

## Captiva Community Panel

# MINUTES

*Dec. 12, 2017*

**Attending:** Dave Jensen, Mike Boris, David Mintz, Mike Mullins, Rene Miville, Tom Rathbone, Mike Lanigan, Jay Brown, Sandy Stilwell. **Absent:** Bob Walter, Andreas Bieri

**Audience:** 18

Meeting convened at 9 a.m. Introductions and roll. Nov. 14 minutes... (Mullins/Boris), unanimous approval.

**CEPD:** *Kathy Rooker:* Tomorrow's CEPD meeting starts at 1 p.m. at Tween Waters Inn in the Ding Darling room, two presentations, looking for an economist to prepare benefit survey for next project. Two firms presenting and questions. Bill Stronge and another company. I gave notice in November, ready for new challenges. Wonderful experience past 10 years, nothing in mind, open to new opportunities. Thanks to all. Very fortunate, I speak to other beach managers and we are unique. Seeking a replacement, very particular. Districts is in wonderful position, good project, financially solid, in good hands. *Harry Kaiser:* I'm a CEPD commissioner, Kathy did an outstanding job. We're in great shape, wish her well. *Miville:* Background, important to reach planet wide to find new administrator, amazing backgrounds who'd be interested in working here. Discussion. *Mullins:* Welcome to send email on your thoughts for job description.

**CFD:** *Deputy Chief Jeff Pawul:* Holiday season, test your heat during the day please to avoid those late-night calls. No extension cords outside. Pretty quiet, successful fireworks, both events went off well.

- **ACTION:** *Follow up on grate issue in front of station with Lee DOT.*

**LSCO:** No one present.

**Captiva Plan:** *Mintz:* Background and committees. Nov. 22 BoCC hearing, I testified, commissioners transmitted our plan unanimously for state review, probably back in January or February for final adoption hearing. Consistent with state plan, should not have any issues.

**Captiva Code:** *Mintz:* Plan gives us goals, objectives and policies. Code implements plan, detail and legislation. Some LDC changes have already been made in conjunction with plan changes. Adoption hearing was Nov. 21 at BoCC, unanimously approved. Next step is to review issues that have arisen in the course of plan discussions. County held a meeting Dec. 5 with other communities, working with them in similar changes to plan and code affecting them communities. Plan visioning sessions in communities, updating plans for them. County is no longer funding community planning efforts, doing it on their own by having staff do the work. Different process. *Brown:* Major differences. *Mintz:* We have already done our new version of plan, not part of this effort. Told county staff we want to do the code ourselves. Got funds from county as in the past, but no money in budget for plans this year. Two ways: Enter into county agreement to do a code update, or pursue a community-initiated code amendment. Spoke with county planning manager, asked if we could enter into a contract to recognize our role. Amenable to idea. Took old county contract and revised to update role. (Handed out copies.) Long negotiation, want it to be

recognized that we're working with the county on this effort. Next question is what are we doing? We were asked to have a plan and timeline today. *Brown*: Depew issue still to be resolved. How does it fit in with this effort? *Mintz*: Incorporate in this effort. Discussion.

*Gooderham*: Handout in packet covers the issues Mintz has collected, broken into four issue areas. Third page is a schedule of deadlines and meetings to move this forward. Goal would be to have public input via workshops and survey complete by end of April 2018 for panel review at its May meeting. That would give the Code Committee the summer to research options and obstacles, and to prepare some initial language to bring back to the panel at its November meeting. That language could be reviewed and discussed by the community during the winter season of 2018-2019, with the intention to have final language ready to submit to the county to amend the Captiva Code by July 2019. We're asking the panel to approve this tentative schedule today so we can move forward on drafting survey language for review in January along with a schedule of public workshops between mid-January and the end of April. Mintz offered a recap of the request. *Lanigan*: What is planned for survey communications? *Gooderham*: For the last survey we sent all property owners and voters a postcard with a link to the online survey, plus sending it to the email list. We will print out and mail copies to people on request. Discussion. *Miville*: Reach out to rental agents. *Mullins*: Look for database to enhance coverage. *Mintz*: Will reach all residents and property owners. Four categories for meetings, not set in stone. Input on what should be on and off the list. *Brown*: Where is the current code document. *Mintz*: On website. A lot of regulations not in the code. All over the regulatory pattern, we hope to put them all in one place. Speeding vs. land development codes. FYI, 10 mph at S curve is a suggestion instead of a rule.

- **ACTION**: *Prepare draft survey and workshop schedule for January panel meeting.*

**CCCL**: *Mintz*: Shockingly complex. Handed out Coastal Construction Control Line map. Rae Ann Wessel brought this to the last panel meeting. Land Development Code amendment proposed to change policy to allow septic system seaward of 1978 CCCL. The 1991 CCCL is further landward, a line of jurisdiction for state. The 1978 line was always a line of prohibition for the county, can't build seaward of that. *Brown*: Discussion, State authority to review and approve. *Mintz*: County says it does not have expertise to locate septic systems, wants to leave it to the state. The 1978 CCCL used to be a line of prohibition, now they want to drop jurisdiction. *Mintz*: State did approve septic system seaward of 1978 line, but county building dept. would not issue permit. Rather than variance, county suggested to remove the language altogether. ????: Is state rubber stamping permit applications? *Mintz*: Not necessarily, has DEP and DOH review. Performance-based system is allowed to be closer to water. *Mullins*: Discussion of field permits. *Gooderham*: Issue is also major vs. minor structures being approved, which gives the property owner the subsequent right to protect permitted item in the face of erosion. That would even lead to armoring the shoreline to protect the permitted system.

*Mintz*: It gets worse. Septic prohibition language was added in 2005 amendment, staff wanted to clarify. Now trying to take that prohibition out. State allowed septic in 2002, county changed rules in 2005 to prohibit it. Pattern of approval. Goes to BoCC next. In 2005 amendment changes citation to prohibit deviations seaward of 1991 CCCL. Governing provision was changed from the 1978 line via the rewording of the citation, and no one knew it. Loads of houses built seaward of the 1991 line after the 2005 LDC amendment and no one sought a variance because staff did not notice the change in citation language. We looked at advisory committee minutes from 2005, EROC kept 1978 line but BoCC voted

on 1991 line. We don't know what happened to that language. Met with county staff Monday, they were somewhat aware of issue, now seriously aware of problem. Have prepared a resolution based on Sanibel plans, want the panel to pass this for county suggestion. *Brown*: Don't have a whole lot to add to state review. Opinion? *Mintz*: Two things going on, general bias to development by county in general. *Mullins*: Some buildings seaward of 1978 line. *Gooderham*: When the 1978 line was established, property owners were given a window of opportunity to build seaward of the line. After that, building was prohibited.

*Mintz*: County has bias toward development, also regulation is too hard so they want to get rid of any they can. *Miville*: Development is not always bad. County is growing, will naturally have a bias to development. Zeke, what's happening there? *Zeke McDonald*: Not permitted. Large house on a small lot. Has been litigated since mid-1990s or 1980s, at least. *Miville*: Find a compromise to allow them to keep language in. Give everyone a solution where they can save face. *McDonald*: Did not apply for variance, owner wants to change regulations for entire county. Beach is erosional, has been accreting now but will change over time. Rather than going for a variance, want to change entire code. Upper Captiva Panel just found out about this from Rae Ann. *Mintz*: Given the property owners involved, no sense that this litigation will go away. Need to remove this from an important policy decision being made by county. Make decisions based on community, not one property owner. Can't just leave it alone, would leave 1991 line in place. *Rae Ann Wessel*: Mintz's work on this has been extraordinary. County has responsibility to taxpayers that the state does not have, do not have right to dismiss authority to state, a county pattern of streamlining to eliminate responsibility. Nexus of interest that county has had that trying to dismiss due to streamlining. Financial exposure to owners by county actions. DOH issues septic permits, DEP issues permit for structures forward of CCCL. Very different issues addressed, and different from the county responsibility.

*Mike Kelly*: Last time we worked on the code, we said we were concerned about septic control. But the county resisted the issue, passed it on to the state. We were unable to put in place restrictions we wanted to impose. This will come back again, why can't county control septic placement. *Jensen*: Very powerful words by Wessel, review them and include in resolution. *Lanigan*: When is Manning going to come to our meetings? We have important issues here. *Mintz*: Staff does not know what's next, hearing scheduled in January and February, but not sure what action will be taken at this point. *Brown*: Get this on record now. *Mullins*: Power of words, when is this needed? Issue of CCCL problem at county level. *Antje Baumgarten*: Wonderful work, idea is to protect the island and law doesn't serve that purpose alone. Need support for philosophy to protect the island by the county. *Mullins*: Some issues with this resolution, would like time to digest this. *Mintz*: County allowed to have laws more strict than the state, by DEP wording. *Mullins*: What's the rush to do this now? *Boris*: Getting on the record now. *McDonald*: May influence county staff's actions. Discussion. *Mintz*: Staff is deciding what to do about this confusing issue. I can't take position on behalf of panel unless panel acts. *Jack Cunningham*: Mintz is the expert, now is time to act. *Mullins*: Motion to accept as is (Boris). *Mullins*: Has holes in it. *Mintz*: Some language from Sanibel resolution. *Jensen*: Delay a problem to craft language. *Miville*: Could CEPD craft its own resolution? *Mintz*: Happy to reword. Discussion. *Wessel*: \$3 billion revenue from coasts based on tourism, 98% generated by beaches. Unique responsibility county has to taxpayers not covered by state. *Mintz*: Reflect Wessel's language on beach and water quality. Amended as per discussion. Unanimous approval. *Mullins*: What is structure, effect of septic on the bayside? What about illegal properties?

- **ACTION:** Follow up on county staff plans for LDC language on CCCL.

**Sunshine Cafe:** *Stilwell:* Passed around picture of proposed awning, packet has picture of current awning. Louvered system that can shut when it rains. Public information presentation only. *Mintz:* No information about the deviation to be requested. *Stilwell:* Explanation of plans. *Lanigan:* 12 feet from building? *Stilwell:* Extends further, most of the seating will be outside so we need to cover area. *Brown:* Need a public information meeting? *Stilwell:* Every time I go back to county they require something different. *Brown:* Need approval? *Stilwell:* Asking to build it as is. Drawing to be included. *Lanigan:* Removing rental units? COP license been resolved? *Stilwell:* Yes to both. *Boris:* Are we listening without blessing it? *Mintz:* Not public information meeting, just presenting in a public forum. *Miville:* Stilwell is termed out, has served on panel twice. She has been very helpful in working with county officials, she and I were known by them and made a big difference. Applause. *Miville:* LDC did not indicate action, resolution late in plans.

**Dates and budget:** *Gooderham:* 2018 schedule and budget in packet, meeting calendar follows usual pattern. *Boris:* Farmers market every Tuesday in parking lot starting next week. Ask resort about changing to room further from the square. Check on parking conflicts. *Mullins:* Evaluate when we want to hold meeting. *Ann Brady:* Can park at Rauschenberg property. *Boris:* Financials in great shape. Very generous contributions this year. Two events we have not had before. Very conservative in revenue estimates in 2018. For 2018 expenses, some included or web design, planning survey. Need progress report on foundation update deadline. *Cunningham:* Peter Koury has resigned from panel, CCA board named Jay Brown to replace him. Brown not eligible to vote until January meeting based on bylaws. *Mullins:* Motion to accept 2019 meeting schedule and budget as presented (Jensen) unanimous.

- **ACTION:** Ask Cindy Brown about grant reporting responsibilities.

**Website:** *Mullins:* Schedule update in January. *Miville:* Got last quote yet? *Lanigan:* Quotes not issue, working on thoughtful process to work with vendors. Any panel member or community member is welcome to attend. *Mullins:* Communications Committee as well, not started yet. Discussion. *Miville:* Create best structure then go to RFPs? Timeline? *Mullins:* Update in January. Good progress made, Tom Libbonate developed a straw man which we're digesting. Discussion.

**Captiva Drive speed:** *Lanigan:* DOT scheduled to do speed study soon. *Nathalie Pyle:* Devices on Tween Waters stretch. *Brady:* Patrols increased as well. *Lanigan:* Then right on schedule. Offered to present in January meeting. Will follow up.

- **ACTION:** January update at panel meeting.

**Nominating Committee:** Vote on members. *Mintz:* Background, Jensen and Mintz nominated by panel, needs to be approved by panel. Two vacancies and two nominees, vote by acclamation. Unanimous approval.

**Wastewater:** *Brown:* Background. Difference in scopes, how it was resolved. Study under way, will get most of the information we wanted. Obligation to inform public about study. Want to post three documents on website as separate page, wastewater review by Brown, study scope and TKW bio and qualifications. Sent out to panel last week. Next meeting, make this the last item on agenda for brief summary of work done and answer questions. Any Captiva organization who wants to meet with committee is encouraged, to answers questions and explain study Also post on website to invite

solicitations. *Cunningham*: What happens next? Once study is complete, what happens? *Brown*: Don't know until we have study in hand. *Cunningham*: Decision by committee to recommend action? *Brown*: No recommendation, just collect and present the facts. Panel can act on facts presented. *Mullins*: Study vs. threats we face with septics. Trying to look out 20-30 years, concerns about water quality and wastewater management.

- **ACTION**: *Put on end of January agenda, prepare website and publicize.*

**Captiva Drive**: *Mintz*: Background. Met with LCEC and Ann Brady and Matt Hall last week to walk area. Contact Comcast, CenturyLink and Island Water Association. Happy surprise to discover that just two poles need to be moved. Working on cost estimate. How we pay for this comes after we get all the details in place. Then meet with property owners. *Brady*: Does the survey include the proposed path? *Mintz*: Will do that shortly.

- **ACTION**: *Contact utilities to discuss placement.*

**Overbooking**: *Lisa Riordan*: Panel letter sent to rental agents, to include in welcoming packet to renters. REMax decided not to mail to renters, place in unit instead. No negative comments. Kingfisher, no response. Royal Shell, no response. Elaine Smith at AMRC, has not started to distribute letters as yet, will do the same and place in units. *Miville*: Letter deals with number of people? *Riordan*: Yes, that's why we asked them to mail it rather than include in unit. Discussion. *Lanigan*: No capacity maximum. *Riordan*: Agents to check that use is as advertised. *Miville*: News-Press article discussion. Send to panel. *Brady*: Possible to create code based on safety, fire concerns, etc.? *Mintz*: A number of ways to deal with it if this is an issue with the community. Try to figure out how to address it in workshops and survey. Discussion. *Mintz*: Performance-based septic systems don't work with overuse or underuse. Too much or too little and septic turn into holding tanks.

- **ACTION**: *Send News-Press article to panel.*

**Invasives**: Discussion. *Rathbone*: SCCF has seen prey return once rat poison was eliminated. Raccoons will return. *Jensen*: Need to ask exterminator if they are using the right poison. In contact with Fish & Wildlife Commission representative on iguanas. Nothing he can do. Invasive species a major problem in Keys, consider that a test area. I asked for show of support from community, got a few responses. Look at other islands' actions if community is concerned. On Boca Grande, they formed a taxing unit, hired trappers to capture iguanas, keeping population in check but not eliminating them. If you do nothing, it can become a problem. Go online and read about what's happening in the Keys and Broward, see if there is community support to act. *Mintz*: Someone who can tell us if we have a problem? *Jensen*: FWC person and trapper who spoke to us before. Discussion. *Jensen*: Community needs to report sightings. Hiring a person would be difficult. *Mullins*: Forum as part of website to allow community to register concern and issues. *Miville*: SCCF has any insights on this? *Jensen*: Good question. send sightings to state, they will collect to determine if there is a problem.

**Development**: *Lanigan*: Cruise not as well attended as before. Maybe the wrong day. In 2015 it was held on Nov. 2; in 2016 it was Dec. 5. The Monday before Thanksgiving not a great place, maybe look at early December. Lovely night, thanks to all for supporting it. Rauschenberg tour is March 1 *Rathbone*: Thanks to Ann Brady and Bob Walter. Exclusive tour of bayside properties of foundation, only 50 tickets. Title

sponsor and five other sponsors, they get 15 tickets, we try to sell other 35. One item to auction, Miville photo. *Miville*: Discussion of photo. *Rathbone*: 4-6 pm. *Brady*: How to buy tickets? *Rathbone*: Will be promoted. *Mullins*: Ask SanCap Trust Company for sponsorship. Monday After The Masters is April 9, looking for sponsors soon. 18 foursomes expected, plus sponsorships. Bob Walters running this as in the past.

**Financials**: Covered already.

**New business**: *Stilwell*: For past Holiday Village events, Paul McCarthy did it a lot of work. Nothing this year. Love to see boat parade in his honor, as fund-raiser for panel as well? Discussion. *Boris*: Was it a fund-raiser in the past? *Stilwell*: Has bank account, benefited charity in the past. *Miville*: Pay a fee to be part of parade? *Pyle*: Miss the decorations in Village as well. *Stilwell*: A lot of money to put on. Discussion. *Pyle*: As a resident of Captiva, I applaud panel for action on CCCL resolution, particularly David Mintz's work. *Mullins*: Everything the panel does is done with donations, money and time. Always need your help. *Lanigan*: Andreas Bieri has missed four meetings, what is option? Discuss at next meeting. Jensen will discuss with Andreas. *Mintz*: He's a CPOA appointment, he could resign and they could replace. *Jensen*: Will ask him and let Gooderham or Miville know.

Meeting adjourned at 11:35 am

-- *Ken Gooderham, administrator*