



**AMENDED**  
**Board Meeting Minutes**  
**of the Regular Meeting of the**  
**Captiva Erosion Prevention District**  
South Seas Island Resort, Sanibel Room  
June 10, 2019 @ 1:00 P.M.

**Commissioners Present:** Mike Mullins (Chair); Michael Lanigan (Vice Chair);  
Dave Jensen (Commissioner)

**Excused:** Harry Kaiser (Secretary); Bob Walter (Treasurer)

**Staff Present:** Carolyn Weaver (Administrator); Joe Wagenti (Deputy Administrator); Hans Wilson  
(Hans Wilson & Associates)

**Vendors:** Michelle Pfeiffer, P.E., APTIM; Stephen Keehn, P.E., APTIM; Laurel Reichold and Jackie  
Keiser, USACE (telephone)

1. Call to Order  
Chairman Mullins called the meeting to order at 1:00 pm.
2. Roll Call  
The Chair called the roll and the results are outlined above.
3. Approval of Meeting Minutes:
  - a) May 13, 2019 Regular Meeting Minutes  
Commissioner Jensen moved to approve the minutes.  
Commissioner Lanigan seconded the motion  
**Motion carried unanimously**
4. Public Comment  
No comments
5. Financial Report ending May 31, 2019  
Ms. Weaver gave a report on the current status.
6. Old Business
  - a. USACE – Jackie Keiser and Laurel Reichold, USACE

Ms. Keiser, Supplemental Program Manager for Jacksonville District, previously the Project Manager. for Captiva went through the USACE/CEPD PowerPoint explaining our history and possible ways moving forward for federal funding. Previously there was a real estate issue that arose where someone from the Corp didn't believe Captiva had enough access real estate on Captiva to have Federal interest. Backing up, in order for the Federal government to participate in shore renourishment the sand has to be open to the public for federal dollars. What that means is parking on a free or reasonable basis within a practical walking distance for pedestrian access and currently perpetual easements for anywhere the Corp has previously placed sand and paid for it. The distance between the public access points cannot be more than one-half mile, etc. etc. All of that was part of the 1996 design memorandum they did for Captiva. Clarification was given that it is a half mile total between public access points (or one-quarter mile each direction from the access point).

Back in 1996 when we evaluated Captiva's cost share was down to 27.7% federal (65% is the max) and based on real estate and access it goes down from there. Captiva was one of the lowest at 27.7%. That counted Captiva Drive, because they were counting that as the hurricane emergency evacuation route and so it had benefits other than just the beach front. It was protecting the highway, so regardless of the public access we were counting that. Every nourishment has the requirement to reevaluate the access with the hope to increase the percentage if more access, parking, etc., is provided. In 2013 there were no significant changes, except that someone on the team happened to be in Captiva and had trouble finding access and parking. They disagreed with the allowance of Captiva Drive and some other things. Bottom line, after many months of discussion, the cost share was reduced to .72%, which is basically nothing. General Jackson sent a letter to CEPD stating at this time we don't see there is federal interest in this project due to lack of public access; you are free to make changes and get back to USACE, but for now they can't participate. So, Captiva went forward with the 2013 project without the USACE. USACE is very excited that we are interested in talking with them about getting back in the program.

Ms. Keiser asked us to go to slide 7, which is the crux of the conversation. They don't have any funding for Captiva Island right now. They are finishing nourishing Gasparilla this weekend with 100% federal funding. They could have the funding for Captiva if we could work through this real estate issue. The number one thing she needs us to do is, and it is of the essence because there was a new supplemental bill passed Thursday, and they are getting together a list of projects that might qualify for that fund. They could consider us for funding if we could write them a letter that says, basically, that we are interested in reevaluating the real estate situation on Captiva Island, and if there have been any changes since 2013 we should include that in the letter. At the minimum we request them to reevaluate and that triggers them to send a team down, or google earth exercise, to look at what we've got, to tell us what we need in terms of where we lie and in terms of construction.

She wants to be fully open and honest that since 2013 there is a stronger requirement towards perpetual beach easements versus 50-year easements, which could be difficult to move towards (not to have it, but to work towards it).

Number One is to write the letter requesting to reevaluate the real estate situation; Number Two provide anything that has changed; Number Three, if we are interested in expressing capability for the new supplemental bill, they need a ball park understanding of what are the beach conditions, how much volume might be needed for the renourishment, how much it might cost, how far out are we looking at; do we need permits, do we need a borrow area, details so they can estimate their cost. None of

that imposes a requirement on us. This does not obligate us to anything, it just lets them know we are interested and they start looking into it. Nothing would happen until we get a firm agreement from CEPD that we want to move forward until they decide what the new cost share would be.

Chairman Mullins reiterated that the letter is to request that USACE comes down and does a new cost share, and we advise them of anything that has changed. Ms. Keiser confirmed.

Chairman Mullins asked for clarification about the perpetual easement issue. Ms. Keiser said that the Corps of Engineers has to have easements for public use and access anywhere that they've restored, replaced and paid for the sand. Slide 7, the last bullet under CEPD says, "Provide Documentation showing CEPD paid for the fill landward of the ECL at initial construction (alleviates required perpetual easement for those areas)." It's possible that if CEPD paid for the sand behind the ECL when it was constructed, we would not be required to have those easements. But USACE has gone through their records and does not see confirmation either way, back in 1988, when it would have been. They are looking for records if we paid on top of the 27% cost share that could potentially be behind the ECL. Mr. Keehn stated the design document for that project shows that the calculation was made to take out paying for the sand behind the ECL. CEPD did not do the calculation. Ms. Keiser said that helps, but if there are any financial documents that would be the nail in the coffin. Mr. Keehn said it was made in 1994, \$1.8 mil for the federal share for that project. He suggested they look around that date. Ms. Keiser thinks all the forensics could be part of when we request the reevaluation, they can sit and go through with us parcel by parcel where they had construction behind the ECL and what records show jointly. That could make a big difference. Possibility we may not have to provide any easements.

There also might be a different outcome on the Captiva Drive issue, too.

Chairman Mullins state this is a two-part issue: One is if we are able to produce the documentation showing the monies were paid by CEPD behind the ECL, that takes us off the hook on the easements, essentially. If, on the other hand, we can't produce the documentation, we would need new easements from the property owners. Ms. Keiser says that she doesn't believe there were any easements in 1988; that the cost share was from Captiva Drive which she feels needs reevaluated. She is quite confident they can get our cost share above 0.72% by reviewing the current guidelines and looking at how other projects are being treated.

Commissioner Lanigan asked what the easement entails. Ms. Keiser explained (she will send us a standard easement language) that it basically says you are giving the public open use and access. It's the same language used all over the state. She suggests we speak with Steve Boutelle (Lee County) about what that entails and the discussion that goes with the landowners on how Lee County gets them to sign. There's hesitancy. State of Florida has allowed that there is no access to dune areas. Chairman Mullins stated we will get the standard agreement and read it. He is curious to know if it is every private property that has to provide such an easement and is it such that they can access the beach? Ms. Keiser stated it is every private property that had historically-paid federal placement above the ECL. We would look at the design documents from 1988 and we would isolate which specific properties those are. If we don't have them (the easements), we just don't get cost share for that property.

Mr. Keehn stated we have historic construction easements and that was the standard at the time. We were allowed to continue using those until 2013. Chairman Mullins says

we know where they were before, and assuming they are inadequate, we would have to get the new easements.

Ms. Keiser stated that if they follow the design document, that's possibly true. They are saying we need more proof. Breaking into two statements: 1) find proof it was paid by CEPD and 2) if we can't prove it and don't accept design document, then we have to provide easements. Commissioner Lanigan asked if the easement is just during the construction period; Ms. Keiser said it is a perpetual easement. Mr. Keehn stated that the easements were much looser easements that allowed CEPD and USACE to trespass any time they needed. Newer easement adds on public access. Chairman Mullins stated if all the easements we currently have are perpetual, they all need to be upgraded. Commissioner Lanigan stated that if someone signed an easement offering access to USACE or anyone else just during the construction period over the next 100 years, that's different than offering the public access. Isn't Ms. Keiser saying we have to offer public access to easement? Access within the easement region except within the dunes? Chairman Mullins suggested we look at that separately.

Ms. Keiser says we need to decide if we might be interested in moving forward with the USACE under the potential new supplemental bill, and even if not, if a storm were to hit, we would be eligible if we can show we have reasonable real estate. It's important, in her opinion, to get this insurance policy back in place.

Ms. Weaver asked for clarification on the documentation showing that the fill landward of the ECL in 1988, we don't have to show CEPD paid, we just have to show Federal funds did NOT pay for it. Ms. Keiser confirmed that.

Chairman Lanigan requested a copy of the letter from General Jackson along with the easement. He also said he thought he heard the federal government max is 65% and yet Gasparilla got 100%. Ms. Keiser reported that under normal fair-weather circumstances a project has a 6-7 year interval renourishment schedule. If there are no hurricane events and we get to the 6 year time frame, they budgeted for the maximum cost expense of 65% federal participation and the percentage goes down from there based on real estate requirements. If there is a storm that they deem significant (a major hurricane or storm event, like Hurricane Irma), that meets certain thresholds in terms of costs and benefits, then we are eligible for flood control and coastal emergency (FCCE) funding, which is 100% funding to normally put back what the storm has taken away. However, under the latest supplemental bill and the new supplemental bill, it will actually replace the entire template at federal expense. Many projects qualified under Irma, though there is still the real estate need requirement. 2013 was the first time any project in the nation was ever disqualified for FCCE based on real estate; it was an unforeseen and unfortunate circumstance. Historically that had never been an issue. Chairman Mullins questioned how one provides access. Parking every half mile is ideal, but if we look at shuttle buses, does that still work? Ms. Keiser stated yes, that is a qualifying event. Any way the public can get to the beach that is reasonable, will be evaluated in the account.

Mr. Keehn stated Captiva has two parking lots. Is that sufficient to support a project? What quantity is adequate? Ms. Keiser stated that in her opinion, that's what gets us the 25%. If we get the Captiva Road back into the project, which she feels should be done, that would get us back in. That was the crux of getting us back into their funding.

Mr. Keehn asked, to follow up, what can we do to make it look better. Two major parking areas, get the road section in there, negotiated hard for parking numbers and spaces, what can we do to make it pass muster with real estate bureaucrats. Ms. Keiser reported that some of the best things we have are the players have changed and

secondly, we need to be able to say something has changed in Captiva even if it's only the sentiment has changed. State, in the letter, what has changed.

Commissioner Lanigan asked if South Seas was not part of the project and the project was half the size, with the same amount of public space, would that look better? Ms. Keiser said yes, the percentage would go up if you drop that part. We could talk about how we could work that separately, but it would potentially look better. She's not really worried about the numbers; she wants to be able to tell the leadership that Captiva has seen the light and they understand public beach access is important and they want to make some changes and this is what our new analysis shows. She has some things up her sleeves that shows how their internal USACE policies have changed a little bit and they should look more favorably on Captiva. She needs to tell them that something has changed.

Chairman Mullins stated his appreciation for this call. It's been very helpful, as always. Ms. Keiser apologized for not being here in person. Mr. Keehn will send some questions to Ms. Keiser for answers and she agreed. Chairman Mullins thanked Ms. Reichold and Ms. Keiser for their follow up and their time.

The call ended. Chairman Mullins wanted to stay on the subject. Mr. Keehn wanted to discuss the South Seas issue. He said that from the USACE point of view, South Seas is a big zero except for the first quarter mile. It makes no difference to the USACE. It does make a difference from the DEP's view and apportionment view. That doesn't mean that the USACE project and the DEP project have to be the same.

Chairman stated Ms. Keiser's first meeting asked the question why we include SSIR. As much as we would get better access if they weren't in the equation, we would also lose the apportionment that comes from SSIR. It's a mixed bag either way. The issue has been raised by people on the island in the last year. We want to try to keep the program with the whole island.

Commissioner Jensen asked Mr. Keehn, in 1988, Captiva and many coastal communities were very different than they are today regarding how people access the beach. Today, many of the homes are rentals. To us, they are giving public access by these access points that don't have parking, but they park at the homes they are renting. He doesn't understand why the USACE hasn't changed their viewpoint and consider them public. The homes are open for rent to the public with no restrictions. Mr. Keehn says DEP recognizes them if they are registered at the state level. The USACE knows about this and hasn't reached the point of recognizing it yet. There are some people, like the head of the Coastal Program at the USACE, who are trying to get things more amenable in that process. Others are in charge of the real estate and they are in Washington and even though it comes up they don't go the extra mile to get it.

Chairman Mullins reported a few residents raised the point that these are really public even though they are paying for hotels, etc., and the issues involved there. However, we have to focus on other issues, like negotiating parking arrangements with other facilities (a previous example was a night club only open at night could allow beach parking during the day). We can create agreements that are acceptable to DEP and possibly the USACE. We can talk with Debbie Flack who might help us with this. We need to be creative to show public access. We need to do it more aggressively. We have our work cut out for us there.

Chairman Mullins shared it will be interesting to see, if we get a percentage from USACE, what the cost benefits analysis would be if they run it versus getting this money.

Sounds like having the supplemental money would be available for a storm project.  
FCCE money could be an insurance policy.

- b. Redfish Pass Sand Search and Borrow Area Design  
ACTION REQUESTED: Execute Resolution 2019-03  
WHY ACTION IS NECESSARY: To approve expenditures for Redfish Pass Sand Search and Borrow Design Area in the amount of \$350,000 for FY2020  
WHAT THE ACTION ACCOMPLISHES: Approves APTIM to conduct a comprehensive geophysical and geotechnical sand search for Redfish pass as a possible sand source  
Commissioner Jensen moved to execute Resolution 2019-03.  
Commissioner Lanigan seconded the motion.  
Discussion ensued.  
**Motion carried unanimously**
  
- c. FY2019-2020 Draft Budget  
ACTION REQUESTED: Motion to approve tentative general budget using Ad Valorem Tax of \$600,000  
WHY ACTION IS NECESSARY: To have a tentative budget that can be used for TRIM notices and requirements  
WHAT THE ACTION ACCOMPLISHES: Approval of the tentative general budget allows Administrator to move forward to meet the requirements for the TRIM notices  
Commissioner Jensen made the motion to approve the tentative budget.  
Commissioner Lanigan seconded the motion.  
Discussion ensued.  
**Motion carried unanimously.**
  
- d. Tentative Apportionment Update  
ACTION REQUESTED: Motion to approve quote from Maxwell Hendry Simmons in the amount of \$8,600 or Carroll and Carroll for \$6,000  
WHY ACTION IS NECESSARY: To choose a company for an outside appraisal for CGWIA right-of-way and Sunset Captiva common element appraisal on Strap #03-46-21-00-0006.00CE and 35-45-21-00-0006.00CE  
WHAT THE ACTION ACCOMPLISHES: Obtains a private appraisal of the CGWIA right of way and Sunset Captiva common element, to be used in the tentative apportionment  
Commissioner Jensen made the motion to approve to obtain an outside appraisal.  
Commissioner Lanigan seconded the motion.  
Discussion ensued. The request was made to get a written opinion from legal counsel as well as Dr. Stronge.  
**Motion Withdrawn**
  
- e. Captiva Island Historical Society  
ACTION REQUESTED: Motion to approve sponsorship of the film "Sands of Time: The Past and Future of Erosion on Captiva" in the amount of \$10,000  
WHY ACTION IS NECESSARY: To approve sponsorship of film for future use  
WHAT THE ACTION ACCOMPLISHES: Sponsoring this film would allow CEPD to have the rights to use it in the future, possibly incorporating it into our own historical project  
Commissioner Jensen made the motion to approve sponsorship.  
Commissioner Lanigan seconded the motion.  
Discussion ensued. Ms. Weaver was asked to confirm we have rights to edit the film.  
**Motion Withdrawn**
  
- f. Parking Lot Title Searches  
ACTION: Review for informational purposes
  
- g. Parking Lot Survey Update

ACTION: No action needed by Board

h. Advocacy Letters

ACTION: Review for informational purposes

Commissioner Jensen will look into the creation of an advocacy committee.

7. New Business

a. FDEP Local Government Funding Request FY2020-21

ACTION REQUESTED: Motion to approve hiring APTIM for a lump sum of \$12,700

WHY ACTION IS NECESSARY: To hire experienced professionals to guide us through the State funding for the 2020/2021 Beach Renourishment Project

WHAT THE ACTION ACCOMPLISHES: Hires APTIM to provide service in support of CEPD for submittal of its LGFR for FY2020/21, to include program planning, document review, cost estimates, preparing and submitting the application for the funding request, and submittal of documentation in support of an LGFR agreement due July 31, 2019

Commissioner Jensen made the motion to approve hiring APTIM.

Chairman Mullins seconded the motion.

Discussion ensued

**Motion carried unanimously**

b. Year 5 Post Construction Physical Monitoring and Engineering Report Services

ACTION REQUESTED: Resolution 2019-06 to approve APTIM scope of work for \$53,470

WHY ACTION IS NECESSARY: To approve Year 5 Post Construction Physical Monitoring and Engineering Report Services

WHAT THE ACTION ACCOMPLISHES: Meets requirement as set forth in permit requiring physical monitoring of the 2013 Beach Nourishment Project.

Commissioner Jensen made the motion to approve Resolution 2019-06.

Commissioner Lanigan seconded the motion.

Discussion ensued. Confirmation this does not include Sanibel.

**Motion carried unanimously**

c. Blind Pass Inlet Management Plan

ACTION REQUESTED: None. This item is for your information and review.

James Evans, City of Sanibel, explained the possible dredging methods associated with the plan. One is a deep channel, the other, which was chosen, is a smaller channel.

The primary goal is to provide a flushing channel to benefit water quality. Another is to maintain the pass for open navigation and recreational benefit.

d. 19LE3 – DEP Hurricane Irma Assistance

ACTION REQUESTED: Motion to approve Captiva Island Beach – Hurricane Irma Recovery Project from DEP

WHY ACTION IS NECESSARY: To accept funding from FDEP of \$259,664

WHAT THE ACTION ACCOMPLISHES: Accepts funding available for Hurricane Irma Recovery, which has been approved for use of 2020/21 Beach Renourishment Project

Commissioner Jensen made the motion to accept funding from FDEP.

Commissioner Lanigan seconded the motion.

Discussion ensued.

**Motion carried unanimously**

e. SOP Commissioner Assistance

ACTION REQUESTED: Motion to approve updated Standard Operating Procedure entitled "Providing Administrative Assistance to Commissioners."

WHY ACTION IS NECESSARY: To maintain priorities for Administration

WHAT THE ACTION ACCOMPLISHES: Approves updates to outdated SOP to allow

Administration to maintain priorities, while providing requested Commissioner support as time and priorities allow, as well as keeping the entire Board apprised of requests. Commissioner Lanigan moved to approved the updated SOP. Commissioner Jensen seconded the motion. Discussion was held. Chairman Mullins suggests that we seek legal guidance from an employment attorney. He stated this SOP contradicts the rules of procedure.

**Motion denied unanimously**

f. Parking Meter Warranties

ACTION REQUESTED: Motion to approve warranties on parking meters, in the past amount of \$6,373.68.

WHY ACTION IS NECESSARY: To cover both parking meters and bring the warranties up to date through July 31, 2019.

WHAT THE ACTION ACCOMPLISHES: Allows continuing warranties on the parking meters that cost over \$10,000 each to replace.

Commissioner Lanigan made the motion to accept the warranties for the parking meters.

Commissioner Jensen seconded the motion.

Discussion ensued.

**Motion carried unanimously**

g. Funds to Florida PRIME

ACTION REQUESTED: Execute Resolution 2019-05

WHY ACTION IS NECESSARY: To approve the moving of excess funds to Florida PRIME

WHAT THE ACTION ACCOMPLISHES: Allows the District to receive higher interest on our funds instead of the current rate at Bank of the Islands.

Commissioner Lanigan moved to approve Resolution 2019-05.

Commissioner Jensen seconded the motion

Discussion ensued.

**Motion Withdrawn**

h. Sea Level Rise – Chairman Mullins

ACTION: Review legal memorandum from Nancy Stroud.

Chairman Mullins review the legal memorandum from Nancy Stroud.

Discussion ensued.

## 8. Administrators' Reports – Carolyn Weaver

- a. FASD Annual Convention is being held in Fort Myers Tuesday through Thursday and your administrative team will be attending.
- b. Financial disclosure forms for all commissioners should have been received from the Supervisor of Elections. Don't forget to return them by July 1, 2019.
- c. Commissioner Jensen submitted his formal letter of resignation effective September, 2019. We will need to advertise for a Commissioner.

## 9. Commissioners Comments

Commissioner Jensen thanked the Board and the public for the opportunity to serve on the Board for the last 25 years. He will always remain supportive of the CEPD.

Commissioner Lanigan thanked Dave for his service. As a stakeholder, thank you for everything that you have done. Asked Hans Wilson how to quantify the land value. How do we follow up on that and what is the process to follow up on these? Mr. Wilson believes that Dr. Stronge should have information regarding other apportionments he has done. Commissioner Lanigan

would like to know where Dr. Stronge has worked with. Mr. Wagenti stated that we have directed that question to Dr. Stronge and have not received an answer as yet. Additionally, Commissioner Lanigan discussed if we let the pass close would it never happen? James Evans discussed the impact of the pass on Sanibel's beaches. Technical Advisory Committee all feel that it is in the best interest to maintain the pass and keep it open. Lanigan – unintended consequences to this? Evans, interlocal agreement allowed 25,000 cy per year for eight years. It expired in 2015 and felt it would be best to let the Blind Pass IMP be created and then discuss a new agreement. Lanigan requested a copy of that expired ILA. Unintended consequences, open up the pass and beach deteriorates on Sanibel, yes it can affect the erosion on Sanibel.

Chairman Mullins asked to get the word out regarding the seat opening on the Board. He mentioned that he spoke with Commissioner Kaiser who is planning to stay on the Board as long as he is healthy and able, and through the end of the renourishment. Chairman Mullins wants us to confirm with legal counsel if we need the vacancy prior to filling the seat. He confirmed that if we have a physical quorum at the meeting, a Commissioner may call in and participate, including voting. As to Commissioner Jensen, you played a big role in the community and I appreciate it. I've enjoyed working with you. Chairman Mullins feels it is important that we participate with the CIHS. Additionally Chairman Mullins asked about our new website; Mr. Wagenti reported he has a meeting tomorrow with an organization that deals specifically with Special Districts.

## 10. Adjournment

Meeting adjourned at 4:13