consideration these kinds of structures. Mr. Keehn explained how properties of this nature benefit from the addition of sand. Mr. Jones presented his arguments and said the issue to him was the inadequacy of the credit he received in the storm protection apportionment calculation. Mr. Boyle said CEPD would review the issue with the ACOE.

## **5. Financial Report**

Mr. Jensen reported he saw nothing out of the ordinary in the General Fund and asked whether there were any questions. There were none. Regarding the Capital Fund, he reported the parking revenue was running ahead of the budget and asked a question of Ms. Paul-Young regarding the Local Grant Income budget of \$6,544,284. Ms. Paul-Young explained this was the forecast amount when the budget was drawn up for money from the ILA Agreement and the TDC grant. Mr. Jensen said that \$529,438 had been sent this month to the ACOE in advance for payment of design fees for the 2013 project.

## **6. Old Business**

### **a) Renourishment Project**

Chairman Boyle reported that although the sequencing option for the project was not pursued since CEPD received Corps funding, the bidding process continued for Collier County and Longboat Key. Neither entity received any bids from dredgers. He said it appeared dredgers were waiting to see what would happen in the Northeast as a consequence of Hurricane Sandy since it probably would involve much larger projects. Because of this, he continued, the Jacksonville District thought it needed to move as soon as possible and had condensed the schedule to receive bids to 2 weeks, award the contract(s) before the end of June, and begin work on August 1. The schedule of receiving proceeds from the loan on May 23 and wiring the funds to the Corps by May 24 remained the same.

Regarding the Sanibel segment of the project, Mr. Boyle said the ACOE would not allow it to be incorporated into the Corps project and CEPD will have to bid it separately. He said he and Mr. Keehn are working on the best and most economical way to do this. He added that even though CEPD did not go with the sequencing option, the bid process was not cancelled and it is possible to work up a bid modification for this segment. Another perhaps less desirable option might be to negotiate something with the dredgers once they are onsite for the Captiva segment. Whatever is determined best, he said it needs to be done by May 24.

Ms. Holzheimer asked whether the ACOE auditors are finished with their review and Mr. Boyle replied they were not. She then asked whether there might be more changes and Mr. Boyle said that it is possible.

### **b) Funding Status**

#### **o ILA**

Chairman Boyle mentioned that the ILA had been discussed at the Briefing Meeting on May 2. The County attorney recommended a change to the draft ILA provision concerning Turner Beach that would incorporate into the agreement a Turner Beach lease by reference to an attached lease. Mr. Boyle said CEPD would work with Lee County Parks and Recreation on this but it will slow down getting the ILA before the Lee County Board of Commissioners.

### **c) Tentative Apportionment**

Mr. Mullins explained that he thought it important to provide more current information as to what taxpayers' apportionments might ultimately be. Mr. Boyle said CEPD had been telling people to look at the low range of the tentative apportionment that CEPD had sent out two years ago and he thought this was a reasonable estimate. Mr. Mullins said that given the big agenda for this meeting, this could be discussed at a Briefing Meeting. He

added that the information need not be sent out – just have it available. He realized that it is still an estimate but felt that with more information, the greater the level of confidence. Mr. Boyle said he will discuss with Ms. Paul-Young and get back to the Board.

## **7. New Business**

### **a) Resolution 2013-5 Approving Project Loan Agreement**

Chairman Boyle asked if there were any questions and Mr. Jensen asked about the loan terms. He was referred to Exhibit A of the Resolution – “Loan Agreement” – and Attachment A – “Promissory Note,” which answered his questions. Mr. Boyle asked Ms. Rooker to read aloud Resolution 2013-5 in its entirety, which she did. Mr. Boyle asked for a motion and Mr. Kaiser moved and Mr. Boyle seconded a motion authorizing CEPD to borrow funds from Fifth Third Bank in the principal amount of \$9,600,000 to finance the cost of erosion control projects.

Ms. Holzheimer asked whether Mr. Raymond was okay with it and Mr. Raymond replied that he was – he had written it. Mr. Jensen asked about what would happen if the loan became taxable and Mr. Raymond explained under what circumstance this could happen. He added that these circumstances were highly unlikely. After additional discussion, the vote was called and the motion passed unanimously.

### **b) Captiva Island and Sanibel Islands Renourishment Project-Construction Services Scope of Work**

Chairman Boyle called upon Steve Keehn to outline CP&E’s proposal to provide construction services for the 2013 Project for \$302,742 as outlined in Exhibit A of the Scope of Work. Mr. Mullins moved and Mr. Kaiser seconded a motion to approve Resolution 2013-6 to approve the expenditure of \$302,747 for the bidding, design, construction management, post construction survey and reports of the 2013 Project. Mr. Mullins thought \$17,702 for Dune Vegetation Design and Construction was too high and asked what services were included in this amount. Mr. Keehn explained what was involved and when asked, talked about the differences between what was done back in 2006 and what was being proposed for this project. Mr. Mullins also questioned the \$29,650 for contingencies.

There was discussion of paying for work done outside of the construction contract, what might happen if the project exceeds the estimated 84 days to do the work, Nicole Sharp’s role as the primary onsite manager with Mr. Keehn serving as advisor, and options for Dune Vegetation Design and Construction to reduce the fee for this item by \$12,702. Mr. Mullins moved and Mr. Kaiser seconded an amendment to Resolution 2013-6 to change the amount in Section 1 to \$290,045. A vote was called on the amendment and it passed unanimously. The vote then was called on the original motion and it passed unanimously.

### **c) CP&E Professional Services**

Mr. Keehn introduced this agenda item by saying this was a time and materials contract for work done outside of the scope of work of the 2013 Project Construction Services Scope of Work. Mr. Jensen moved and Mr. Boyle seconded a motion to approve Resolution 2013-7 approving the expenditure of \$20,000 for Coastal Planning and Engineering to provide staff engineering services to CEPD. The vote was called and it was approved 4-1 with Mr. Mullins voting no.

d) **Proposed Designation of Critical Habitat of Loggerhead Sea Turtles**

Ms. Rooker reported on the research she had done on this issue. She said Captiva is not a high density nesting area for Loggerheads but because it is adjacent to Sanibel, where there is also nesting, Captiva was included. Her number one concern was that for federal projects this might add another layer of bureaucracy and make things more difficult. She said there was time to respond but the response had to specify the reasons behind the objection not simply object. She recommended that CEPD's position be that renourishment has helped not hindered nesting. Nourishment has created turtle habitat where once there was no beach and dunes that provide protection and nesting area. Ms. Rooker referred back to the 1980's before beach nourishment when there was no beach. After discussion, Commissioners decided to contact CEPD's lobbyist to lobby on behalf of the District to have Captiva removed from the list, write and file a position paper, work with CP&E's biologists, and determine what FSBPA is doing about this. Mr. Wilson suggested CEPD find out what "special management considerations" are and get Fish and Wildlife to change their position that sand placement is a threat to nesting.

**8. Administrator Report**

• **FEMA Update**

Ms. Rooker reported she had moved CEPD's request up the ladder. She also said there was confusion on FEMA's part in that they did not understand that CEPD had filed two different applications – one for Captiva and one for Sanibel. Also, Fish and Wildlife had already reviewed things and had provided a biological opinion – a fact that FEMA did not realize. She added that she had gotten all this straightened out but it still might be as much as year before the application is approved.

**9. Public to be Heard**

There were none.

**10. Commissioner Comments**

Mr. Boyle thanked Mr. Mullins for his willingness to contact Sanibel Commissioners. He added that Judie Zimomra had been very helpful in aiding him in his presentation to the Sanibel Commissioners, and Tony Lapi had also contacted them

Mr. Boyle also mentioned how helpful Jackie Keiser of the Jacksonville District of the ACOE had been throughout the 2013 project process. Mr. Mullins moved and Mr. Kaiser seconded a motion to nominate Ms. Keiser for both the ASBPA Corps of Engineers Award and FSBPA's Richard E. Bonner Award. The motion passed unanimously. In addition to the letter that Ms. Rooker would prepare, she asked Commissioners to add their own letters to the packet that would be prepared by CEPD in support of Ms. Keiser. Additional letters would help in the nomination process. Mr. Mullins asked Ms. Rooker to provide a template that they could use.

Mr. Boyle said there would need to be a discussion of how CEPD positions the change from \$7.7 million in Federal funding to \$5.8 million.

Mr. Mullins asked why Justin McBride had spoken for CEPD in an article in the newspaper and had conveyed incorrect information. Mr. Wilson said he had talked to Mr. McBride, who told

him the media had gotten the information wrong. Mr. Mullins asked why the reporter had not come to CEPD directly and Ms. Rooker said she had already talked to Mr. Boutelle about this

**Adjourn**

There being no other business, Chairman Boyle adjourned the meeting at 3:26 P.M.