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Agenda

**Regular Meeting of the
Captiva Erosion Prevention District**
Tween Waters Inn, Wakefield Room
15951 Captiva Drive, Captiva, Florida 33924
May 12, 2010 @ Noon

- I. Call to Order
- II. Roll Call
- III. Approval of the CEPD April Meeting Minutes
- IV. Public to be Heard
- V. Financial Report
- VI. New Business *
 - a) Response to Deepwater Horizon Oil Spill
 - b) Apportionment
 - c) November 2, 2010 Election Resolution 2010-3
- VII. Old Business
 - a) Board Reorganization
 - b) Penny Tax on Transient Rentals
 - c) Bond Attorney
 - d) Pollster
 - e) FY 2009 Financial Statements
- VIII. Report of the Senior Administrative Consultant
 - a) TDC Grant Requests
 - b) Army Corps Visit
 - c) DEP Reconciliation
 - d) Parking Lot Visitor Counts
 - e) October Board Meeting Date
 - f) Partners in Progress Contract
- IX. Commissioner Comments

Adjourn

** The order of the agenda has been changed due to the Deepwater Horizon disaster*

Minutes of the Regular Meeting of the Captiva Erosion Prevention District

'Tween Waters Inn, Wakefield Room
15951 Captiva Drive, Captiva, FL 33924
Wednesday, April 14, 2010

Commissioners Present: Mike Mullins (Chairman), Dave Jensen (Treasurer), Harry Kaiser (Secretary)

Commissioners Absent: Doris Holzheimer (Vice Chair), Rene Miville (Commissioner)

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

I. Call to Order

Chair Mike Mullins called the meeting to order at 12:03 p.m.

II. Roll Call

The roll was called and the results are detailed above.

III. Approval of CEPD Meeting Minutes

Mr. Kaiser moved and Mr. Jensen seconded a motion to dispense with the reading of the minutes and to accept them as written. The motion passed without dissent.

IV. Public to be Heard

There were no comments from the public.

V. Financial Report

Mr. Jensen reported that he had no updated financial information since the last meeting. He stated that CEPD has a loan payment due May 1:

In conjunction with Ms. Rooker, Mr. Jensen reported that the Blind Pass Project has technically not been closed out. The project is under budget but Mr. Mullins commented that there may be more expenses coming in, especially if the County re-sweeps the pass. Mr. Jensen stated the funds left over from the project are approximately \$350,000 and are held by CEPD in an interest-bearing account. Mr. Mullins thought

that before these funds are spent, there should be a public meeting to let interested parties know that there may be additional costs before CEPD goes forward and pays out any more. An accounting of funds from the County as well as other agencies is necessary. There is concern among the CEPD Commissioners and citizens that money for beach nourishment is not being adequately replaced to draw on in the next couple of years when it may be needed. Previous requests for information have not been answered. CEPD will ask its attorney to draft a letter that includes citation of the public records laws that supports CEPD's entitlement to this information.

Mr. Jensen asked questions regarding budget line items in this and next year's budgets related to 2013 and 2014 projects. Mr. Mullins mentioned the possibility of paying more on the loan than is due on May 1 and the possible need to open a line of credit. A decision whether to pay down the principal will be discussed at future meetings prior to the due date of the next loan payment. Ms. Rooker stated that the amount due on the loan after the May 1 payment will be just over \$2,022,000.

VI. Report of the Senior Administrative Consultant

- a) Parking Lot – Ms. Rooker reported that the rain had created deeper potholes at the CEPD lot. Lee County has put the lot on its schedule for heavy regrading and topping, possibly in May. Until this major resurfacing, the potholes will be patched as a temporary measure, if possible by the end of the week.

Mr. Bralove discussed the data and chart in the board packet that showed a month-to-month comparison of parking revenue for the past two and one-half years. Through the first six months of the current fiscal year, revenues are down slightly because of cold weather in February and March. This shortfall could be made up, he thought, in the final six months. But if revenues for the final six months of the year match the previous year, the current year's revenues will finish 2% below last year's figures. Mr. Mullins requested that the Board be shown data for the last five years at next month's meeting

Ms. Rooker and Mr. Mullins commented on the loss of revenue possible stemming from the reopening of the Turner Beach parking lot, the possibility of finding more parking locations, sharing revenue with owners of those other parking locations, and the purchase of addition parking meters. Ms. Rooker mentioned that additional parking will enhance CEPD's share of beach nourishment funds.

- b) DEP Visit – Ms Rooker reported that Vince George and colleagues from the Department of Environmental Protection (DEP) will visit Captiva between April 27 and April 30, primarily to look at the Blind Pass Project. They will visit the pass to review the pending re-sweeps, among other things, and spend some time at the CEPD office during this period for a friendly discussion with no specific agenda.

Note: A communication from Mr. George subsequent to when this meeting was held changed the dates to May 4 through 7. The visit to Blind Pass is the morning of the 5th.

- c) Army Corp Visit – Ms. Rooker also reported that members of the Army Corp of Engineers will visit CEPD the last week of May. They will assist CEPD in finding additional parking and work with the District to find additional cost-share opportunities. This is an exploratory meeting.
- d) Blind Pass Stakeholders Meeting – Judy Zamomra, Sanibel City Manager, has invited a group of people who are interested in Blind Pass to meet on May 10. CEPD will attend this meeting and urge that a Blind Pass inlet management plan be developed and implemented to, among other things, establish a trigger point for re-dredging before Blind Pass closes again.

As part of this discussion, Mr. Mullins suggested that CEPD get a letter from Sanibel acknowledging that more sand was deposited on Sanibel at the last nourishment than was required in the interlocal agreement in order to reduce any further obligation.

- e) Recreational Survey – Ms. Rooker reported that Bill Stronge had completed 447 interviews for the winter survey. He will need approximately two weeks to do the analysis, and he expects to have a preliminary report for the Board at the May meeting.

Dr. Stronge has agreed to perform the summer survey, if one is done, between July 1 and July 6 in order to capture data from the 4th of July vacationers. The results would be available in August in enough time to assist in decisions leading up to the November referendum. There was discussion as to whether surveys should be coordinated with what the Tourist Development Council conducts on Ft. Myers Beach. Commissioners were reminded that Dr. Stronge needs a decision in May as to whether to conduct the summer survey. The summer survey will cost \$19,565.

Mr. Mullins mentioned that one of Dr. Stronge's findings from his survey work was that the second-most cited problem was that of seaweed and algae on the beaches and in the water. Discussion took place around the topic of Sanibel, Lee County, and Florida ordinances regarding the cleaning and raking of beaches after a fish kill or seaweed accumulation incident. Mr. Mullins mentioned that CEPD does not have a policy to deal with accumulation of seaweed and fish kill.

VII. Old Business

- a) Board Reorganization – Mr. Mullins reminded the Board that he had previously agreed to extend his term but the issue of new officers still needs further discussion. Ms. Holzheimer has expressed willingness to remain as Board Vice Chair, Mr. Kaiser expressed willingness to remain the Board Secretary, and Mr. Jensen said he was willing to play any role the Board would like. With two commissioners absent, it was agreed to continue this discussion at the next meeting when more Board members could attend.

- b) Resolution Adopting a Policy for Defense of Officers and Employees – After much discussion, the Commissioners attending decided to continue this topic at next month’s Board meeting because of the absence of two commissioners. In the meantime, Ms. Rooker will send to all Commissioners a copy of CEPD’s Directors and Officers Liability Insurance policy. CEPD’s attorney will be asked to prepare a letter citing state laws that provide public officials such as the CEPD Commissioners with liability protection and indicating whether Commissioners are compensated for time spent supporting CEPD’s defense above and beyond the expectation when the Commissioner was elected or appointed.
- c) Public Records Request – Ms. Rooker sought approval from the Board to send a letter to Roetzel and Andress, the representative of last September’s filer of the public records request. After reading the letter to the Board, Mr. Jensen moved and Mr. Kaiser seconded to send the response with the one minor correction that was noted. The motion passed without dissent.

VIII. New Business

- a) Approval of FY 2009 Financial Statements – Mr. Mullins offered congratulations to Ms. Rooker, Ms. Paul (the CEPD accountant), and Commissioner Jensen for the 2009 audit. It was completed well before the September due date, at less cost, and with no exceptions. Mr. Mullins read a summary of the audit report. Mr. Jensen moved and Mr. Kaiser seconded to approve the FY 2009 audit. The motion passed without dissent. It was requested that this item be placed on the agenda for the next Board meeting when all Commissioners could be present.
- b) Bed Tax Resolution – Mr. Mullins raised the idea of a 1% bed tax on short-term Captiva rental to be earmarked exclusively for Captiva beach nourishment and related projects. The idea stemmed from, he said, concerns that money for nourishment might not be as readily available in future years. The merits of whether to seek Lee County Board County Commissioners’ approval and how to accomplish this were discussed. Comments were invited from the audience. They were supportive. Three alternative resolutions were formulated by CEPD’s attorney and Chairman Mullins, and the merits of each were discussed. Option 3, a resolution asking the Board of County Commissioners to either adopt a referendum or ordinance, was the one preferred by the Commissioners. Mr. Jensen moved and Mr. Kaiser seconded a motion to approve the resolution identified in the Board materials as Option 3 and to authorize Chairman Mullins to meet with the Board of County Commissioners and bring back from that meeting the BOCC’s decision for the CEPD Commissioners to act upon. The motion passed without dissent. The topic will be placed on the agenda for the next Board meeting to hear results Mr. Mullins’ meeting and to ensure additional discussion when all Commissioners are present.
- c) Pollster Proposals – Ms. Rooker presented information on two companies that have provided bids for a poll of Captiva voters prior to placing a referendum on the November ballot. Questions were raised about each proposal, including clarification of how many

participants would actually be surveyed and whether one additional question could be added involving the 1% bed tax increase proposal without increasing the cost. Mr. Jensen moved and Mr. Kaiser seconded a motion to seek clarification on these issues and bring back a contract proposal to the Board for approval at the April 29 Board Briefing Meeting. The motion passed without dissent.

- d) Bond Counsel Proposals – After discussion regarding two proposals, the merits of a bond versus a commercial bank loan, and the deadlines for a decision, this agenda item was deferred until the next Board Briefing Meeting.

IX. Commissioner Comments

There were no comments.

X. Adjourn

The meeting was adjourned at 2:57 p.m.

CEPD - CAPITAL FUND
 Budget Performance - Summary
 For the One and Six Months Ended March 31, 2010

	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
	Actual -Mar '10	Budget -Mar '10	Variance - Mar '10	Acutal YTD	YTD Budget	YTD Variance	Annual Budget	Residual Budget
Ordinary Income/Expense								
Income								
Ad Valorem Tax	3,862.42	6,840.00	(2,977.58)	286,936.01	278,227.00	8,709.01	308,741.00	21,804.99
Interest income - Other	209.16	0.00	209.16	643.08	0.00	643.08	0.00	0.00
Other Income	100.00	100.00	0.00	9,512.17	400.00	9,112.17	900.00	0.00
Total Income	<u>4,171.58</u>	<u>6,940.00</u>	<u>(2,768.42)</u>	<u>297,091.26</u>	<u>278,627.00</u>	<u>18,464.26</u>	<u>309,641.00</u>	<u>21,804.99</u>
Gross Profit	4,171.58	6,940.00	(2,768.42)	297,091.26	278,627.00	18,464.26	309,641.00	21,804.99
Expense								
Administrative expenses	4,867.24	5,323.00	(455.76)	26,548.54	25,978.00	570.54	54,000.00	27,451.46
Capital outlay	105.99	750.00	(644.01)	683.64	1,500.00	(816.36)	3,000.00	2,316.36
Reserves	0.00	0.00	0.00	0.00	0.00	0.00	103,290.00	103,290.00
Cost of collecting Ad Valorem	77.24	66.00	11.24	7,603.10	4,503.00	3,100.10	4,800.00	0.00
Legal and professional fees	11,699.33	12,046.00	(346.67)	80,735.20	72,276.00	8,459.20	144,551.00	63,815.80
Total Expense	<u>16,749.80</u>	<u>18,185.00</u>	<u>(1,435.20)</u>	<u>115,570.48</u>	<u>104,257.00</u>	<u>11,313.48</u>	<u>309,641.00</u>	<u>194,070.52</u>
Net Ordinary Income	<u>(12,578.22)</u>	<u>(11,245.00)</u>	<u>(1,333.22)</u>	<u>181,520.78</u>	<u>174,370.00</u>	<u>7,150.78</u>	<u>0.00</u>	<u>(172,265.53)</u>
Net Income	<u>(12,578.22)</u>	<u>(11,245.00)</u>	<u>(1,333.22)</u>	<u>181,520.78</u>	<u>174,370.00</u>	<u>7,150.78</u>	<u>0.00</u>	<u>(172,265.53)</u>

NOTE: Residual Budget figures ONLY represent Budgeted Revenue uncollected and Budgeted Expenditures not incurred

CAPTIVA EROSION PREVENTION DISTRICT
CAPITAL PROJECTS
BUDGET PERFORMANCE - SUMMARY
For The One and Six Months Ended March 31, 2010

	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
	Actual - Mar '10	Budget - Mar '10	Variance - Mar '10	YTD Actual	YTD Budget	YTD Variance	Annual Budget	Residual Budget
Ordinary Income/Expense								
Income								
Interest Income	513.74	1,250.00	(736.26)	3,453.83	7,500.00	(4,046.17)	15,000.00	11,546.17
Other miscellaneous revenue	0.00	0.00	0.00	368.95	0.00	368.95	0.00	0.00
Parking lot revenue	15,563.70	12,207.00	3,356.70	70,971.93	45,222.00	25,749.93	100,000.00	29,028.07
Refund unused project costs	0.00	75,000.00	(75,000.00)	0.00	75,000.00	(75,000.00)	75,000.00	75,000.00
Reserves - General	0.00	0.00	0.00	0.00	0.00	0.00	103,290.00	103,290.00
Total Special Assessments	13,984.80	15,850.00	0.00	509,669.36	434,826.00	(5,100.00)	534,330.00	525,571.00
Total Income	30,062.24	104,307.00	(74,244.76)	584,464.07	562,548.00	21,916.07	827,620.00	744,435.24
Expense								
Advertising	0.00	0.00	0.00	0.00	2,050.00	(2,050.00)	2,050.00	2,050.00
Annual memberships & fees	0.00	91.00	(91.00)	0.00	5,455.00	(5,455.00)	6,000.00	6,000.00
Bank service charges	0.00	8.00	(8.00)	3.00	48.00	(45.00)	100.00	97.00
Beach maintenance	0.00	50,000.00	(50,000.00)	62,568.12	110,000.00	(47,431.88)	123,000.00	83,021.69
Blind Pass project	0.00	0.00	0.00	142,875.42	686,965.00	(544,089.58)	686,965.00	544,089.58
Cost of Assessment Collections	0.00	36.00	(36.00)	1,163.37	976.00	187.37	1,200.00	36.63
Engineering (CP)	2,380.25	1,335.00	1,045.25	6,472.50	16,163.00	(9,690.50)	35,000.00	28,527.50
Grant Reimbursement	0.00	0.00	0.00	0.00	0.00	0.00	374,000.00	374,000.00
Insurance	0.00	0.00	0.00	10,644.00	6,100.00	4,544.00	6,100.00	0.00
Parking lot expenses	1,997.53	3,340.00	(1,342.47)	13,126.19	14,367.00	(1,240.81)	26,500.00	24,355.88
Project Management Support	11,191.87	6,084.00	5,107.87	75,931.75	124,564.00	(48,632.25)	248,800.00	240,281.25
Renourishment 2013/14 Design Phase	7,649.00	0.00	7,649.00	7,649.00	0.00	7,649.00	585,000.00	585,000.00
Rent	451.38	583.00	(131.62)	3,009.96	3,500.00	(490.04)	7,000.00	3,990.04
Storage of records	159.00	160.00	(1.00)	954.00	955.00	(1.00)	1,910.00	956.00
Website Development	0.00	0.00	0.00	0.00	3,000.00	(3,000.00)	3,000.00	3,000.00
Total Expense	23,829.03	61,637.00	(37,807.97)	324,397.31	974,143.00	(649,745.69)	2,106,625.00	1,895,405.57
Net Ordinary Income (Loss)	6,233.21	42,670.00	(36,436.79)	260,066.76	(411,595.00)	671,661.76	(1,279,005.00)	(1,150,970.33)
Total Other Expense	0.00	0.00	0.00	0.00	0.00	0.00	491,915.00	491,915.00
Net Income	6,233.21	42,670.00	(36,436.79)	260,066.76	(411,595.00)	671,661.76	(1,770,920.00)	(1,642,885.33)

****NOTE Residual Budget figures ONLY reflect Budgeted Assessments to be collected and Budgeted Costs not yet incurred.

CEPD - GENERAL FUND
Balance Sheet
As of March 31, 2010

	<u>Mar '10</u>
ASSETS	
Current Assets	
Checking/Savings	
S.B.A. Account	112.27
Wachovia - checking	778,826.41
Total Checking/Savings	<u>778,938.68</u>
Total Current Assets	<u>778,938.68</u>
TOTAL ASSETS	<u><u>778,938.68</u></u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Due to Capital Projects Fund	437,574.12
Total Other Current Liabilities	<u>437,574.12</u>
Total Current Liabilities	<u>437,574.12</u>
Total Liabilities	437,574.12
Equity	
Fund Balance	159,843.78
Net Income	181,520.78
Total Equity	<u>341,364.56</u>
TOTAL LIABILITIES & EQUITY	<u><u>778,938.68</u></u>

CEPD - CAPITAL PROJECTS FUND

Balance Sheet
As of March 31, 2010

	<u>Mar '10</u>
ASSETS	
Current Assets	
Checking/Savings	
Checking Wachovia Capital	1,683,863.42
Sanibel Captiva Bank - CD	250,000.00
SBA	213,724.73
Total Checking/Savings	<u>2,147,588.15</u>
Other Current Assets	
Due From General Fund	437,574.12
Total Other Current Assets	<u>437,574.12</u>
Total Current Assets	<u>2,585,162.27</u>
TOTAL ASSETS	<u>2,585,162.27</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Due to other governments	487,597.00
Total Other Current Liabilities	<u>487,597.00</u>
Total Current Liabilities	<u>487,597.00</u>
Total Liabilities	487,597.00
Equity	
Fund Balance	1,837,498.51
Net Income	260,066.76
Total Equity	<u>2,097,565.27</u>
TOTAL LIABILITIES & EQUITY	<u>2,585,162.27</u>

**CEPD - CASH POSITIONS
 AS OF MARCH 31, 2010**

	GENERAL FUND	CAPITAL FUNDS	TOTAL FUNDS
CASH and CASH EQUIVILANTS March 31, 2010			
Checking	\$778,826	\$1,683,863	\$2,462,689
S.B.A.	112	213,703	213,815
Certificates of Deposit		250,000	250,000
TOTAL CASH and CASH EQUIVILANTS March 31, 2010	778,939	2,147,566	2,926,505

PROJECTED ACTIVITY - APRIL

Plus:

Parking Lot Receipts		17,522	17,522
Operating Reserves - transferred			-
Other Income	2,858	533	3,391
Due From General Fund		437,574	437,574
Special Assessments collected		31,636	
Tax Collector Distribution	16,620		16,620
Total Additions	19,478	487,265	475,107

Less:

Projected Expenditures - APRIL

Blind Pass Project			-
Partners in Progress	8,500	12,583	21,083
Engineering		4,847	4,847
2013/2014 Renourishment		9,351	9,351
Administrative costs	2,327	159	2,486
Parking lot		2,656	2,656
Property Appraise/Tax Collector Fees	332		332
Due to Projects	437,574		437,574
Rent	2,773	958	3,731
Debt Service Payment		491,875	491,875
Professional Fees	2,095	3,924	6,019
Total Reductions	453,601	526,353	979,954

Net Projected Increase(Decrease)

(434,123)	(39,088)	(504,847)
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RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE
CAPTIVA EROSION PREVENTION DISTRICT
LEE COUNTY, FLORIDA

RESOLUTION 2010-3

WHEREAS, the Captiva Erosion Prevention District was established by the Florida Legislature pursuant to Chapter 81-413, Laws of Florida; and:

WHEREAS, Florida Law provides for the election of members to specific terms for the Board of Commissioners of the Captiva Erosion Prevention District and calls for the election of:

Two (2) members of the Board of Commissioners of said District for seat numbers and length of terms thereof:

Seat number 1 length of term 4 years
Seat number 3 length of term 4 years

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CAPTIVA EROSION PREVENTION DISTRICT, that:

SECTION ONE
FS ss.100.031

There is hereby called an election in the County of Lee, State of Florida. Said election is to be held on November 2, 2010 for the purpose of having all of the qualified electors residing within the boundaries of said District to determine the members to serve as the Board of Commissioners of the Captiva Erosion Prevention District.

SECTION TWO
FS ss.99.061

The candidate-qualifying period for a candidate for the office of Board of Commissioners to said District shall be from Noon, June 14, 2010 through Noon, June 18, 2010. Candidates shall qualify with the Lee County Supervisor of Elections for the office sought.

SECTION THREE
FS ss.100.011 AND ss.101.151

Said election shall be conducted according to the requirements of general law and laws governing special district elections. The election shall be held at the polling places and early voting sites designated by the Supervisor of Elections of Lee County, Florida. The polls and early voting sites shall be open and closed as provided by law. The ballots to be

used in said election shall contain the names of the qualified candidates to be voted upon as provided by law.

SECTION FOUR
FS ss.100.021

FS ss.100.021 Notice of General Election.- The Department of State shall, in any year in which a general election is held, make out a notice stating the offices and vacancies within those offices to be filled at the general election in the state, and in each county and district thereof. During the 30 days prior to the beginning of qualifying, the Department of State shall have the notice published two times in a newspaper of general circulation in each county; and, in counties in which there is no newspaper of general circulation, it shall send to the sheriff a notice of the offices and vacancies to be filled at such general election by the qualified voters of the sheriff's county or any district thereof, and the sheriff shall have at least five copies of the notice posted in conspicuous places in the county.

SECTION FIVE

THE FOREGOING RESOLUTION was offered by Commissioner _____ who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to vote, the vote was as follows:

Chairman Michael Mullins _____
Vice Chairman Doris Holzheimer _____
Secretary Henry Kaiser _____
Treasurer Dave Jensen _____
Commissioner Rene Miville _____

DULY PASSED AND ADOPTED this 12th day of May, 2010 by the BOARD OF COMMISSIONERS OF THE CAPTIVA EROSION PREVENTION DISTRICT.

By: _____
Chairman

ATTEST:

BY: _____
Secretary

APPROVED AS TO FORM:

By: *Nancy E. Strow*
CEPD General Counsel

SECTION IV: ORGANIZATION AND REORGANIZATION OF THE BOARD OF COMMISSIONERS

Rule 4.01 -- Powers

Chapter 81-413, Laws of Florida, creating the Captiva Erosion Prevention District, provides that the legislation and governing body of the Captiva Erosion Prevention District shall have the power to carry out its duties to the extent not inconsistent with general or special law. This power shall include, but shall not be limited to, the power to adopt its own rules and procedures, select its officers and set the time and place of its official meetings.

Rule 4.02 -- Annual Organization

The Board of Commissioners of the Captiva Erosion Prevention District shall, at the first regular meeting in December of each year, or thereafter, organize or re-organize the officers of the District Board as to designating or redesignating a Chairman, Vice-Chairman, Secretary and Treasurer. The Chairman, Vice Chairman, Secretary and Treasurer shall serve for a one-year term unless the District Board shall re-organize as set forth in the procedures below. An individual Commissioner may hold the office of Secretary and Treasurer concurrently.

Any Commissioner who incurs more than three unexcused absences within one year shall be asked to resign his or her seat upon the Board.

The incumbent Chairman, Vice-Chairman or Secretary of the District Board shall be present and conduct the meeting until a new Chairman has been selected. The organization of the District Board will be the first item on the agenda for that meeting.

Rule 4.03 -- Procedure for Annual Organization

The Board shall take the time to discuss the positions available, giving a commissioner the chance to decline a post if unable to perform its duties.

The incumbent Chairman shall call for nominations for the new Chairman, taking nominations until a vote is called to close the nominations. The election of the Chairman will be upon roll call. After a new Chairman is elected the other posts will be elected in the same manner.

RESOLUTION OF THE BOARD OF COMMISSIONERS OF
THE CAPTIVA EROSION PREVENTION DISTRICT
RESOLUTION NUMBER 10-2

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CAPTIVA EROSION PREVENTION DISTRICT REQUESTING THAT THE LEE COUNTY COMMISSION ADOPT AN ORDINANCE OR, IN THE ALTERNATIVE, AUTHORIZE A REFERENDUM FOR IMPOSITION OF A LOCAL OPTION TOURIST DEVELOPMENT TAX SOLELY WITHIN THE CAPTIVA EROSION PREVENTION DISTRICT; DISTRICT BOARD TO DETERMINE USE OF FUNDS PURSUANT TO FLORIDA STATUTE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has declared the Captiva Erosion Prevention District (hereafter "the District") to be an independent, valid and existing beach and shore preservation district which encompasses all of Captiva Island, Lee County, Florida, pursuant to the provisions of Section 161.32, Florida Statutes, as set forth in detail in House Bill 927 (HB 927); and

WHEREAS, HB 927 further provides that the District shall exercise all powers and duties of a beach and shore preservation authority, including but not limited to the construction, reconstruction and or improvement of erosion prevention projects in and for the District; and

WHEREAS, the District hereby determines that the shoreline of Captiva has been designated as a critically eroded area and that beach erosion is a serious threat to the economy and general welfare of the people of Captiva; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has the authority to levy, impose and set a local option tourist development tax in a subcounty special district for the purpose of financing beach renourishment, restoration and erosion control including shoreline protection pursuant to Sections 125.0104 (3)(d), and 125.0104(5), Florida Statutes; and

WHEREAS, such local option tourist development tax may be levied, imposed and set by either an extraordinary vote of the Board of County Commissioners on a local option tourist development tax ordinance or by referendum approved by a majority of the registered electors within a subcounty special district; and

WHEREAS, the District finds that it is reasonable and proper that revenues generated by tourists utilizing accommodations within the District be spent to assist with beach renourishment projects within the District.

IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CAPTIVA EROSION PREVENTION DISTRICT AS FOLLOWS:

Section 1. The above recitals as set forth in the various "Whereas" clauses are hereby adopted and incorporated by reference into the body of this Resolution.

Section 2. The Board of Commissioners of the Captiva Erosion Prevention District hereby requests that the Board of County Commissioners of Lee County adopts an ordinance or, in the alternative, authorizes a referendum solely within the District to levy, impose and set an additional one (1) percent of each dollar above the tourist development tax rate currently in existence in Lee County, Florida as and for a local option tourist tax within the District, to be utilized by the Board of Commissioners of the District in accordance with the provisions of Florida Statute.

Section 3. The District hereby authorizes Michael C. Mullins to meet with any necessary representatives of Lee County, Florida to discuss this matter and represent the Commission in this request and further directs the Senior Administrative Consultant for the District to deliver a copy of this Resolution to the Board of County Commissioner of Lee County, Florida and the Lee County Manager.

Section 4. This resolution shall take effect immediately upon its adoption.

The foregoing Resolution was adopted by the Board of Commissioners upon a motion by Commissioner Jensen and seconded by Commissioner Kaiser and , upon being put to a vote, the result was as follows:

Commissioner Holzheimer	absent_____
Commissioner Kaiser	Yea_____
Commissioner Jensen	Yea_____
Commissioner Miville	absent_____
Commissioner Mullins	Yea_____

DULY PASSED AND ADOPTED this 14th day of April, 2010.

CAPTIVA EROSION PREVENTION DISTRICT

By: _____
Michael C. Mullins, Chairman

By: _____
Henry Kaiser, Secretary

Approved as to form

By: _____
CEPD Attorney

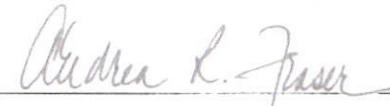
MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

Via E-Mail Only

DATE: May 7, 2010

TO: Board of County Commissioners

FROM:



Andrea R. Fraser
Deputy County Attorney

RE: **Captiva Erosion Prevention District Proposed Resolution for
Tourist Development Tax Revenues**

The question has been asked whether the County is authorized by Section 125.0104, Florida Statutes to adopt an ordinance or authorize a referendum to impose and set an additional one percent (1%) tax of each dollar above the tourist development tax rate solely within Captiva Erosion Prevention District.

A county must impose the Tourist Development Tax on a county-wide basis or within a single subcounty special district of which the county commission is the governing body and which must embrace all or a significant contiguous portion of the county.

Florida Statute, Section 125.0104(3)(b), states:

Subject to the provisions of this section, any county in this state may levy and impose a tourist development tax on the exercise within its boundaries...

A county may elect to levy and impose the tourist development tax in a subcounty special district of the county. However, if a county so elects to levy and impose the tax on a subcounty special district basis, the district shall embrace all or a significant contiguous portion of the county, and the county shall assist the Department of Revenue in identifying the rental units subject to tax in the district. (emphasis provided)

Previously, the Attorney General has provided opinions on similar questions. Those opinions have concluded that "if a county decides to impose the tax, it must do so on a county-wide basis or within a single subcounty special district which must embrace all or a significant contiguous portion of the county".

Re: Captiva Erosion Prevention District Proposed Resolution for
Tourist Development Tax Revenues

The statute language "contemplates and authorizes the creation of only one taxing district for purposes of imposing the tourist development tax within a county, and that district must embrace, at a minimum, a significant contiguous portion of the county. Every reference to the creation of such a district is in the singular. Furthermore, in the context in which the term "elect" is used by the Legislature (in referring to a county's decision to levy the tax in a subcounty special district), the language manifests an intent that the county be put to a choice of exclusive alternatives, i.e., the imposition of tax by the county on a county-wide basis or the imposition of the tax in a special district of which the county commission is the governing head". (emphasis provided).

Additionally, the maximum amount of tourist development taxes Lee County is legally authorized to collect is five percent (5%), which is the amount that Lee County is collecting.

Based on the above, the Board of County Commissioners is not authorized by Section 125.0104, Florida Statutes, to adopt an ordinance or authorize a referendum to impose and set an additional one percent (1%) tax of each dollar above the tourist development tax rate solely within the Captiva Erosion Prevention District.

ARF/awe

Via E-Mail Only:

David M. Owen, County Attorney
Karen B. Hawes, County Manager
Tammara Pigott, Executive Director, Lee County Visitor and Convention Bureau
Anne Dalton, Esq. (adalton@daltonlegal.com)



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(239) 533-2236

Bob Janes
District One

Facsimile (239) 485-2118

A. Brian Bigelow
District Two

Sent Via E-mail (adalton@daltonlegal.com) **& U.S. Mail**

Ray Judah
District Three

Tammy Hall
District Four

May 10, 2010

Frank Mann
District Five

Karen B. Hawes
County Manager

M. Anne Dalton, Esq.
2044 Bayside Parkway
Fort Myers, Florida 33901

David M. Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

RE: Resolution No. 10-2 of the Board of Commissioners of the CEPD

Dear Ms. Dalton:

I have had the opportunity to review the above, to include your April 9, 2010 memorandum in support of the Resolution. I concur with the analysis of this office (May 7, 2010 memorandum from Andrea Fraser, Deputy County Attorney, to the Board of County Commissioners), and the opinions rendered by the Attorney General in AGO's 77-81 and 96-26 concerning the County's legal ability to create only one Tourist Development Taxing District in the County.

In your April 9th memorandum, it appears that you are reading more into Section 161.32, Florida Statutes, than is actually applicable. Section 161.32, Florida Statutes, was a "savings provision" for existing independent erosion prevention, beach or shoreline preservation districts created by Special or Local Act, when Part II of Chapter 161 was originally adopted in 1961, providing for the County's powers and authority relating to erosion prevention and beach and shoreline preservation. The County's activities in beach and shoreline preservation are and remain legally distinct from the activities of the CEPD, an Independent Special District created by Special Act of the Legislature, as you have noted.

Section 161.31, Florida Statutes, refers to the County's establishment of any County districts or County sub-districts and does not apply to any existing, independent erosion prevention, beach or shoreline preservation districts pursuant to Section 161.32, Florida Statutes.

M. Anne Dalton, Esq.
May 10, 2010
Page 2

RE: Resolution No. 10-2 of the Board of Commissioners of the CEPD

The County cannot adopt an additional one percent Tourist Development Tax for the area of the County on Captiva Island which is currently under the jurisdiction of the CEPD, an Independent Erosion Control District, as it would constitute a violation of Section 125.0104, Florida Statutes.

Cordially,

A handwritten signature in black ink, appearing to read "David M. Owen". The signature is stylized with a large initial "D" and a long horizontal stroke at the end.

David M. Owen
County Attorney

DMO/dm

xc: Board of County Commissioners
Andrea R. Fraser, Deputy County Attorney
Karen B. Hawes, County Manager
Tamara Pigott, Director, Visitor and Convention Bureau

Anne Dalton, Esquire
2044 Bayside Parkway
Fort Myers, Florida 33901
(239) 337-7900

Memorandum

To: Chair, Vice Chair, Commissioners, Captiva Erosion Prevention District
CC: Senior Administrative Consultant
Date: May 7, 2010
Subject: Tourist Development Tax/Additional Penny to District/Follow-up

On May 7, 2010, Deputy Lee County Attorney Andrea Fraser issued a memo stating that Lee County is not legally able under F.S. 125.0104(3)(d) to adopt an ordinance or authorize a referendum to impose and levy an additional one (1%) percent tourist tax solely within the Captiva Erosion Prevention District .

SUMMARY: The memo incorrectly concludes that the County lacks the legal authority to levy an additional one (1%) percent tax solely within the District via ordinance or referendum. The County does have this ability. The levy, if imposed, contain a sunset to give the County maximum future taxing flexibility.

1. What is the maximum levy allowed for tourist development tax in Florida?

According to the Florida Department of Revenue, "the absolute maximum rate [of levy of tourist development taxes] is 6 percent." ¹ Lee County currently charges five (5%) percent in tourist development taxes pursuant to Section 125.0104, Florida Statutes.

2. May the County impose a bed tax within a subcounty special district and within the County in general?

Yes.

F.S. 125.0104 has two (2) references to a "subcounty special district":

A. **Subsection (3)(b)** states that "A county may elect to levy and impose the tourist development tax in a sub-county special district of the county. However, if a county so elects to levy and impose the tax on a subcounty special district basis, the district shall embrace all or a significant contiguous portion of the county." F.S. § 125.0104 (3)(b)

This subsection grants the County the authority for this special district levy without limitation of any kind other than requiring that the district "shall embrace

¹ Department of Revenue website: <http://dor.myflorida.com/dor/governments/tourist>

all or a significant contiguous portion of the county". Whether the CEPD is a "significant contiguous portion of the county" is a question of fact for the policy-maker, i.e., the Board of County Commissioners, not a legal or administrative question. However, the Board could easily find that the District fulfills this requirement: the boundaries of the CEPD are the entire island of Captiva. In addition, while most of the sandy beach areas in Lee County have a municipal government providing for renourishment, protection and related needs, the unincorporated areas such as Captiva generally look to the County for support.

B. **Subsection (3)(d)** states that "in addition to any 1-percent or 2-percent tax imposed under paragraph (c), the governing board of the county may levy, impose, and set an additional 1 percent of each dollar above the tax rate set under paragraph (c) by the extraordinary vote of the governing board for the purposes set forth in subsection (5) or by referendum approval by the registered electors within the county or subcounty special district... If the 1-percent or 2-percent tax authorized in paragraph (c) is levied within a subcounty special taxing district, the additional tax authorized in this paragraph shall only be levied therein. F.S. § 125.0104 (3)(d).

This subsection allows the County to levy the additional tax upon both a special district and the County in general.

3. Why does County Attorney's Office say this is not legal?

The County Attorney's Office construes the language in FS 125.0104(3)(d) as "either/or." In other words, if this tax is imposed within the County, the County Attorney's Office states that it cannot be separately imposed within the District. It cites a 1977 Attorney General Opinion (AGO 77-81) as support for this proposition. There are both legal and logical problems with this 1977 Opinion.

First, the Opinion was rendered thirty-three (33) years ago, i.e., on August 4, 1977. The original Tourist Development Tax statute was also passed in 1977, shortly before this opinion was issued, and was a brand-new statute at that time.

Secondly and more importantly, since the time the 1977 Opinion was rendered, this bed tax statute has been amended fifty-three (53) times, most recently in 2009. The 1977 Opinion concentrated very specifically on the exact language in the statute, and that language is no longer in existence.² Accordingly, the 1977 Opinion is no longer good law in Florida on the question of whether the tax can be levied in a special district as well as the County in general.

4. How does the invalidity of the Attorney General's Opinion affect the analysis of this statute?

Without the authority of case law or the Attorney General, the statute can legitimately be interpreted various ways, depending upon the will of the policy-making body.

² It is interesting to note that a 1996 Attorney General's Opinion relying on this 1977 Opinion incorrectly cites the law in effect in 1996 and therefore cannot be deemed to be good authority on this point either.

5. *Is there a legitimately different interpretation of this statute from that of the County Attorney's Office?*

Yes.

As stated previously, the County Attorney's Office focuses on an "either/or" scenario: the levy can be imposed by ordinance/referendum in the County or the subcounty special district. The CAO utilizes the word "or" to conclude that the two scenarios are mutually exclusive. It has no basis for that conclusion. Taking its analysis to the next logical step, if this language were changed to "and" rather than "or", the statute would make no sense. If the County's decision is to levy in the special district, there would be no reason for ordinance/referendum to address the County as a whole; it would address that district only. That is the reason for the "or" language.

Secondly, had the legislature intended to have the tax imposed *either* in the County *or* in a special district, the language "if the ...tax authorized in paragraph (c) is levied within a subcounty district" would have included the reverse as well. The failure of the legislature to do so is evidence of intent to allow the imposition of the tax in both the County and the district.

Thirdly, this statute contains a separate section with a reference to the county's ability to impose the tax in a special district, with the only limitation being the "contiguous" requirement discussed above. There is no requirement of "either/or".

Based on the foregoing, the plain language of the statute permits the County to pass an ordinance or hold a referendum to levy the additional one-cent within the Captiva Erosion Prevention District.

6. *What if the County wants to levy the sixth cent for another purpose some day?*

The County could pass an ordinance or authorize a referendum to allow the CEPD to utilize the sixth penny at this time. Upon passage, that authorization could have a sunset to protect the County's ability to levy the sixth cent for another purpose in the future.

Please advise if you have additional questions. Thank you.

MARK E. RAYMOND

ATTORNEY AT LAW

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SUITE 204
PALM BEACH GARDENS, FL 33410
Tel: 561.775.8440
Fax: 561.775.8443
mark.raymond@mraymondlaw.com

April 21, 2010

Captiva Erosion Prevention District
11550 Chapin Lane
Captiva, Florida 33924

Re: Proposed Financing

Ladies and Gentlemen:

I would be pleased to again serve as bond counsel in connection with the issuance by Captiva Erosion Prevention District (the "District") of special assessment debt (the "Debt") to finance the cost of certain erosion control projects (the "Project"). The purpose of this letter is to set forth my role and responsibilities as bond counsel with respect to the financing. In general, my role and responsibilities would be the same as was the case with respect to the 1995 and 2005 financings.

Bond counsel is engaged as a recognized expert whose primary responsibility is to render an objective legal opinion with respect to the authorization and issuance of the Debt.

As bond counsel, I will:

- a. consult with the District and its staff to determine the most appropriate method of financing the Project;
- b. prepare the resolutions authorizing and securing the Debt and imposing the special assessments that will serve as the source of repayment (the "Resolutions"), such other documents as may be required by the financing or which I deem necessary for rendering my opinion and the forms of such closing documents, certifications, and opinions of counsel as may be required by the terms of the financing and applicable federal and state laws;
- c. assist in the selection of the financial institution to purchase the Debt and negotiate the terms thereof on behalf of the District; and
- d. undertake such additional duties as necessary to render my opinion.

Subject to the completion of proceedings to I will render my opinion that, among other things:

- a. the District is duly created and validly existing as special district of the State of Florida, with authority to adopt the Resolution, perform agreements on its part contained therein and incur the Debt;
- b. the Resolution has been duly adopted by the District constitutes a valid and binding obligation of District enforceable against the District;
- c. the Resolution creates a valid lien on the funds or assets pledged by the Resolution for the security the Debt;
- d. the Debt has been duly authorized, executed and delivered by the District and is a valid and binding special obligation of the District, payable solely from the sources as provided in the Resolution;
- e. if applicable, the interest on the Debt will be excluded from gross income for federal income tax purposes and the Debt and the interest thereon are exempt from present intangible personal property taxes of Florida;
- f. if applicable, the Debt has been duly designated by the District as a "qualified tax exempt obligations" for purposes of Section 265 of the Internal Revenue Code (the "Code"); and
- g. if applicable, the Debt is a "Build America Bond" within the meaning of Section 54AA of the Code, and the District is entitled to receive payments from the United States pursuant to Section 6431 of the Code.

The opinion will be executed and delivered by me in written form on the date the Debt is issued in exchange for purchase price (the "Closing") and will be based upon facts and law existing as of that date. Upon delivery of the opinion, my responsibilities as bond counsel would be concluded with respect to this financing.

While serving as bond counsel, my client will be the District and I will represent its interests.

My fee as bond counsel will be \$11,000 plus out-of-pocket expenses consisting of travel (at the IRS approved mileage rate), postage and overnight delivery charges (at cost). The foregoing fee will include one trip to the District; if more than one trip is required I will charge \$450.00 per hour for the driving time, but nothing additional for the time at the District offices. My fee will only be due and payable at Closing, and I will not be paid any fee except at Closing.

Captiva Erosion Prevention District
April 21, 2010
Page 2

If the foregoing terms are acceptable to you, please so indicate by returning a copy of this letter signed by an appropriate officer. I look forward to working with you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark E. Raymond", with a long, sweeping flourish extending to the right.

Mark E. Raymond

Accepted and Approved:

CAPTIVA EROSION PREVENTION DISTRICT

By: _____
Its:
Date:

Captiva Erosion Prevention District

Parking Lot Tickets Sold

For FY 08, 09, and 10

Month	FY 2008	FY 2009	FY 2010 Actual	FY 2010 Projection
October	2,433	2,463	3,672	
November	2,537	3,334	3,343	
December	2,004	2,404	2,973	
January	2,563	3,271	3,771	
February	2,281	4,482 **	3,547	
March	2,888	5,301	4,339	
April	<u>2,765</u>	<u>4,971</u>	<u>4,012</u>	
7- Month Total	<u>17,471</u>	<u>26,226</u>	<u>25,657</u>	
May	2,046	4,190		
June	2,470	4,502		
July	2,394 *	5,123		
August	3,005	4,241		
September	2,056	3,131		
5-Month Total	<u>11,971</u>	<u>21,187</u>	<u>20,727</u>	
12-Month Total	29,442	47,413		46,384 ***
7-month/12-month	0.593	0.553		

* The one meter at the lot was broken for 7 days.

** A 2nd parking meter was added on February 8, 2009.

*** This projection is based on FY 2009 data that the first 7 months of the year represents 55.3% of tickets sold for the entire year. Therefore, $25,657 / .553 = 46,384$.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
26	27	28	29	30	1	2
	Publish election notice Publish referendum 10am - CAC meeting	Complete DR420MM		1pm - Briefing		
3	4	5	6	7	8	9
				1pm - Briefing		
10	11	12	13	14	15	16
	Columbus Day Publish election notice Publish referendum	ASBPA Conference @ Charleston, SC		12pm - Board Meeting	1pm - Briefing	Sales Tax Due
17	18	19	20	21	22	23
		Submit Trim package		1pm - Briefing		
24	25	26	27	28	29	30
				1pm - Briefing		
31	1	2	3	4	5	6
Halloween		Election Day referendum		1pm - Briefing		

MEMORANDUM

TO: Captiva Erosion Prevention District Board of Commissioners

FROM: R. Gray

DATE: May 11, 2010

RE: Proposed Increase in Partners in Progress Professional Services and Capital Services Fees

Per Section 3(a) of both the CEPD/PIP Professional Services and Capital Services agreements, "...Base Fee shall be automatically increased on June 1, 2010 and on each June 1 thereafter during the Term in an amount equal to the percentage increase in the Consumer Price Index (CPI) for the corresponding period plus an amount not to exceed 3% of the Base Fee, to be negotiated every year in the term..."

I am writing this memo to respectfully request that the Base Fee for both Professional and Capital Services provided by Partners in Progress to CEPD be increased, effective June 1, 2010, by the percentage increase in the CPI plus 3% in recognition of the value that Partners in Progress has delivered in administering the District and in implementing the CEPD Board's strategic initiatives.

The value that PIP has delivered can be measured from two perspectives: financial impact and productivity.

From the perspective of financial impact, Partners in Progress has been the main instrument for implementing CEPD Board financial policies and procedures that have resulted in a direct positive impact on CEPD's finances of \$356,508.00 since CEPD started to use Partners in Progress administration as opposed to in-house, employee-centric administration, as follows:

- Cost Savings achievement of \$116,784 (detailed breakdown attached)
- Parking Lot Revenue Increase of \$57,724
- Expiring State Grant Funding Rescue and Augmentation by \$48,000
- Threatened \$60,000 Funding Grant Rescue
- Pioneering TDC Grants Totaling \$74,000

Although CEPD spent more on Partners in Progress administration as compared to its previous in-house administration, the increase in cost was only \$28,500 (in-house annual administration staff costs were budgeted at \$121,500 for 2008-2009 [see attached 2008-2009 proposed budget]; the Partners in Progress 2009-2010 outsourcing costs were \$150,000). However, for that \$28,500, CEPD received the aforementioned \$356,500 direct positive impact to its bottom line, for a net gain of \$328,000. Certainly that kind of financial impact more than justifies the requested increase by itself.

However, Partners in Progress was also the main instrument in working with the Board in improving CEPD productivity, as evidenced by CEPD's many achievements and accomplishments during Partners in Progress administration tenure to date:

- Best Practices Expense Reimbursement Policy Implementation
- Credit Card Usage Policy Implemented
- Establishment of Reserve Fund
- DEP Quarterly Filings brought up to date and filed regularly
- 2005 Nourishment Project Final Accounting Filings put together and submitted to USACOE, DEP and FEMA
- Resumed newsletter publication after a decade's hiatus
- Community Education program implemented
- Coordinated Dune Plantings
- Facilitated Joint Monitoring Analysis between CEPD and Lee County
- Improved Parking Area
- Initiated Partnering outreach to Sanibel City Government
- Spearheaded Offshore Drilling Opposition
- Held Competitive Analysis of Future Beach Nourishment Workshop
- Upgraded Office Facility
- Conducted Asset Inventory
- Transitioned historical records to electronic
- Refocused on Performance rather than Hours Worked
- Supported Board Chair and Board Member strategic initiatives

With confidence that the Board will recognize the value realized from outsourcing the administration of the District, Partners in Progress is looking forward to a continuing mutually beneficial partnership with the Captiva Erosion Prevention District.

Cost Savings Details

Amount of Savings

Description

\$ 4,914.07	Uncovered previous efforts by CEPD for Blind Pass Mitigation that had not been cost shared with Lee County. Submitted invoices to Lee County. Lee County agreed to credit CEPD.
\$ 12,500.00	Original Blind Pass Project Cost included a CEPD cost of \$12,500 for Lee County Project Management. Negotiated that this no longer will be charged to CEPD.
\$ 13,700.00	Negotiated Lee County cost sharing for 3 Year Monitoring Survey to cover the area they needed to survey for Blind Pass.
\$ 6,012.00	Discovered property that had not received tax bills for nourishment assessment and added same to tax roll.
\$ 2,880.00	Changed sanitation vendor. Reduced cost from \$580 a month to \$340 a month.
\$ 12,420.00	Original proposal for turtle monitoring was \$26,190. Negotiated reduction to \$13,770.
\$ 4,060.00	Savings from negotiating lower cost for tilling.
\$ 23,145.00	Fiscal year 2008 cost for economist to do tax roll was \$23,145. Tax roll for 2009 was done in house.
\$ 28,153.23	Difference between 2008 and 2009 coastal consulting costs, including monitoring costs paid after end of FY 2009.
\$ 9,000.00	Savings from negotiating lower cost for Bond Counsel
\$116,784.30 Total	

CEPD 2009 State of the District report

January 12, 2010

District Finances

Cost Savings achievement of over \$100,000

Partners in Progress has implemented more diligent financial management practices relative to:

1. invoice processing,
2. competitive pricing and contract negotiation,
3. financial review and analysis
4. performance of work previously contracted out to specialists such as engineers, economists, lawyers and others.

Partners in Progress professional attitude and aptitude has yielded cost savings for CEPD equal to over 50% of the cost of the Partners in Progress outsourcing contract. Details at the end of this report.

Parking Lot Revenue Increase of \$57,724

Due to more rigorous collection management practices and controls, parking lot net receipts improved by more than 50% in FY 2009. This followed significant growth in 2008 earnings of 35% over the 3 prior years averages.

Expiring \$725,000 State Grant Funding Rescue and Augmentation by \$48,000

As-yet unapplied grant funding of \$725,000 from the Florida Department of Environmental Protection (FDEP), set to expire on 12/15/2009, was not only extended until 12/15/2011 but increased to \$773,012 due to skillful negotiation with the FDEP. This is especially impressive given that the Florida Legislature has been canceling unused FDEP grants and applying the recovered funds to existing budget gaps.

Threatened \$60,000 Funding Grant Rescue

A funding grant of \$60,000 previously approved by the Lee County Tourist Development Council (TDC) for the establishment of self-composting restrooms in the Alison Hagerup Parking Lot, was rescued as a result of a persuasive presentation by CEPD. At the same time, the TDC cancelled all other previously approved, unapplied funding grants as it implemented measures to support the construction of a new baseball stadium.

Best Practices Expense Reimbursement Policy Implementation

Historical reimbursement policies and guidelines were informal and improper according to state law, resulting in Administrative Staff reimbursing themselves for unqualified expenses, overtime and expense amounts beyond the scope of state statute. CEPD formally established a strict reimbursement policy well within the limits of State Statute with appropriate checks and balances.

Credit Card Usage Policy Implemented

Formerly, CEPD Administrative personnel were charging both personal and business expenses to CEPD credit cards. The CEPD Commissioners set a credit card policy that restricts the name on the credit card to the CEPD Treasurer and restricts all credit purchases to CEPD business expenses only.

Establishment of Reserve Fund

Careful analysis of the CEPD enabling legislation in 2009 yielded a strategy for establishing a reserve fund to pay bond principal and interest.

CEPD 2009 State of the District report

January 12, 2010

Regulatory and Statutory Compliance

DEP Quarterly Filings

Required quarterly filings with the Florida DEP had not been submitted since 2006. Such filings, and the timeliness thereof, are of considerable significance when the State evaluates beach project funding requests. Partners in Progress administration has brought those filings up to date, obtained amnesty for previous administration missed deadlines and ensures that submissions continue to be made by the required deadlines.

Education and Communication

Newsletter Publication

After an 11-year hiatus, CEPD resumed production of a quarterly newsletter to its constituents, publishing Spring, Summer and Fall issues which were delivered in both hardcopy and electronic formats. Additionally, the CEPD "Beach Brief" was introduced as a periodic electronic alert, distributed to CEPD's email address list, that focuses on single topics and allows constituents to maintain an awareness of coastal management issues that impact Captiva's shoreline.

Community Education

CEPD has provided presentations to various community groups and continues to do so on an ongoing basis, including the Captiva Community Panel, the Tourist Development Council, the Coastal Advisory Committee, Sanibel Captiva Board of Realtors, the Captiva Yacht Club, CCA, Lee County Legislative Delegation, and Captiva homeowner associations. CEPD has also held over two dozen public meetings, workshops and focus sessions.

Initiated the Compilation of a CEPD Beach Nourishment History

In an effort to understand and document the history of the initiatives that targeted the improvement of Captiva's beach quality that eventually led to the current beach nourishment cycle, extensive research has been, and continues to be, conducted into public and private photographic and written archives.

Shoreline Quality Management

Dune Plantings

Removed non-native Australian Pines and replaced them with native species that are much better suited to preserving the Captiva dunes and the protection benefits that those dunes provide.

Monitoring Analysis

3 year monitoring performed. Current Partners in Progress administration recognized an opportunity for cost savings (for both CEPD and Lee County) that could be achieved through a joint monitoring approach with Lee County and enrolled the County in that approach.

Parking Area Improvements

CEPD applied best practices management to the lot, including a reconfiguration of the parking area to ensure that the metering processes included:

1. machine redundancy and that the meters were more visible and accessible

CEPD 2009 State of the District report

January 12, 2010

2. improved maintenance cycles for both the lot and the restroom
3. enhanced signage in the lot itself as well as at several other locations that provide directions to the lot

Partnering with Sanibel City Government

An outreach effort has been initiated with Sanibel City officials to discuss joint efforts to attain common objectives including, but not limited to, the management of Blind Pass, the resolution of water quality issues, and the renegotiation of inter-local agreements governing sand placement on Sanibel.

Spearheading Offshore Drilling Opposition

CEPD was among the first organizations in the State to pass a resolution opposing offshore oil and gas exploration and has been one of the leaders in the campaign to preserve Florida's greatest treasure: its beaches. CEPD has been extremely outspoken about its concerns that:

- the quality of Captiva's beach would deteriorate due to the inevitable oil spillage and drilling effluvia
- access to the beach quality sand required for nourishment of Captiva's beach would cease when those offshore sand sources are leased to the oil companies

CEPD commissioners and consultants published several newspaper articles and editorials on the topic, encouraged other community organizations to pass resolutions opposing drilling, and took the lead in raising State Senatorial and Congressional awareness of the issue through a presentation to the Lee County Legislative Delegation.

Competitive Analysis of Future Beach Nourishment Project Management

CEPD held a public workshop to initiate the cost/benefit comparison of using the US Army Corps of Engineers vs. a private coastal engineering firm to manage the next beach nourishment project. Follow up requests for information and clarification are currently in progress to gather more information that will enhance the analysis.

Administrative Reorganization

District Administration Outsourcing

CEPD outsourced the administration of the district to Partners in Progress, Inc., a consulting firm with specialized knowledge of CEPD's beach nourishment cycle and expertise in workflow efficiency, resulting in significant improvements in processing quality over the work of the previous administration as well as cost savings and increased fund sharing (listed above in the "District Finances" section) that more than justify the direct expenses of the outsourcing contract.

Upgraded Office Facility

CEPD relocated to new office space that supports and enhances the District's productivity and is much better suited to the re-organized administration and a more active Board of Commissioners.

Asset Inventory

CEPD has created and maintains an inventory of equipment, furniture and other assets.

CEPD 2009 State of the District report

January 12, 2010

Maintenance of CEPD Records

The previous administration kept only hard copies of documents on file, and the files were not orderly: the filing system involved placing stacks of unrelated documents in drawers and cabinets. A dual effort aimed at organizing the files and scanning CEPD documents into electronic format was initiated. To date, 12,000 historical documents have been scanned to electronic format, preserving CEPD history and data in a paperless manner. The scanned documents allow for CEPD continuity off island in the event of a storm, are easier to transport in such emergency, better suited to search engine tools, and memorialize the records of the CEPD in perpetuity.

Refocus on Performance rather than Hours Worked

The volunteer CEPD Board of Commissioners is significantly more active than past Boards have been and frequently participates in publicized workshops, conferences, briefings and other noticed work outside of the regular monthly CEPD Board meetings. To better accommodate the Commissioners schedules and aggressive work deadlines, the Partners in Progress administrative consultants do not limit their work hours to 9 to 5, Monday through Friday. Consequently Commissioners and consultants frequently work evenings, weekends, and remain engaged while they are out of office and even while on vacation.

Pursuit of Strategic Objectives

Strategic objectives, over and above what was previously considered the standard day-to-day administration of the district, are identified on an annual and quarterly basis along with plans for achieving those objectives.

CEPD 2009 State of the District report

January 12, 2010

Cost Savings Details

<u>Amount of Savings</u>	<u>Description</u>
\$ 4,914.07	Uncovered previous efforts by CEPD for Blind Pass Mitigation that had not been cost shared with Lee County. Submitted invoices to Lee County. Lee County agreed to credit CEPD.
\$ 12,500.00	Original Blind Pass Project Cost included a CEPD cost of \$12,500 for Lee County Project Management. Negotiated that this no longer will be charged to CEPD.
\$ 13,700.00	Negotiated Lee County cost sharing for 3 Year Monitoring Survey to cover the area they needed to survey for Blind Pass.
\$ 6,012.00	Discovered property that had not received tax bills for nourishment assessment and added same to tax roll.
\$ 2,880.00	Changed sanitation vendor. Reduced cost from \$580 a month to \$340 a month.
\$ 12,420.00	Original proposal for turtle monitoring was \$26,190. Negotiated reduction to \$13,770.
\$ 4,060.00	Savings from negotiating lower cost for tilling.
\$ 23,145.00	Fiscal year 2008 cost for economist to do tax roll was \$23,145. Tax roll for 2009 was done in house.
\$ 28,153.23	Difference between 2008 and 2009 coastal consulting costs, including monitoring costs paid after end of FY 2009.
\$107,784.30	Total

CAPTIVA EROSION PREVENTION DISTRICT					Page 1 of 2
	Draft Budget for 2008-2009				
	General Fund				
	Assuming .1745 millage adoption				
					Variance
					Favorable
		Budget	Actual		(Unfavorable)
REVENUES					
	Ad valorem taxes	\$ 243,956	\$ -	\$ (243,956)	
	(discounted by 5%: \$256,153.-12,197. = \$243,956.)				
	Miscellaneous				
	Total revenues	243,956	-	(243,956)	
EXPENDITURES					
	Personnel services				
	Administration	95,000	-	95,000	
	Payroll taxes	9,000	-	9,000	
	Health insurance	7,500	-	7,500	
	Workmans Comp Insurance	500	-	500	
	Retirement	9,500	-	9,500	
	Total personal services	121,500	-	121,500	
	Operating				
	Parking lot maintenance	-	-	-	
	Legal fees - general	5,000	-	5,000	
	Accounting and auditing	35,000	-	35,000	
	Travel and per diem	5,000	-	5,000	
	Telephone	4,000	-	4,000	
	Shipping/courier	500	-	500	
	Property appraiser fees	1,800	-	1,800	
	Tax collector commissions	-	-	-	
	Postage	1,000	-	1,000	
	Utilities	1,000	-	1,000	
	Copier lease	2,600	-	2,600	
	Rent	15,000	-	15,000	
	General insurance	9,000	-	9,000	
	Repairs	500	-	500	
	Web site maintenance/ Newsletter	2,000	-	2,000	
	Advertising	2,000	-	2,000	

CAPTIVA EROSION PREVENTION DISTRICT				Page 2 of 2	
Monthly financial report - General Fund					
For the nine months ended June 30, 2008					
					Variance
					Favorable
					(Unfavorable)
			Budget	Actual	
	Contingency		10,000	-	10,000
	Office - other		5,500	-	5,500
	Office - Board meeting		1,000	-	1,000
	Dues and subscription		7,500	-	7,500
	Total operating		<u>108,400</u>	<u>-</u>	<u>108,400</u>
	Capital outlay				
	Equipment purchases		<u>14,056</u>	<u>-</u>	<u>14,056</u>
	Total expenditures		243,956	-	243,956
	Excess revenues over (under)				
	expenditures		<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
	General Fund Checking	\$--			
	Due to the Capital Projects Fund	\$--			
	SBA - A Fund	\$--			
	SBA - B Fund	\$--			
	Available Balances	\$--			