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## Agenda

**Regular Meeting of the  
Captiva Erosion Prevention District**  
Tween Waters Inn, Wakefield Room  
15951 Captiva Drive, Captiva, Florida 33924  
September 14, 2009 @ 4 P.M.

- I. Call to Order
- II. Roll Call
- III. Approval of August 12, 2009 Meeting Minutes
- IV. Public to Be Heard
- V. Financial Report
- VI. Report of the Senior Administrative Consultant
  - a) Blind Pass Celebration
  - b) Three Year Monitoring Survey
  - c) Audit update
  - d) Community Relations Committee
  - e) Introduce Brian Calciano
  - f) Parking Lot Revenue
- VII. Old Business
  - a) Emergency Plan
  - b) Comprehensive Plan
- VIII. New Business
  - a) Rules of Procedure Amendment
  - b) Approve and Adopt Project Budget for the Fiscal Year 2009-2010
- IX. Commissioner Comments

**Minutes of the General Meeting of the Captiva Erosion Prevention District**

Tween Waters Inn – Wakefield Room  
15951 Captiva Drive, Captiva, Florida 33924  
Wednesday, August 12, 2009 @ 12:00 PM

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

Commissioners Present by Telephone Conferencing: Doris Holzheimer (12:20 PM)

Administration Present: Kathy Rooker

**I. Call to Order**

Chairman Mullins called the meeting to order at 12:00 P.M.

**II. Roll Call**

Chairman Mullins performed the roll call, the results which are detailed above. A quorum was established.

**III. Approval of CEPD Meeting Minutes of July 8, July 10, and July 21**

Commissioner Kaiser made a motion to suspend the reading of the minutes and to approve the minutes. The motion was seconded and passed unanimously.

**IV. Public to Be Heard**

None

**V. Financial Report**

Commissioner Jensen gave the financial report. As Treasurer, Commissioner Jensen explained that while a detail in the capital projects budget indicated that there is \$200,000 of grant income, the figure was confusing since the amount cannot be resolved until CEPD and the DEP agree on how much is owed to the DEP.

**VI. Report of the Senior Administrative Consultant**

- a) Kathy Rooker shared a summary of her meeting with the City of Sanibel City Manager Judi Zimomra. Kathy emphasized CEPD's desire to work collaborately with Sanibel in the best interests of Sanibel and Captiva Islands. CEPD has proposed to Sanibel that regular meetings between the two municipalities be held on a regular basis.
- b) Chairman Mullins and Kathy Rooker reported on the July 27 Coastal Advisory Council (CAC) meeting they attended. It was disclosed at that meeting by member Steve Boutelle that funding for the Beach Nourishment Trust Fund is "untracked and undesignated". Chairman Mullins and Kathy expressed great concern for the Trust. At a previous CAC meeting, Chairman Mullins was told that Beach and Shorelines would not be affected by the building of a new stadium yet the Visitors and Convention Bureau has increased their percentage of funding from the bed tax; set aside 20% of bed tax funds for the new stadium, and reduced Beach and Shoreline funds. Chairman Mullins has requested that the CAC

follow thorough with beach and shore interests but has received no response to the request.

- c) A description of the Blind Pass revetment issue was provided. Jim Lavender, Lee County Director of Public Works has been notified by CEPD that a safety issue exists until Lee County and/or Sanibel return the revetment to the condition that existed prior to Sanibel's installation of a lift station and Lee County's management of Blind Pass construction. Without the proper revetment, a vehicle may pull into the parking lot and continue down the lot into the pass. Jim Lavender is to notify CEPD of a resolution to the problem.
- d) Work on developing the strategic plan for the quarter August 15 – November 15 is underway.
- e) A copy of the DEP closeout project will first be sent to Lisa Armbruster for review, edited by CEPD, and then sent to the DEP. Once DEP has had an opportunity to examine the documents, Kathy Rooker and Lisa Armbruster will meet with the DEP.
- f) Parking Lot collections are up significantly over the last two years. As of July 31, 2009 revenue increased \$31,530.50 over revenues collected through September 30, 2008. It is expected that this year's revenue may improve by \$50,000. Discussion continued among the Commissioners about the need for additional parking areas on the island as well as the possibility of paving the existing lot. Increased parking may help secure additional federal dollars for beach renourishment. Commissioners were advised of the need to meet ADA requirements for beach and parking access. CEPD will work with Lee County Parks and Recreation to meet requirements. Chairman Mullins reminded the Board of the importance of designing a new plan for parking configuration that would make the lot more efficient and possibly provide a turn around area near South Seas. Commissioners agreed to approach South Seas about the area South Seas uses for boat storage as a possible additional parking area.

## **VII. Old Business**

- a) Commissioners were provided with correspondence from Tuscan & Company as well as a copy of a CEPD's response. CEPD's goal is to have Tuscan & Company deliver the final audited financial statements in a timely manner. CEPD contracted early for Tuscan to complete an audit and has found it necessary to contact the Florida Auditor General concerning Tuscan & Company delays in completing the work.
- b) The Beach Nourishment Cycle Operating Procedures Manual will need to include the overview of coastal engineers Lisa Armbruster and Steve Keehn. Bob Gray of Partners in Progress will have the manual ready to be published in November. The Commissioners asked Kathy Rooker to contact Bob Gray concerning an earlier publication of the manual. It was also suggested that Bob have Jackie Kaiser of the USACE provide input.
- c) A motion was made by Harry Kaiser to ratify the motion of the July 21, 2009 Emergency Meeting to make a \$2,000 donation to support the

BeachWatch Legal Fund for preparation of a legal brief to the Supreme Court. The motion passed unanimously.

- d) Kathy Rooker will provide Commissions with possible dates for the Public Relations Committee to meet. A comprehensive public relations plan will be discussed at the committee meeting. Commissioner Holzheimer chairs the committee.

### VIII. New Business

- a) Several budget models were discussed that reflected different millage rates. Chairman Mullins commented that the Board took great pains to encourage public input including a press release and an announcement at the Panel meeting. Expenses in FY 08/09 were flat. Each of the models will continue to keep expenses flat for the FY 09/10 fiscal year. A millage rate of .2081 would allow for a reserve of approximately \$75,000. A rate of .2322 would allow for a reserve of approximately \$100,000. Commissioners agreed that any additional funds generated from new millage rates would be used in a reserve to pay beach nourishment principal and/or interest costs.
- b) The Commissioners discussed funding for future beach nourishment projects. Chairman Mullins explained that there is barely enough money to get through the current cycle and none for the next. He explained his desire to put out the next referendum as he felt a delay seeking funds would be risky in these troubled times. Commissioners discussed:
  - o It is a good time to lock in low interest rates.
  - o A line of credit could be considered.
  - o Ad valorem taxes can be used for beach nourishment;
  - o A Captiva specific penny bed tax.
  - o A Blind Pass assessment.
  - o Paying off the existing loan.
  - o Speaking with a bond attorney.
  - o Investing in another CD.

The Board would like to move forward and keep Captiva beaches nourished. An analysis of funding options will be developed for the October Board meeting. The Board would like to look at all available options.

The meeting adjourned at 1:50 P.M.

CEPD - CAPITAL FUND  
Budget Performance - Summary  
For the One and Ten Months Ended July 31, 2009

	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
	Actual JULY 09	Budget - JULY 09	Variance - JULY 09	Actual YTD	YTD Budget	YTD Variance	Annual Budget	Residual Budget
Ordinary Income/Expense								
Income								
Ad Valorem Tax	23.98	20,330.00	(20,306.02)	248,157.44	203,296.00	44,861.44	243,956.00	0.00
Other Income	400.00	0.00	400.00	2,300.00	0.00	2,300.00	0.00	0.00
Interest income	78.25	125.00	(46.75)	2,313.24	1,250.00	1,063.24	1,500.00	0.00
<b>Total Income</b>	<b>502.23</b>	<b>20,455.00</b>	<b>(19,952.77)</b>	<b>252,770.68</b>	<b>204,546.00</b>	<b>48,224.68</b>	<b>245,456.00</b>	<b>0.00</b>
Gross Profit	502.23	20,455.00	(19,952.77)	252,770.68	204,546.00	48,224.68	245,456.00	0.00
Expense								
Administrative expenses	4,534.51	5,571.00	(1,036.49)	48,195.05	51,998.00	(3,802.95)	63,140.00	15,111.42
Capital outlay	0.00	0.00	0.00	21,367.72	21,520.00	(152.28)	21,520.00	152.28
Contingency	0.00	2,066.33	(2,066.33)	0.00	20,663.34	(20,663.34)	24,796.00	24,796.00
Cost of collecting Ad Valorem	0.48	250.00	(249.52)	3,043.69	4,300.00	(1,256.31)	4,800.00	1,800.00
Consulting and Professional Fees	9,325.12	11,833.33	(2,508.21)	78,540.73	102,533.34	(23,992.61)	126,200.00	47,659.27
Parking lot expenses	0.00	0.00	0.00	69.99	0.00	69.99	0.00	0.00
Payroll and benefits	0.00	0.00	0.00	3,515.06	3,500.00	15.06	3,500.00	0.00
Uncategorized Expenses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Expense</b>	<b>13,860.11</b>	<b>19,720.66</b>	<b>(5,860.55)</b>	<b>154,732.24</b>	<b>204,514.68</b>	<b>(49,782.44)</b>	<b>243,956.00</b>	<b>89,518.97</b>
Net Ordinary Income	(13,357.88)	734.34	(14,092.22)	98,038.44	31.32	98,007.12	1,500.00	(89,518.97)
Net Income	(13,357.88)	734.34	(14,092.22)	98,038.44	31.32	98,007.12	1,500.00	(89,518.97)

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 TEN MONTHS ENDED JULY 31, 2009

	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
	Actual -July 09	Budget- July 09	Variance July 09	YTD Actual	YTD Budget	YTD Variance	Annual Budget	Residual Budget
Ordinary Income/Expense								
Income								
Grant Income - State	0.00	25,000.00	(25,000.00)	0.00	150,000.00	(150,000.00)	200,000.00	200,000.00
Interest Income	669.37	19,430.77	(18,761.40)	19,879.13	129,638.46	(109,759.33)	168,500.00	148,620.87
Parking lot revenue	20,463.61	7,016.09	13,447.52	142,787.44	80,967.83	61,819.61	95,000.00	0.00
Reserves - General	0.00	2,066.33	(2,066.33)	0.00	20,663.34	(20,663.34)	24,796.00	24,796.00
Special Assessments	43,662.00	0.00	43,662.00	654,600.48	463,000.00	0.00	463,000.00	0.00
Total Income	64,794.98	53,513.19	11,281.79	817,267.05	844,269.63	(27,002.58)	951,296.00	373,416.87
Expense								
Advertising	0.00	0.00	0.00	2,034.00	2,050.00	(16.00)	2,050.00	16.00
Annual memberships & fees	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Bank service charges	1.00	0.00	1.00	2,282.66	2,300.00	(17.34)	2,300.00	17.34
Beach maintenance	48.22	15,000.00	(14,951.78)	10,778.22	80,730.00	(69,951.78)	110,730.00	99,951.78
Blind Pass project	0.00	165,128.32	(165,128.32)	393,571.41	1,019,743.36	(626,171.95)	1,350,000.00	956,428.59
Consultants (CP)	8,371.63	32,376.24	(24,004.61)	103,871.41	281,513.50	(177,642.09)	346,266.00	242,394.59
Cost of Assessment Collections	0.00	83.33	(83.33)	786.54	833.34	(46.80)	1,000.00	213.46
Engineering (CP)	5,154.28	3,333.40	1,820.88	18,547.31	28,333.18	(9,785.87)	35,000.00	16,452.69
Insurance	0.00	0.00	0.00	6,094.00	6,100.00	(6.00)	6,100.00	6.00
Parking lot expenses	3,243.04	2,480.48	762.56	26,826.73	30,039.04	(3,212.31)	35,000.00	8,173.27
Rent	1,047.57	583.33	464.24	3,963.54	5,833.34	(1,869.80)	7,000.00	3,036.46
Storage of records	0.00	212.50	(212.50)	2,024.78	2,125.00	(100.22)	2,550.00	525.22
Total Expense	17,865.74	219,197.60	(201,331.86)	570,780.60	1,459,600.76	(888,820.16)	1,897,996.00	1,327,215.40
Net Ordinary Income	46,929.24	(165,684.41)	212,613.65	246,486.45	(615,331.13)	861,817.58	(946,700.00)	(953,798.53)
Other Income/Expense								
Total Other Expense	0.00	0.00	0.00	558,961.01	558,961.01	0.00	3,000,000.00	2,441,038.99
Net Other Income	0.00	0.00	0.00	(558,961.01)	(558,961.01)	0.00	(3,000,000.00)	(2,441,038.99)
Net Income	46,929.24	(165,684.41)	212,613.65	(312,474.56)	(1,174,292.14)	861,817.58	(3,946,700.00)	(3,394,837.52)

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

September 3, 2009

John E. Spiller, Esq.  
4442 Cypress Mill Road  
Kissimmee, Florida

Dear Mr. Spiller,

We have been advised by Jeffrey Tuscan in a letter dated August 31, 2009 that you are Tuscan & Company's attorney in the matter of the Captiva Erosion Prevention District (CEPD) audit outstanding for fiscal year ending September 30, 2008.

Accordingly, CEPD repeats our offer to Tuscan & Company of acceptable option to resolve the situation and bring closure to this unfortunate process. At a meeting on July 1, 2009, at Tuscan's offices, Tuscan offered that they are willing to refund fees and terminate the contract between CEPD and Tuscan. By letter on July 1, 2009 to CEPD, Tuscan memorialized this offer to refund fee and terminate the contract. The CEPD repeats it's acceptance of Tuscan's offer to terminate and refund our fees. As a final, albeit undesirable resolution to this situation, a terminated contract and refund would allow for CEPD to sign a liability/hold harmless agreement such as Tuscan & Company has been seeking.

Alternatively, as you know, CEPD sent a check for \$9,500 to Tuscan & Company, since the amount had been previously mutually agreed upon. This was later rejected and returned by Tuscan with requests for a liability release that CEPD cannot approve. CEPD is still willing to make a final payment of \$9,500 contingent upon the following: a mutually agreed upon escrow arrangement would be made to insure that Tuscan & Company receives payment in exchange for the completed, signed, and bound set of audited financial statements to the Captiva Erosion Prevention District.

As stated, CEPD does not have the authority to release Tuscan & Company from all liability for Tuscan's generally accepted government standards of professional audit obligations. To do so would violate both the fiduciary responsibilities of the elected board and state law. However, in the interests of progressing, we are amendable to a reasonable settlement, with wording that CEPD can legally and ethically accept. CEPD believe both sides can achieve reasonable assurances that liability includes generally accepted government standard of professional audit obligations. To this end CEPD are amendable to develop wording to be mutually agreed upon.

Unless a reasonable and immediate settlement can be agreed upon, Tuscan & Company's failure to provide the completed audit report to the District will leave the CEPD with only the termination option. CEPD will proceed to enlist the services of a qualified audit firm



to provide the requisite audit. As well, we will have not other choice but to inform appropriate state and other authorities of the matter. Consequently, the attached letter to the Office of the Auditor General and the Division of Financial Services will be sent to notify their office of the anticipated audit delay.

We look forward to a reasonable and immediate resolution of this situation.

Sincerely,

Michael C. Mullins  
Chairman of the Board of Commissioners  
Captiva Erosion Prevention District

September 2, 2009

State of Florida  
Office of the Auditor General  
Local Government Audits  
Claude Pepper Bldg. Room 401  
111 West Madison Street  
Tallahassee, Florida 32399

Dear Sir/Madam,

The Captiva Erosion Prevention District (CEPD) regrets to inform the Office of the Auditor General that the audited financial statements of the Captiva Erosion Prevention District for the fiscal year that ended September 30, 2008 may not be submitted by September 30, 2009.

The CEPD signed an engagement letter with Tuscan & Company in December 2008 based on a proposal by Tuscan & Company to provide audit services. Unfortunately, Tuscan has not met the terms outlined in the engagement letter and proposal. They have consistently held up the report. CEPD recognizes that a successful audit requires the cooperation of the accounting firm and client. While the Captiva Erosion Prevention District has spent countless hours attempting to move the audit in a positive direction, all attempts have been met with a lack of diligence and concern from Tuscan & Company.

The Captiva Erosion Prevention District takes very seriously the obligation to provide your office with a completed audit and assures you that an audit of financial statements will be provided as soon as possible.

Sincerely,

Kathleen Rooker  
Senior Administrative Consultant  
Captiva Erosion Prevention District

September 2, 2009

State of Florida  
Department of Financial Services  
Bureau of Accounting  
200 East Gaines Street  
Tallahassee, Florida 32399

Dear Sir/Madam

The Captiva Erosion Prevention District (CEPD) regrets to inform the Department of Financial Services that the audited financial statements of the Captiva Erosion Prevention District for the fiscal year that ended September 30, 2008 may not be submitted by September 30, 2009.

The CEPD signed an engagement letter with Tuscan & Company in December 2008 based on a proposal by Tuscan & Company to provide audit services. Unfortunately, Tuscan has not met the terms outlined in the engagement letter and proposal. They have consistently held up the report. CEPD recognizes that a successful audit requires the cooperation of the accounting firm and client. While the Captiva Erosion Prevention District has spent countless hours attempting to move the audit in a positive direction, all attempts have been met with a lack of diligence and concern from Tuscan & Company.

The Captiva Erosion Prevention District takes very seriously the obligation to provide your office with a completed audit and assures you that an audit of financial statement will be provided as soon as possible.

Sincerely,

Kathleen Rooker  
Senior Administrative Consultant  
Captiva Erosion Prevention District

September 2, 2009

State of Florida  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399

Dear Sir/Madam

The Captiva Erosion Prevention District (CEPD) regrets to inform the Department of Financial Services that the audited financials statements of the Captiva Erosion Prevention District for the fiscal year that ended September 30, 2008 may not be submitted by September 30, 2009.

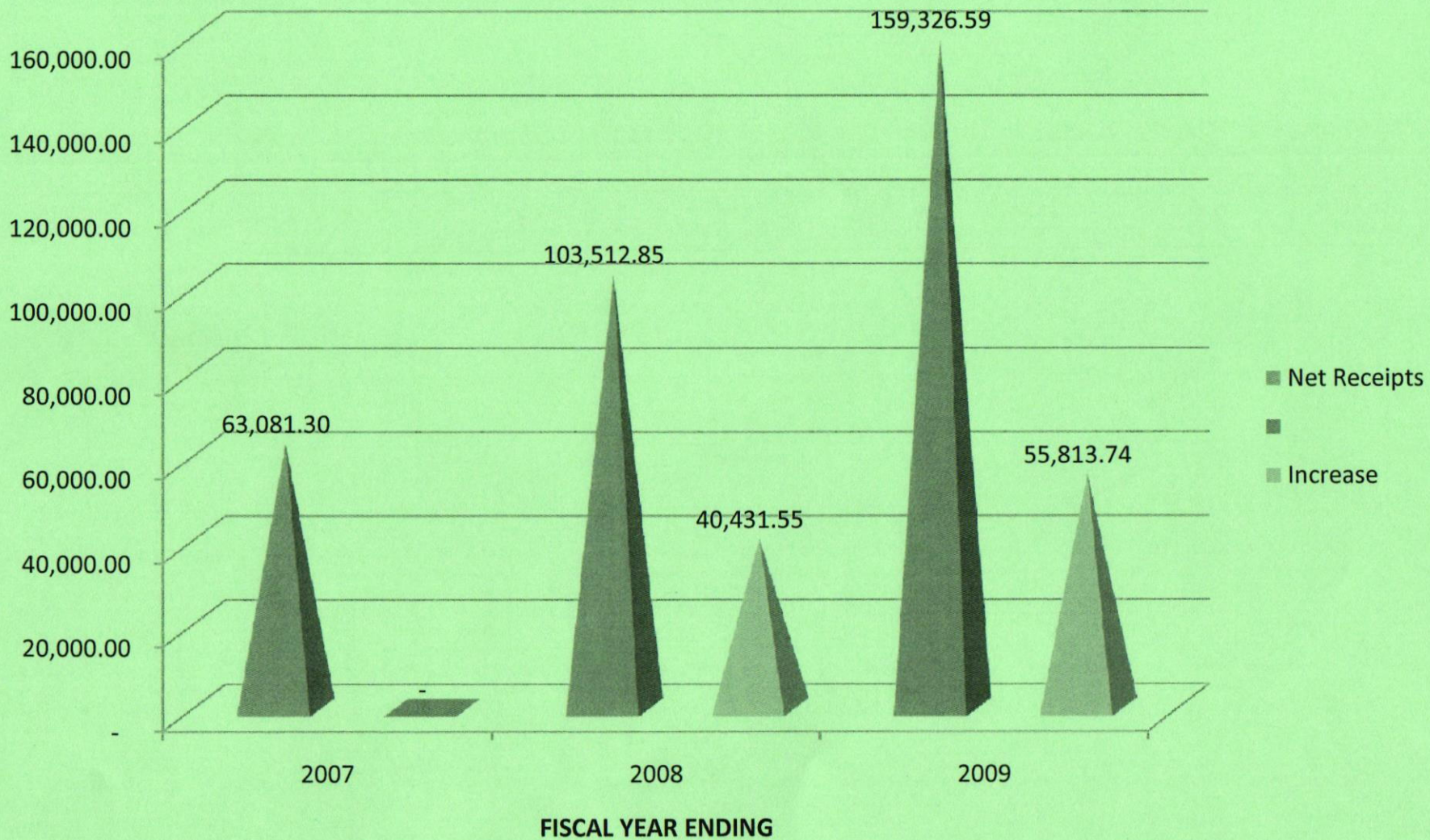
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The Captiva Erosion Prevention District takes very seriously the obligation to provide your office with a completed audit and assures you that an audit of financial statement will be provided as soon as possible.

Sincerely,

Kathleen Rooker  
Senior Administrative Consultant  
Captiva Erosion Prevention District

# CEPD - PARKING REVENUE



Captiva Erosion Prevention District  
 Parking Lot Receipts Annual Comparison

	<u>FYE 9/30/07</u>	<u>FYE 9/30/09</u>	<u>8/30/09</u>
Net Receipts	63,081.30	103,512.85	<b>159,326.59</b>
Increase over previous year	-	40,431.55	<b>55,813.74</b>
% Increase over Previous year	-	64%	54%

While there is still one more month of parking lot receipts to be collected, CEPD has already exceeded last year's receipts by ~~\$48,418.50~~

*\$55,813.74*

District  
Proposed Budget - Projects  
(Millage .2322)  
Fiscal Year 2009-2010

	<u>Annual Budget</u>
<b>Revenue</b>	
Interest Income	15,000
Parking lot revenue	100,000
Reserves - Operating	103,290
Refund Unused Project Costs - Army Corp	75,000
Special Assessments	<u>534,330</u>
<b>Total Income</b>	<u>827,620</u>
<b>Expenditures</b>	
Advertising	2,050
Annual memberships & fees	6,000
Bank service charges	100
Beach maintenance	
Monitoring	113,000
Tilling	<u>10,000</u>
Total Beach maintenance	123,000
Blind Pass project	686,965
Cost of Assessment Collections	1,200
Engineering (CP)	35,000
Insurance	6,100
Parking lot expenses	
Parking maintenance	16,000
Portable toilets	4,500
Sales tax expense	<u>6,000</u>
Total Parking lot expenses	26,500
Project Management Support	
Professional Fees	150,000
Project Manual	50,000
Project Consultant	<u>48,800</u>
Total Project Management Support	248,800
Renourishment - 2013-2014 Design Phase	
Bond Attorney Fees	20,000
Economic & Benefits Report	20,000
Engineering & Model Report	200,000
NEPA	120,000
Permit - Borrow Area Expansion	25,000
Permit - Pipeline Corridor Expansion	55,000
Recreational & Economic Benefit Study	20,000
Storm Damage Benefits Model	<u>125,000</u>
Total Renourishment - 2013-2014 Design Phase	585,000
Rent	7,000
Storage of Records	1,910
Website Development	<u>3,000</u>
<b>Total Expenditures</b>	<u>1,732,625</u>
Net Revenue Over (Under) Expenditures Before Debt Service	(905,005)
<b>Other Expenditures</b>	
Debt Service	
Principal	404,535
Interest Costs	87,380
Reimbursement - DEP	<u>374,000</u>
Total Other Expenditures	865,915
Net Revenues Over (Under) Expenditures	<u><u>(1,770,920)</u></u>