

## Minutes

### Public Hearing of the

### Captiva Erosion Prevention District

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

June 5, 2014 @ 5:01 P.M.

**Commissioners Present:** Jim Boyle, Chairman; Doris Holzheimer, Vice Chair; Harry Kaiser, Secretary; Dave Jensen, Treasurer; Mike Mullins, Commissioner.

**Staff Present:** Kathy Rooker, CEPD Administrator; John Bralove, CEPD Assistant to the Administrator; Hans Wilson, Hans Wilson and Associates.

**CP&E Staff Present:** Tom Pierro

**CEPD Attorney Present:** Nancy Stroud

**Others Present:** Dr. William Stronge, Economist

#### 1. Call to Order

Chairman Boyle called the meeting to order at 5:01 P. M.

#### 2. Roll Call

The roll was called and the results are outlined above.

#### 3. Public to be Heard

Chairman Boyle provided a brief overview of the purpose of this meeting: a review of all written objections to the preliminary assessment roll mailed between May 19 and May 21, 2014 to all property owners. Following this, he said, the Board will also hear objections from the public that were not in writing.

The Chair introduced Dr. William Stronge, Nancy Stroud, and Tom Pierro and provided brief biographies of each. He outlined the process that would be used in reviewing the objections in Agenda Item 4. If persons representing the objector are at the meeting, they will be asked to present their objections. Then Ms. Stroud, Dr. Stronge, and Mr. Pierro will comment on the objection. After this, Commissioners may comment and/or have further discussion. The last step in the process is that the Chair will entertain a motion to accept the objection and adjust the assessment for that individual property. If there is no motion, or there is a motion but no second, there will be no adjustment. If there is a motion and a second to accept the objection, the Commissioners will vote on the adjustments to that property.

Chairman Boyle briefly explained how the model was data-dependent using Dr. Stronge's beach surveys, erosion data compiled by CEPD's engineers, CP&E, and Just Value information compiled by the Lee County Tax Appraiser and property characteristics as provided by the Florida Department of Revenue. He explained millage rates are then developed from this data.

#### 4. Assessment Discussion

The Chair asked that those speaking about the objections state their name and address for the record.

### **#1 - Gerhard Thelen**

There was no one at the meeting representing this property. Dr. Stronge said that the objection was based on condominiums being assessed at the multi-family rate and explained why this was done. Ms. Stroud said that this had been established for quite a while and would not recommend acceptance of the objection. Commissioner Mullins said it was not legal to use the terms "condominium" and "multi-family" interchangeably. He said that if the attempt is to have rental properties receive a higher assessment, then this is a misinterpretation of how the Property Appraiser uses the terms. He said that if CEPD's goal is to address the fact that rentals use the beach more and therefore should pay a bigger piece, he thought CEPD is not achieving that. He thinks CEPD is discriminating against multi-family or condominium dwellings that may or may not be rented if they are not homesteaded.

Chairman Boyle said that Commissioner Mullins' assertion at the last meeting that it was the intent of the process to treat rental properties higher than single family properties was not correct. Chairman Boyle said at no time was this the intention. The change of 66 properties from single family to multi-family was done by the County and CEPD made no attempt to change or influence this. He also said that the idea of condos using the beach for recreational purposes at a higher rate was based on Dr. Stronge's surveys. Dr. Stronge confirmed this. Chairman Boyle said that there was general agreement among Board members that data needs to be developed to determine which properties are used for rental purposes. The Chair said that Dr. Stronge can accomplish this by asking additional questions in future beach surveys which would generate the data needed to develop the millage rate. CEPD does not currently have the mechanism for identifying which properties are rental properties. After additional discussion about the model, the Chair asked Commissioners for a motion to accept this objection. Commissioner Mullins moved acceptance but there was no second. The objection therefore was not accepted.

### **#2 - Captiva Island Yacht Club**

Katy Berkey of the Pavese Law Firm represented this property. She went over the objection letter that had been submitted and summarized the objection. She asked that the DOR code, which she said was arbitrary, be changed to "institutional." Ada Shissler, former Commodore of the Yacht Club, also spoke on behalf of the objector. Ms. Stroud addressed some of the points that Ms. Berkey made and concluded that the issue is with the Property Appraiser's classification. Dr. Stronge agreed, saying the CEPD is simply using the Appraiser's code and cannot change it. Commissioner Mullins said that in the interest of full disclosure, he and his wife are equity members of the Yacht Club. To avoid a conflict of interest, he "will not make a motion that this be treated differently."

Chairman Boyle expressed sympathy with the Club's objection and suggested that the Club take it up with the Property Appraiser. However, he said, CEPD's Enabling Legislation does not empower the District to change the classification. He called for a motion to accept the objection. There was no motion and therefore the objection was not accepted.

### **#3 - James Smith**

The Chair asked if there were anyone present representing Mr. Smith. No one came forward. Dr. Stronge provided an historical perspective of how this property came to be classified as a condominium. He said CEPD is following the Property Appraiser's designation. He said the other

objection is based on the contention that the property is not gulf front. He said, however, that it is gulf front and was being treated the same way as other similar properties. Commissioner Mullins moved to accept the objection. He said CEPD has an obligation to be both fair and equitable and go beneath the surface. Chairman Boyle asked if there were a second to the motion. There was none and therefore the objection was not accepted.

#### **#4 - Joseph Soukup**

Mr. Joseph Soukup introduced himself as representative of this property. He said his assessment was excessive compared to some other properties. He also said he did not use the beach. Dr. Stronge replied that the assessment was far less than properties on the beach that Mr. Soukup cited. Mr. Soukup asked how he could find out what the assessment rates are. Chairman Boyle said the roll is a public record and Commissioner Mullins suggested that if Mr. Soukup were to bring specific examples, CEPD could look them up. The Chair called for a motion to accept the objection. There was none and therefore the objection was not accepted.

#### **#5 - Island Water Association**

Jack Cunningham, President of the Board of the Island Water Association, represented the IWA. He said he would save his comments for later as long as Commissioners and staff had read the objection letter. Dr. Stronge said the objection was based on the ILA being a not-for-profit organization but the Board had determined that the IWA did get benefits just like other businesses. Mr. Cunningham said the ILA had not been assessed in the past. Chairman Boyle explained that the Board had decided at its April 2014 meeting to assess all properties per its enabling legislation. After additional discussion, the Chair asked if there were a motion to accept this objection. There was none and therefore the objection was not accepted.

#### **#6 - Captiva Civic Association**

Paul Garvey represented the Civic Association and said he would reserve his remarks for later. Dr. Stronge said this case was similar to the one before: the Civic Association does benefit from the beach. He added that the approach is to look at the benefits that accrue to the property not to the owners. He also restated that the Board had decided to assess all properties. Mr. Garvey said this was the first time the Association had been assessed and what makes it different than the Fire District and Chapel-by-the-Sea. Chairman Boyle explained the differences and asked for a motion to accept the objection. There was none and therefore the objection was not accepted.

Chairman Boyle asked for any verbal objections. Commissioner Mullins explained that he had agreed to bring up Jim Berg's objection to the methodology that the Just Value of a property is taken into consideration. Dr. Stronge explained why Just Value is part of the model.

#### **Public Comment**

Joe Schwartzel said as a gulf front property owner, he could provide anecdotal information that rentals use the beach more than residents and have a significant impact on the beach. He said deeded access bay properties use the beach more than residents. He added that in the future he would like to see a reduction of the impact in the methodology of the value of a house.

Jack Cunningham asked how other not-for-profits are treated in other parts of the state. What precedent is there for taxing not-for-profits? Dr. Stronge said he was not familiar with what was done in other parts of the state. Ms. Stroud said the assessment for ad valorem tax for not-for-profits is controlled by state statute. However, special assessments are different. She said CEPD's authority comes from special Florida legislation that enables the Board to assess everybody. Com-

missioner Mullins said CEPD is unique in the state of Florida in that it is the only special district dealing with beach renourishment in the state. He added that there are many precedents in the state for assessing not-for-profits for public works projects.

**5. Adoption of Resolution 2014-6**

Commissioner Kaiser offered Resolution 2014-5, adoption of the final assessment roll, and Commissioner Mullins seconded it. Mr. Bralove read aloud the Resolution and Chairman Boyle called for the vote. The Resolution passed unanimously.

**6. Adoption of Resolution 2014-5**

Commissioner Mullins offered Resolution 2014-6, reduction of the principal amount of the Fifth Third Bank loan, and Commissioner Kaiser seconded it. Mr. Bralove read aloud the Resolution and Chairman Boyle called for the vote. The Resolution passed unanimously.

**Adjourn**

There being no other business, Chairman Boyle adjourned the meeting at 6:41 P.M.