

Minutes

Regular Meeting of the Captiva Erosion Prevention District

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

August 14, 2013 @1:00 P.M.

Commissioners Present: Jim Boyle (Chair; (Harry Kaiser (Secretary); Dave Jensen (Treasurer); Mike Mullins (Commissioner);

Absent: Doris Holzheimer (Vice Chair)-excused

Staff Present: Kathleen Rooker, CEPD Administrator; John Bralove, CEPD Assistant to the Administrator; Robin Mixon, CFO, Hans Wilson and Associates.

Others Present: Steve Keehn, CP&E; Nicole Sharp, CP&E.

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 July 9, 2013 Budget Workshop, the July 10, 2013 Regular Board Meeting, the July 18 Briefing Meeting, and the July 25 Briefing Meeting. Mr. Mullins said there was so much information in the Agenda Material that he needed them by the Friday before the Board Meeting for him to be able to fulfill his fiduciary responsibility. He thought CEPD had enough staff to get them out earlier and there was no reason this could not be done. He said he would continue to vote not to approve the minutes as long as he continued not to receive them in enough time to read them. Chairman Boyle said he agreed that there was a lot of material to review but the bids were not opened until Friday at 3:00 P.M. so the materials could not have been sent earlier. In terms of the minutes, Chairman Boyle said they are sent out to Commissioners electronically within 10 days after a meeting. Chairman Boyle called for the vote and the motion passed 3 to 1 with Mr. Mullins voting "no."

4. Public to be Heard

There were no comments.

5. Financial Report

Mr. Jensen reported on the General Budget, commenting that the fiscal year was winding down, Ms. Mixon and Ms. Rooker had identified areas where the full amount of what was budgeted would not be spent, and \$44,500 could be transferred to reserves. He added this will be considered in a later Agenda Item today.

Regarding the Capital Budget, Mr. Jensen said the Army Corps of Engineers had returned all the money that CEPD had advanced them. This included the first payment of over \$500,000 for engineering and design, and two other payments that exceeded \$10,000,000 and \$1,300,000 respectively. He also said that parking revenue will finish above the budgeted figure but reminded Commissioners that the lot will be closed during project construction. He added the budget for 2013-14 reflected this.

6. Old Business

a) Renourishment Project

• Project Bid Award

Chairman Boyle announced that CEPD had received 3 bids on August 9 from Great Lakes Dredge and Dock, Weeks Marine, and Manson Construction. The bid totals for each bidder were \$19,485,279, \$25,281,560, and \$31,585,120 respectively. He asked for a motion to accept the bid from Great Lakes Dredge and Dock in the amount of \$19,485,279 for the Construction of the Captiva and Sanibel Islands Renourishment Project and to proceed to execute the contract agreement with them in the same amount. Mr. Jensen moved and Mr. Kaiser seconded the motion as stated by Chairman Boyle. Chairman Boyle called for discussion.

Mr. Mullins asked why the beach fill amounts were different than the ones he had previously seen. Mr. Boyle explained that Addendum 14 had changed the amount to a total of 800,000 cubic yards. Mr. Mullins expressed concern as to whether the correct information got to the right people. He also was concerned about control of the documents as they were not numbered or dated. Mr. Keehn explained the original bid documents are not changed; changes are incorporated in Addenda. Mr. Mullins thought control of the bid documents should be tightened up to make sure there were no legal issues. Mr. Jensen pointed out that each bidder acknowledged in writing receipt of the Addenda. Mr. Mullins asked to see all the Addenda. He thought Commissioners should receive everything the bidders received so they could fulfill their fiduciary responsibility. He said to have everything dropped on them all at once at the last minute made it difficult for him to do his job.

Chairman Boyle acknowledged Mr. Mullins concern that it was a lot to digest. He said if this had been a normal business transaction without the problems the Corps caused, no one would have had to deal with the compressed schedule. Chairman Boyle said he had complete confidence in the integrity of the bid process. He also pointed out the Notice of Intent to Award, which is required by law to be issued to all bidders and posted on CEPD's website when the Board approves the selection of a contractor, further protects the integrity of the process and ensures that CEPD is compliant with all laws.

Mr. Kaiser asked Mr. Keehn what he thought of the Great Lakes bid and Mr. Keehn said given CEPD is up against projects in the Northeast, it was a very good bid. Mr. Kaiser said he liked that everyone would receive sand. Chairman Boyle commented that Great Lakes is proposing to use two dredgers and could be done within 60 to 65 days if there is "normal" weather for this time of year. Mr. Keehn said he had gone back to Great Lakes to see if they would lower their price or where there might be some savings, but he said he did not receive any response.

Mr. Mullins asked whether it were possible to go back to Weeks, tell them they are out of the running, and ask them if they want to lower their bid. Mr. Keehn responded that the way CEPD is bidding the contract, and Board Attorney Nancy Stroud confirmed this, under Florida law one cannot negotiate in that fashion. It would require CEPD to go out for a re-bid. Mr. Mullins then asked whether there were contingency clauses where CEPD would have to pay more money. Chairman Boyle responded that Change Orders could increase the price but the Board would have to approve them. Mr. Mullins asked about things like Acts of God. Mr. Keehn responded it is assumed that Captiva will have the same kind of weather it always has this time of year and a number of nonproductive days is included in the bid price. CEPD should not expect or accept requests from the contractor for additional money. Mr. Mullins asked what was the likelihood there would be Change Orders and Mr. Keehn responded that if there were any, they were likely to be technical and probably would not involve the payment of additional money.

Chairman Boyle summarized the estimated schedule Great Lakes provided in their proposal: construction starting on October 20, 2013 and finishing January 1, 2014. Mr. Keehn commented it might even move faster than this. Mr. Mullins asked whether there were anything CEPD could do to motivate Great Lakes to finish sooner. Mr. Keehn responded Great Lakes was already highly motivated since they had work coming up in Virginia starting in January. Mr. Keehn advised it was not necessary to spend any money to motivate them.

Chairman Boyle called for the vote and the motion passed unanimously. Ms. Rooker read Resolution 2013-12 approving the expenditure of \$19,485,279 for the construction of the Captiva and Sanibel Islands Renourishment Project. Mr. Mullins offered the Resolution and Mr. Kaiser seconded it. The Resolution passed unanimously.

Mr. Mullins asked about approving Change Orders and suggested the Commissioners think about a process to expedite this at the next meeting.

- **CP&E Change Order # 1 for Construction Services**

Chairman Boyle explained this Change Order was for CP&E to monitor and control all the project work; it added to the Scope of Work proposed when CP&E was only going to work alongside of the Army Corps. Mr. Mullins moved and Mr. Kaiser seconded a motion to approve Change Order #1. Mr. Jensen asked about the \$29,650 Contingency Charge and Mr. Keehn explained that it is a daily fee should the project run over 91 days. Chairman Boyle called for the vote and the motion passed unanimously. Ms. Rooker was asked to read Resolution 2013-13. Mr. Mullins moved and Mr. Boyle seconded a motion to waive the reading of the boiler plate material and just read the Sections. The motion passed unanimously. Ms. Rooker then read Sections 1 and 2 of Resolution 2013-13 approving the expenditure of \$399,721 for the Captiva and Sanibel Islands Renourishment Project Construction Services per Coastal Planning and Engineering Revised Scope of Work of August 14, 2013. Mr. Mullins offered the Resolution and Mr. Kaiser seconded it. The Resolution passed unanimously.

b) FY 13/14 Tentative Capital Budget (Revised)

Chairman Boyle reviewed a revised 2013-14 Capital Budget made necessary to reflect the Great Lakes bid of \$19,485,279 and the new amount of \$399,721 for CP&E for construction services to manage the entire project. Mr. Mullins suggested an amount be added to this

budget for contingencies. After discussion, Mr. Mullins moved and Mr. Boyle seconded a motion to add a line to the Revised Capital Budget of \$50,000 for contingencies. The motion passed unanimously.

7. New Business

a) General Budget Amendment/Transfer BA 2013-01

Chairman Boyle explained the purpose of the Amendment/Transfer was to transfer unexpended budgeted amounts in professional fees, equipment purchases, and consulting fees totaling \$44,500 to reserves. He explained this budget amendment does not increase or decrease the FY 12/13 budget. Mr. Mullins moved and Mr. Kaiser seconded a motion to transfer \$44,500 to reserves. The motion passed unanimously.

8. Administrator Report

a) Calendar of September Meetings and Public Hearings

Ms. Rooker reminded Commissioners of the three upcoming meetings in September:
September 3 @ 5:01 P.M. - Tentative Budget Hearing
September 23 @ 3:00 P.M. - Regular Board Meeting
September 23 @ 5:01 P.M. - Final Budget Hearing

Mr. Mullins raised the issue of a quorum being present at the September 3 meeting. Chairman Boyle said that if a quorum were not present, the rolled back rate becomes the millage rate, which is what the Commissioners had proposed as the tentative millage rate.

b) FSBPA and ASBPA Conferences

Ms. Rooker reminded commissioners of the dates of these conferences.

9. Public to be Heard

Nathalie Pyle asked whether the dunes would be obliterated during the project. Mr. Keehn explained that the dunes will not be touched. Indeed they will be added to and vegetated where there has been destruction. Chairman Boyle said the project calls for adding 22,000 cubic yards to the dunes. Jack Cunningham asked Chairman Boyle for new numbers for funding now that the Army Corps had declared Captiva ineligible for federal funding. Chairman Boyle said state funding would be between \$4.6 and \$4.7 million and Lee County's would be around \$6.1 million. He added that if the cost share for Lee County exceeded \$6.1 million, the County Board of Commissioners would have to approve the excess. The Chairman said the Captiva homeowners' share would be at around \$8.8 million. He added there was still a claim with FEMA. Ms. Rooker explained CEPD's claim had not been rejected but it always takes a while for claims in excess of \$1 million to move through the system. Mr. Boyle said if this claim is approved, it might reduce the \$8.8 million by \$1 million. He added that CEPD could take \$1.0 million or so out of reserves to reduce this amount further. CEPD would have a better handle on costs and what it had in reserves at the completion of the project.

Ms. Pyle asked about the financial mechanics of raising the money for the project and was told voters had approved a referendum over two year ago and that CEPD had received the loan proceeds in May. Ms. Pyle asked where the project would start and Chairman Boyle said CEPD would publish a schedule on its website and disseminate other information as soon as CEPD met with Great Lakes and can establish dates. Ann Brady asked when taxpayers would receive their

invoices for their share of the project. Mr. Boyle said it could be 1 to 2 years but his best guess was that it would be August 2015.

10. Commissioner Comments

Mr. Kaiser complimented both the staff and the Commissioners for the wonderful way things had worked out. Mr. Jensen echoed Mr. Kaiser's remarks. Mr. Mullins praised the commitment of the Captiva property owners to beach renourishment, especially in passing the referendum two years ago. Mr. Keehn commented that it made a big difference to the dredgers knowing CEPD had the money in advance. Ms. Pyle asked whether the sequester might have been responsible for the Army Corps denying funding. Chairman Boyle said he had asked this question and was told "no." Mr. Cunningham said he was pleased with the selection of Great Lakes. He also said he thought CEPD needed to establish a strategy about how it is going to proceed in having money in the future.

Adjourn

There being no other business, Chairman Boyle adjourned the meeting at 2:15 P.M.