

Captiva Erosion Prevention District
Monthly Meeting Minutes
August 10th, 2020
Location: Zoom

I. Call To Order 16.

- Chairman Michael Mullins called to order the regular monthly meeting of the Captiva Erosion Prevention District (CEPD) at 1:00pm on August 10th, 2020 in a virtual meeting via Zoom.

II. Roll Call

- The following persons were in attendance:
 - Commissioners:
 - Seat 1, Harry Kaiser, Secretary
 - Seat 2, René Miville, Commissioner
 - Seat 3, Michael Mullins, Chairman
 - Seat 4, Bob Walter, Vice Chairman
 - Seat 5, Richard Pyle, Treasurer
 - CEPD Staff: Joe Wagenti, Administrator
 - CEPD Attorney: Ralf Brookes
 - CEPD Contractors:
 - Amy Garrard, Esq. - CEPD contracted Independent Investigator
 - Evan Cutler
 - Members of the Public

- Mr. Brookes administered the Oath to Office orally to Commissioner Miville.
- Mr. Brookes administrated the Oath to Office orally to Treasurer Pyle.
- Mr. Brookes re-administered the Oath of Office orally to Secretary Kaiser.
- Mr. Brookes re-administered the Oath of Office orally to Chairman Mullins.

III. Approval of Minutes for June 8th, 2020 CEPD Board Meeting

- Chairman Mullins requested the delay of the approval of minutes pending a full transcription due to disagreement regarding the accuracy of the minutes.

IV. Approval of Minutes for July 13th, 2020 CEPD Board Meeting

- Chairman Mullins requested the delay of the approval of minutes pending a full transcription due to disagreement regarding the accuracy of the minutes.

V. Approval of Minutes for June 11th, 2020 CEPD Briefing Meeting

- Chairman Mullins requested the delay of the approval of minutes pending a full transcription due to disagreement regarding the accuracy of the minutes.

VI. Public Comments

- Mr. Carol Wetzel requested the opportunity to give the Board a quick overview of the letter that was submitted. This request was acknowledged by Chairman Mullins, who expressed that this could be discussed following Agenda Item VIII(a).
- Chairman Mullins requested that the meeting move to address Agenda Item VIII(a) – CEPD Investigation.

VIII(a). CEPD Investigation

- Ms. Amy Garrard was asked by Commissioner Miville to review the factual allegations authored by the current Administrator and delivered to the Board of Commissioners on or about July 10th 2020.
- Ms. Garrard stated that in connection with investigating the factual allegations she reviewed a variety public documents, listened to recordings of CEPD meetings, and performed multiple interviews. These are set forth in greater detail in her report.
- She stated that the allegations were broken down into 3 primary categories:
 - Allegations of gross mismanagement, malfeasance, misfeasance, and gross waste of public funds pertaining specifically of the CEPD's retention of Partners in Progress:
 - Ms. Garrard detailed the allegations and the process used to investigate the allegations as outlined in her report.
 - In connection with the investigation, Ms. Garrard looked at historical records of the CEPD and interviewed Mr. Gray. Ms. Garrard was able to discern that the factual allegation that Partners in Progress had never responded to an RFP was incorrect. In 2006 the CEPD Administrator Alison Hagerup issued an RFI seeking qualified organizations that could assist the CEPD with documenting workflow processes, among other duties. Partners in Progress and Coastal Planning and Engineering each submitted a bid in response to the RFI. Mr. Gray presented the proposal to the Board in approximately March 2007. She stated that a 2nd RFP was created in 2008, seeking a provider for the outsourcing of administrative functions for the CEPD. Partners in Progress also responded to this RFP and was selected as the successful bidder. She stated that she was not able to validate the allegation of Administrator Wagenti that Partners in Progress was selected without a bidding proposal.
 - Ms. Garrard stated that she investigated amount spent in December 2019. There was factual evidence to support that the recent retention of Partners in Progress was discussed at a Board meeting, a contract with Partners in Progress was approved, and that this is reflected in December 2019 meeting minutes with authorization of up to \$24,999. She stated that currently there are invoices received to the amount of \$15,583.40 and that she could find no evidence that there was any

inappropriate, duplicative, or fraudulent billing by Partners in Progress. She stated that the invoices were reviewed and the work described does appear to have been done.

- She stated that the nature of the services provided in 2008-2012, included providing all administrative services to the CEPD, would have included amounts utilized to fund the salaries of administrative personnel of the district, and that this amount would have been comparable to the contract that was later entered into with Hans Wilson and Associates inc (HWA).
- Ms. Garrard stated that Administrator Wagenti had suspended the services provided by Partners in Progress because he believed that CEPD had been billed in excess of \$20,000. She could find no support for this claim. As indicated previously, the invoices submitted by Partners in Progress to CEPD amounted to \$15,583.40 which is consistent with the summary of the invoices that was attached to Administrator Wagenti initial disclosure (Exhibit D)
- Allegations of the Chairman hiring and/or contracting with companies or individuals with whom he has a personal relationship:
 - Ms. Garrard stated that she could find no factual support for these allegations, and investigated each of them individually as listed:
 - Hans Wilson & Associates (HWA): Ms. Garrard described the historical facts regarding the contract. She stated that based on Board meeting minutes she was able to verify that HWA had contracted with the CEPD to provide outsourcing of the administrative services, much as Partners in Progress had done between 2008 and 2012. In 2019, HWA had requested an increase in the amount of funding that was being provided by the CEPD. The amount of the increase was approx \$60,000. This increase was discussed in August 12, 2019 and September 26, 2019 Board meetings. A vote was held and the motion to increase the funding to HWA did not carry. The HWA subsequently canceled it's contract with the CEPD effective November 2019. She stated that this was the result of public discussion at a meeting. She stated that she could find no evidence that the discontinuation of HWA services was the decision of the Chairman, but rather a decision of the Board.
 - Ms. Carolyn Weaver: Ms. Garrard described the historical facts regarding the employment of Ms. Weaver. She stated that at a December 9th 2019 board meeting, Administrator Wagenti and Ms. Weaver were offered positions. Ms. Weaver ultimately did not continue to be employed the CEPD. Ms. Garrard stated there is no suggestion that it was due to the conduct of the Chairman.
 - Wiltshire, Whitley, Richardson & English, P.A. (WWRE): Ms. Garrard stated that based upon factual investigation it is clear that the CEPD staff had recommended that the Board changed accounting firms. An RFP was drafted and several firms, including WWRE, submitted proposals. The proposal submitted by WWRE was approximately half the cost of other submissions. Ms. Garrard found no indication that the Chairman played an inappropriate role in the decision and stated that the Chairman did publicly disclose that the firm had previously

performed work for him.

- Mr. Ralf Brookes, Attorney: Ms. Garrard stated that public documents confirmed that Ms. Nancy Stroud resigned Feb 21st 2020. The CEPD sent requests for bids to 8 firms, and 5 responded. According to meeting minutes, Secretary Kaiser motioned to approve Ralf Brookes as the CEPD's new attorney and Vice Chairman Walter seconded. The motion passed unanimously. There was no suggestion that the Chairman had engaged in inappropriate behavior in this decision.
- Mr. John Riegert: Ms. Garrard stated that although Mr. Riegert is known in the community, he was not a personal acquaintance of the Chairman. Administrator Wagenti had determined he did not want to continue using Mr. Riegert's services and ended the relationship. Ms. Garrard did not find any evidence that the Chairman had acted inappropriately regarding the hiring of Mr. Riegert.
- Allegations of a hostile work environment as a result of the Chairman's conduct:
 - Ms. Garrard described the nature of the allegations and the methods utilized in her investigations. She stated that she could not find that the conduct of which Administrator Wagenti was complaining would create a hostile work environment.
 - She reviewed the CEPD Rules of Procedure and determined that the Administrator is required to respond to the requests of any Board Commissioner, with a priority of those request responses to be set by the Chairman.
 - She confirmed that the Chairman is specifically authorized to set the priorities of the Administrator, and that contact between them is to be expected. She stated that the frequency of contact does not necessarily create a hostile work environment.
 - She recommended that the CEPD may consider adopting HR related policies.
- Ms. Garrard confirmed that further details regarding the investigation and findings are available in the report.
- Chairman Mullins confirmed that a copy of the report will be sent to the Board and has been sent to the newspaper.
- Commissioner Miville motioned to dismiss Administrator Wagenti without cause. Secretary Kaiser seconded the motion.
 - Secretary Kaiser requested that Administrator Wagenti speak to the statement in his allegations that the CEPD cease to exist. Administrator Wagenti declined to comment.
 - Commissioner Miville called for a vote.
 - Vice Chairman Walter inquired as to the intent of Administrator Wagenti in making these claims. Administrator Wagenti declined to comment.
 - A vote was held. The motion passed four to one.
 - For: Secretary Kaiser, Commissioner Miville, Chairman Mullins, Vice Chairman Walter

- Against: Treasurer Pyle
- Chairman Mullins stated that Mr. Evan Cutler was present and requested that Mr. Wagenti cooperate with Mr. Cutler in reviewing topics related to keys, files, etc. 56.30
- Chairman Mullins directed the meeting to return to Public Comments at this time.

VI. Public Comments [continued]

- Chairman Mullins re-opened the meeting for additional public comments.
- Mr. Wetzel presented a followup regarding an ongoing discussion with CEPD regarding beach renourishment. He stated that a letter was submitted to the CEPD Board from Mr. Bob Adler, Mr. Jon Rosen, himself (Mr. Wetzel). The letter stated they believe the current tentative apportionment would not prevail in a court proceeding, is based on erroneous factual assumptions and conclusions, and is arbitrary in nature. He stated that the letter provides a list of the assumptions and what they believe to be methodological errors in the work done to prepare the apportionment (mathematically and conceptually). He suggested that ad valorem is a preferable method.
 - Chairman Mullins commented that the tentative apportionment has not been approved. He stated that this will be taken up again and thanked the group for the input on the draft.
 - Commissioner Miville thanked Mr. Wetzel for preparing and submitting the letter. He clarified that the apportionment theory has been in process for about 36 years, and suggested that they speak to Dr. Bill Stronge and Mr. Steven Cutler.
- Commissioner Miville motioned to terminate Ms. Kimmy Foulds without cause. Chairman Mullins seconded the motion. The motion was discussed. A vote was held. The motion passed three to two.
 - For: Secretary Kaiser, Commissioner Miville, Chairman Mullins
 - Against: Vice Chairman Walter, Treasurer Pyle

VII. Financial Reports July 2020

- This agenda item was discussed after the CEPD Investigation - Item VIII(a) on the Meeting Agenda
- Treasurer Pyle spoke regarding the parking revenues were posted in July and stated that he has requested clarification as to how many months of revenue were included.
- Discussion on requesting additional assistance from the accounting firm to assist with a portion of the Administrator's duties was held. Treasurer Pyle agreed to contact them to inquire.
- Discussion was held regarding the historical hiring process and how to proceed moving forward. This has been tabled for further discussion at the standing Thursday 1pm workshop/briefing meeting.
- Treasurer Pyle motioned to authorize funds up to \$25,000 for administrative duties required in the interim, to be utilized at the discretion of the Chairman. Commissioner Miville seconded the motion. A vote was held and the motion passed unanimously.
 - For: Secretary Kaiser, Commissioner Miville, Chairman Mullins, Vice Chairman Walter,

Treasurer Pyle

VIII. Discussion Items

a) CEPD Investigation

- This Agenda Item was discussed previously in the meeting.

b) APTIM – Tom Pierro Report

- Mr. Pierro was not present at the meeting as this was removed from the agenda.

c) Administration Report

- No administration report was presented.

IX. New Business

- Treasurer Pyle asked if TRIM is moving forward. Chairman Mullins stated that they located a draft and that follow up is needed with the Department of Revenue regarding the DR-420 to confirm that it was received and accepted. Chairman Mullins has not seen the final document.
- There was brief discussion regarding the millage rate, and the topic was tabled for a future meeting.
- Secretary Kaiser suggested that Mr. Gray may be of assistance in this area. Mr. Gray confirmed his availability.
- Logistics regarding securing information and office access following the termination of Mr. Wagenti and Ms. Foulds were discussed.

X. Commissioners' Comments

- No additional comments were provided.

XI. Adjournment

- Vice Chairman Walter motioned to adjourn the meeting. Secretary Kaiser seconded the motion. Meeting was adjourned.