

Minutes of the Regular Meeting of the Captiva Erosion Prevention District

'Tween Waters Inn, Wakefield Room
15951 Captiva Drive, Captiva, Florida 33924
June 9, 2010 at 12:00 P. M.

Commissioners Present: Mike Mullins (Chairman), Dave Jensen (Treasurer), Harry Kaiser (Secretary), Rene Miville (Commissioner), Doris Holzheimer (Vice Chair – via telephone)

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

Presenters: Steve Keehn, Coastal Planning and Engineering; Robert Neal, Lee County Natural Resources

I. Call to Order

Chair Mullins called the meeting to order at 12:02 P. M.

II. Roll Call

The roll was called and the results are detailed above.

III. Approval of May Meeting Minutes

Mr. Kaiser moved and Mr. Jensen seconded a motion to dispense with the reading of the minutes from the May meeting. The motion passed without dissent.

IV. Public to be Heard

Chair Mullins introduced Jason Maughan, a Sanibel attorney, who in turn introduced James Etchechury, a partner in ERA Financial Group, LLC, who represents Containment Resource LLC, a shallow water oil containment boom manufacturer. Mr. Etchechury presented information on the current status of the oil spill, how his company is supplying contractors in Louisiana, how oil booms are used, costs, shelf life, and other information. Commissioners and members of the audience asked questions. Mr. Keehn commented on how approval is gained, the agencies involved, and his experience gained recently during visits to the panhandle area of Florida. Mr. Mullins thanked Mr. Etchechury for attending.

There was discussion about how beach cleanup would be performed, the approach the District is taking, CEPD's draft of a back-up plan, a process for vetting the plan, and how CEPD would go about getting a back-up plan approved.

V. Financial Report

Mr. Jensen began his report by stating that the loan amount (debt service) currently owed by CEPD is \$2,022,000 and the interest rate is 3-1/2%. Mr. Mullins discussed the idea of paying down the loan since the interest rate on CEPD's investments is well below the interest rate it is paying on the loan. He mentioned that although CEPD knows its normal costs, there is still information that it doesn't have that relates to the ability to pay down the loan: what is still owed for the Blind Pass Project and the outcome of the Florida DEP reconciliation audit, which could be between \$300,000 and \$500,000 that CEPD would have to pay back.

Mr. Mullins also talked of securing a line of credit should CEPD pay down some or all of the current loan. A cash flow analysis meeting will be scheduled with Mr. Jensen, Mr. Mullins, Ms. Rooker, and Ms Paul, CEPD's accountant, to get data about how much the District might be able to pay down. Also, a teleconference between Mr. Mullins, Ms. Rooker, and Mark Raymond, CEPD's bond attorney, will be scheduled for June 10 to talk about what CEPD might be able to do.

Mr. Jensen reported on rent payments, beach benefits study expenses, and miscellaneous revenue.

VI. Report of the Senior Administrative Consultant

a) Army Corps Visit

Ms. Rooker reported on her meeting with staff from the Army Corps of Engineers. CEPD is using its parking and public access to its maximum to improve cost-sharing. Getting more parking could increase the cost-share percentage. Because South Seas Resorts has no public access, it affects the cost-sharing formula. If it were excluded, the cost share might increase 35%. However, Mr. Keehn mentioned there might not be a net benefit, as his presentation later on the agenda may indicate. Moreover, if CEPD asks the Corps to revisit the model, it might have an adverse effect.

Discussion moved to increasing parking and various sites were identified. Mr. Kaiser was asked to approach the CCA and Mr. Mullins will talk with South Seas in a comprehensive discussion that will put all the topics between CEPD and South Seas on the table.

b) Beach Volunteer Training

Ms. Rooker reported that CEPD had over 70 people registered for each session of the volunteer beach training session for next Monday, June 14. CEPD is setting up additional sessions in July to accommodate those who were turned away. Ms. Rooker also commented that when she talked to John Wilson of the Lee County Emergency Management Office, he was very enthusiastic about the District's efforts. He said that the county might be able to use the trained volunteers for shoreline assessment should BP not allocate enough people to this effort.

c) Resurface of Parking Lot

Ms. Rooker reported that the County did a great job of resurfacing the parking lot. They regraded, added material, rolled, and compacted the surface. Arrangements will be made with a private contractor to maintain the surface of the lot. Mr. Mullins asked those in the audience to let CEPD know if they see problems.

d) Estimate of 2010 Assessed Value – Budget Workshop

The issues related to a decrease in assessed values, increasing the millage rate, passage or not of the referendum, and related matters as they affect CEPD's budget were discussed. The issue of where emergency funds would come from if there is a significant oil cleanup effort necessary was also discussed. Depending on the circumstance, CEPD could seek reimbursement from BP.

After discussion, budget workshops were scheduled for 1:00 P.M. on Tuesday, July 13 and a follow-on session at 9:00 A.M. on Wednesday, July 14, both at the CEPD office.

VII. Old Business

a) Response to Deepwater Horizon Oil Spill – Oil Spill Beach Projection and Cleanup Plan for Captiva

Steve Keehn of Coastal Planning and Engineering provided an overview of the oil spill situation and what he has learned from his visits to the Panhandle area of Florida. He mentioned that if an agency or organization has a plan, it must go through channels for approval. He said that there are three possible outcomes: it might be allowed and reimbursed by BP, some other agency may have already planned for it or is doing it, or it is not allowed. If a plan is accepted, it must be permitted.

Mr. Keehn went on to talk about the draft of the backup plan for Captiva. It assumes the construction of a berm if the oil spill takes the form of liquid but not for tar balls or tar patties. He mentioned that if oil reaches the beaches, the beaches would be scraped of the contaminated sand, and new sand put in its place. The sand would not be cleaned. He recommended that CEPD take his plan after he revises it again based on some new information, meet with the County Emergency Management (EOC) before we authorize work, and try to figure out what Captiva could do to compliment EOC's plan.

b) Blind Pass Design Update and Permit Modification

Robert Neal from the Lee County Department of Natural Resources was called upon to present his report. He stated that the reason he is at the meeting today relates to the interlocal agreement between Lee County and CEPD. Before Lee County authorizes work, they would like to get CEPD's input to make sure that everyone is aware of the anticipated costs coming down the line. He presented a narrative, schedule, and costs outlining the next 8 tasks (Task 1 through Task 8) titled "Blind Pass Restoration Annual

Monitoring Design Update and Permit Modification Scope of Work CEC File No. 08.043, April 17, 2010.” He outlined the scope and costs for each of the tasks and when they were scheduled:

- Task 1 – Seagrass Mitigation Monitoring - \$19,480
- Task 2 – Transplanted Seagrass Mitigation Monitoring - \$4,680
- Task 3 – Physical Monitoring Survey and Report - \$70,070
- Task 4 – Design Update - \$7,250
- Task 5 – Permit Modification - \$13,210
- Task 6 – Bid Process – \$3,540
- Task 7 – RAI Response - \$6,300
- Task 8 – Biological Opinion Update - \$4,160
- Total \$128,690

Mr. Neal stated that he is seeking authorization for the \$128,690, of which CEPD’s obligation is approximately \$45,000. Mr. Jensen asked whether any of the \$128,690 included re-dredging costs and Mr. Neal responded that it did not.

Mr. Mullins asked how much is still outstanding from the Blind Pass project. Mr. Neal reported that approximately \$2.6 million had already been spent out of \$3.5 million budgeted. This leaves approximately \$900,000 of the budget that was not spent. Mr. Neal also reported that there are no more hard construction costs to be paid. Ms. Rooker mentioned that there was a bill to be paid for \$138,000. Mr. Mullins stated that when all the numbers and estimates are run, it appears that CEPD is still within its budget for the project.

Ms. Rooker asked about placing sand outside of CEPD’s template and the monitoring thereof, which is outside the interlocal agreement, which does not benefit Captiva, and which increases overall costs. Does the County expect CEPD to pay for this? Mr. Neal responded that subject to the interlocal agreement, the answer is yes (at the 34% cost share rate). Mr. Neal said that the permit modification does anticipate dredging sand from Blind Pass and depositing it on Bowman’s Beach. Mr. Neal said that putting the sand there is negotiable and that perhaps the interlocal agreement be revised to get credit for CEPD for placing sand at Bowman’s Beach. He said that it is of benefit to the Blind Pass opening. Mr. Miville recommended that we try to see what CEPD and the County can come up with to resolve this.

Mr. Miville asked why the monitoring cost so much and Mr. Neal explained it, giving additional detail of the costs. Mr. Mullins asked whether Sanibel is going to participate in any of the costs that are outside of the interlocal agreement. He thought they should and Mr. Kaiser agreed.

There was discussion about whether it was necessary to get a permit modification for re-sweeping or not and how long it would take, and particularly whether significant changes would draw the process out. Mr. Miville suggested that CEPD ask for a meeting with DEP so that we could explain the situation more completely to them. Mr. Keehn

recommended that the permit be acquired so that everything would be in place when the work was necessary. He commented that the permit was good for 5 years.

Mr. Mullins asked whether it might be possible to carve out that which needs to be done now particularly in light of the oil spill. After discussion of what Tasks should be done now, Mr. Miville moved and Mr. Kaiser seconded to approve Tasks 1 through 4. The motion passed without dissent.

Mr. Miville ask Mr. Neal how could CEPD do a better job of supporting Lee County Natural Resources staff in being our cheering section in cost sharing and dealing with other issues? Mr. Neal responded by saying that in regard to the Blind Pass project, he agreed that if it is outside of Captiva not receiving benefit and Sanibel is, then they should step up to the plate. Mr. Neal stated that another option if Sanibel doesn't want to pay for the benefit of sand placed on their beach, CEPD discuss with DEP locating the sand on Captiva. Mr. Boyle and Mr. Kaiser commented that it might be a good idea to put sand on Captiva instead since there are hot spots on Captiva. The issue of "back passing" was then discussed among the Commissioners, Mr. Neal, and Mr. Keehn.

Mr. Mullins suggested that a meeting be set up between Lee County Natural Resources, CEPD, and the City of Sanibel, to put all the issues on the table, and see if we can find a compromise as we have done in the past so that we can work cooperatively, move forward, and determine who is responsible for what. We can save a lot of time while the permitting process is going forward: we negotiate the sand issue, we are ready to revise the interlocal agreement, and we are shovel ready once we know what the situation is with the oil spill.

c) Partners in Progress Contract

This item was continued from the May discussion. The new contract has an automatic Consumer Price Index increase as part of the present contract and a 3% performance increase. Mr. Kaiser talked about designating a percentage for Ms. Rooker. Various other ways of compensation for Ms. Rooker and Partners in Progress were discussed. Mr. Mullins asked Ms. Rooker whether she got mileage. Mr. Boyle asked whether it was within the Board's prerogative to award Ms. Rooker a bonus. Ms. Holzheimer, Mr. Mullins, and Mr. Kaiser talked about PIP's performance. After additional discussion, it was moved by Mr. Jensen and seconded by Mr. Kaiser to approve the Consumer Price Index increase for PIP effective June 1, 2010, and an additional 3-4% increase for Ms. Rooker retroactive to June 1, 2010 in a separate expense reimbursement arrangement to be determined in communication with Ms. Rooker. The motion passed without dissent.

d) Request for Florida Attorney General Opinion on Local Option Tourist Development Tax

Ms. Rooker explained that the packet of materials for this agenda item contained both CEPD's attorney's letter and brief to the state Attorney General and Lee County's information on their position. It is for information purposes and no action is required.

VIII. New Business

a) Engineering Report

Steve Keehn presented charts and graphs of his report, particularly as it relates to the cost portion and emphasized that it was a draft so CEPD has another 30 to 60 days to finalize the cost and the details of the project. He stated that CEPD is meeting the state standard for Sanibel Island. He suggested that zone boundaries (for accretion) as presented on his graph might need slight adjustments. He offered to talk to Dr. Stronge about them in the next few weeks and report back to the Commissioners.

Mr. Keehn then presented information on cost-sharing based on three alternatives: all three regions (Captiva and Northern Sanibel including Bowman's Beach, Captiva and Northern Sanibel excluding Bowman's Beach, and Captiva alone). A discussion ensued as to how the cost-sharing figures are arrived at by the various agencies, especially as they relate to storm benefit versus recreational benefit.

He then turned to the financial and cost projections. They are based on a 3% inflation rate. He displayed three alternative cost estimate scenarios plus two subsets that coincide with the cost-sharing information he just presented (Captiva and Northern Sanibel including Bowman's Beach, Captiva and Northern Sanibel excluding Bowman's Beach, and Captiva alone). Mr. Keehn will revise these figures based on the Commissioners' feedback and input he will receive at a meeting with staff and Commissioners Friday.

The discussion then turned to what cost amount should be used for the referendum. Mr. Mullins suggested that CEPD may need to debate what should be done in the nourishment when funding sources are undetermined. He suggested CEPD get a commitment from the county up front. Concern was expressed about whether too much money asked for in the referendum might not cause the referendum to be defeated.

Ms. Holzheimer reminded the group that federal funding is contingent on whether there is state funding. Mr. Mullins remarked that if the referendum fails, CEPD can go back again next year, which supports the notion of going with the referendum this year.

b) Apportionment & Summer Survey

Mr. Mullins suggested that CEPD needed to document the apportionment process and model to make sure that CEPD is in compliance with the Freedom of Information Act.

Mr. Jensen moved and Mr. Kaiser seconded to approve William Stronge's proposal to perform the apportionment. Mr. Mullins and Mr. Kaiser supported the idea that CEPD needed to move this question now because there was not enough time to reconsider it next month. Ms. Holzheimer raised concerns about property that is not taxed or considered before, rentals, and public concerns that they have had before and that we have not addressed. The motion passed with the approval of all Commissioners who were in attendance.

The discussion turned to the topic of the summer survey and whether it is necessary. Ms. Holzheimer said that there was a lot of data from the winter survey that CEPD could use. Mr. Mullins said that if CEPD wanted a summer survey, it could pay to have it done later in the year although the cost might be higher. The Commissioners took no action.

c) Special Assessments

The discussion of this item involved the reimbursement to tax payers for overpayments discovered from periodic reconciliations performed by CEPD. The amount of money involves approximately \$6,000 to \$10,000. The process for assessments has been improved so that it will not happen in the future. Ms. Rooker explained to the Commissioners that this is an information item only and no action or vote is required on their part.

d) Wells Cargo Mobile Restroom Proposal

Ms. Rooker and Mr. Bralove provided information on the replacement of the portable toilets on the Hagerup Parking Lot with a 3-unit, ADA-compliant, mobile toilet trailer. The TDC had set aside \$60,000 for the purchase and installation of more permanent toilet facilities for last year and Ms. Rooker had persuaded them to carry this amount over to this year. However, the funds must be used by September or they are lost.

The question was raised as to why the portable toilets were not adequate and Mr. Mullins responded that there was the issue of them not being ADA-compliant. The height of the new units compared to present portable ones was raised. Mr. Bralove said that this information is not in the specifications but he would get it from the manufacturer. Mr. Mullins asked that Mr. Boyle be given the information on the mobile toilets that was in the Board packets. (Note: This information was given to Mr. Boyle at the end of the meeting along with a full brochure.)

This agenda item will be discussed again at the next meeting after Mr. Boyle has had a chance to view the information and after Ms. Rooker has discussed the plans with Mr. Boyle and representatives of South Seas Resort.

IX. Commissioner Comments

There were none.

X. Adjournment - The meeting adjourned at 4:25 pm.