

Captiva Community Panel

MINUTES

Jan. 8, 2019

Attending: David Mintz, Rene Miville, Tom Rathbone, Mike Mullins, Dave Jensen, Mike Lanigan, Mike Boris (p), Mike Kelly (p), Antje Baumgarten

Audience: 20

Meeting convened 9 a.m. Introductions, and quorum confirmed.

Officers: *Mintz:* Explanation of nominations, no second needed. *Mullins:* Motion to re-elect Mintz as president (Jensen second); unanimous. Vice president: Motion to re-elect Boris (Mullins/Jensen); unanimous. Secretary: Motion to re-elect Mullins (Miville/ Lanigan); unanimous. Treasurer: Motion to re-elect Rathbone (Mullins/Lanigan); unanimous. *Mintz:* Panel functions as group, no officers have exceptional power.

Mintz: Motion to approve Dec. 11 minutes as presented (Jensen/Mullins); unanimous.

CFD: *Chief Jeff Pawul:* Happy new year. Time to do hydrant maintenance, flushing and painting. Landscaping may be affected, move it first rather than having us do it, leave a 3-foot area open around hydrant. Don't plant in front of hydrant so firefighters can't see it from road. *Miville:* Right of way extends beyond the roadway bed, easement that county can access. *Mullins:* Video of meteo-tsunami on Santiva. Impacts? *JP:* No real impact, just high water and beach overwash. *Mintz:* New boat? *JP* Got it right before last meeting, training this week and next. You may see us going in and out. *???:* Used for boat fire? *Pawul:* Boat and dock on fire, we handled dock and Cape Coral handled boat. Description of fire. Don't let boats drift if on fire, lose control over fire at that point. Easier to fight next to shore. Discussion. *???:* Who is responsible for removal? *Pawul:* Owners responsibility, can be very expensive.

LCSO: *Mintz:* Sawicki not here, will get here shortly.

CEPD: *Carolyn Weaver:* Meeting last night, discussed 2021 project apportionment. Community town hall will be held Feb. 25 at 5 p.m. tentatively, will be publicized once confirmed. Straw poll: 277 sent, 137 responded, 119 in favor, 16 no, 2 undecided. Urge everyone to register to vote if eligible, request absentee ballot if necessary. Other issues: Diagonal foot paths rather than straight ones, protect plants and keeps sand in place. Damage from storm will be repaired, concentrated from Hagerup Park southward about 700 feet. *Rathbone:* Crab traps on the beach? *Mintz:* About a dozen, very decrepit. Dangerous. Way to deal with them? *Weaver:* Not our responsibility, reached out to county parks & rec to do something. *Miville:* Ghost trap, gets stuck in shoal can't pull them out. Can someone pull them up to dry land? *Pawul:* We can pick them up if they're accessible. If buried, can't pull those put. Discussion. *Miville:* Factoid... 30 years ago elevation of beach was 12 feet lower. Projects have built up dunes and upland beach. Positive news with sea level rise. *Sherrill Sims:* Town hall location? *Weaver:* Probably here. *Mintz:* Panel could send letter in support of beach renourishment if you think it would be helpful, contact Gooderham if you want one.

Library: *Mintz:* Colleen Barany cannot attend, but she sent a list of activities that's quite impressive. Wednesdays a lot of things happening.

Captiva Code: *Mintz:* Background, protection of community resources Described process, panel to make preliminary decision on code direction, not crafting language at this point. Ask consultants to bring back some language from first two meetings in February. Issue of noise music after 10 pm. Lee County rules inconsistent with what Captivans think the rules are, hard to understand and implement. Tied to decibel levels: At 7 a.m.-10 p.m. you allowed one level, drops down at night, different in multifamily units, has to have meter to measure, police have to have it with them. Violators or neighbors also don't know if there's a violation. Gives sheriff some discretion to make determination if they don't have meter with them. Very subjective and hard to understand. Sanibel says time of day and distance from source to define violation. Naples does same, made it 25 feet. Brevard 50 feet also. Struck me there are simple fixes to this... Everybody thinks there a 10 p.m. cutoff, but it doesn't exist. One simple fix is to make it clearer that at 10 p.m. outdoor amplified music ends except if on a resort that has a permit for that. Just codify that. Take from Sanibel amplified noise, etc., after 10 p.m. if audible 50 feet from emanating source. Rental agencies can tell renters that 10 p.m. is cutoff time for audible noise everywhere. Sawicki thinks it's a simple answer for all, only concern was court ruling about auto noise. Mistaken, no issue with plainly audible from 50 feet.

Mullins: Thought that the Lee ordinance had something specifically about construction. *Mintz:* Sep ordinance, addresses that, still sets work times. *Rathbone:* During day? *Mintz:* Sanibel does off the cuff. or at any time or place that disturbs... Sense was to call rental agent to address specific issues. *Hal Miller:* How many calls over last few years *Mintz:* A lot. Ask Sawicki. *Sandy Stilwell:* House on bay, rental next to us. Very annoying all day long. Agent came up with easy answers to remind them of noise potential. On Sanibel, you're asked to pull permit so everyone knows about it. How can you still allow weddings? *Mullins:* 10 p.m. cutoff clearly stated. *Mintz:* Not suggesting we eliminate existing ordinance to address daytime noise, can still call sheriff. *Lanigan:* Sound level measurement phrase, won't strike that. Explanation of county language from Lt. Mike Sawicki. *Lanigan:* Leave existing language, add night cutoff. *Sawicki:* Calls go in waves, some reg then breaks. Not very frequent. *Tom Libonate:* Calls to Chris? *Sawicki:* Not tracked if not going through dispatch. *Libonate:* On-scene time can be 30 minutes later, can be gone by then. *Sawicki:* Then it's a self-correcting problem, which is excellent. Call Chris first if necessary. *Mintz:* Constant issue in Village, people don't want to call LCSO unless necessary. People don't know what rules are, not malicious but ignorant. Tell them the rules when they rent.

Sawicki: Language to be able to enforce without meter is helpful, but decibel levels are a hard and fast standard that's useful if we have to take it to court. Fairer to all sides. *Mintz:* Before 10 p.m., can you use county language to act even without meter. *Sawicki:* Difference at 10 p.m. is volume level drops, language allows noise control throughout the day. *Mullins:* Common sense approach, then use meters at persistent problem. *Sawicki:* If we have meter we take measurement to know if we have a violation. Discussion. *Sawicki:* Matter for county to interpret and support. No amplified noise after 10 p.m. *Miller:* Any issue with current county code? *Sawicki:* Well written. Hal: Have you had to go to court over sound issue? *Sawicki:* Cannot remember the last time we had to, people comply if they know the rules. *Miller:* Simplicity works for LCSO and residents. *Mintz:* Simple makes it easier to educate and explain, no noise after 10 p.m. *Sawicki:* People don't comply even if they agree to terms. Simplicity will help make it more effective. Discussion of receiving property and property interests, demonstrate its disrupting your life in some way. *Miville:* Levels? How to interpret. *Sawicki:* Community discussion, how high a level do you want? *Miville:* On Blind Pass and Roosevelt Channel, boats with amplified music can be very loud even during the day. Usually they back off, but it's tied to levels. Discussion of calls and issues.

Sawicki: Design issues can also help to magnify sounds. *Miville:* Proximity problem in Village, audible whether amplified or not, timing and quality of life. *Mintz:* What Sanibel, Naples, Fort Myers Beach have done, 50 feet amplified or shouting after 10 pm. ????: How to determine plainly audible? *Libonate:* Loud enough to wake you up. *Sawicki:* That's the reason for decibel meters, clearly measured. *Libonate:* What about intermittent noises? *Sawicki:* Annoying vs. illegal. Rules have to be enforced consistently, so be careful how you craft them. *Libonate:* More rentals have outdoor amenities. *Sawicki:* Agreed, tailored to needs of community. *Mintz:* Plainly audible was challenged, prima facie example. *Sawicki:* Some first amendment issues to explore as well. *Ralf Brookes:* Helped draft Key West ordinance, decibel or nuisance not and, must be given one warning before citation. May help with parties, etc., *Sawicki:* Mixed bag of responses, some apologetic while others are confrontational. Discussion of property and quality of life issues. *Miville:* How often and in what areas do you get complaints? *Sawicki:* Mostly in Village, couple of times a week possible. Other issues specific to certain properties.

Miville: Village issue due to proximity, possible to have different code for Village from rest of the island. *Mullins:* Differentiate based on zoning. *Lisa Riordan:* 50 feet will be on property in larger properties. *Sawicki:* Also water based issues, right weather can amplify sounds. *Jensen:* Have right to rent property, with that simple and easy to explain will work best. Call non-emergency number if you have complaints, easier to track calls about recurring problems that way. Goal is to reduce problem, nice if it would never happen. *Mintz:* A lot is people just don't know. Easy to explain to owner, renter, agent. *Jimi Batchelor:* Has panel requested agents develop information package. *Libonate:* Nearby house has a hot tub on the roof, usually used late at night making noise an issue. Owner talked about putting in timer. Is the same thing possible with other outdoor devices or some signage? *Mintz:* Talk to neighbors, can't legislate. *Mullins:* May need different zones, not a monolithic islandwide rule, Village much closer together. One size doesn't necessary fit all. *Mintz:* Would rather have one standard for the whole island, 50 feet works in Village, definitely OK in estate area. *Sawicki:* Keep existing language. *Lanigan:* Nighttime 50 feet, amplified and shouting. *Sawicki:* Not proactive enforcement, very complaint based. *Mullins:* Run it by experts once drafted. *Mintz:* From receiving property, 50 feet. *Sawicki:* Less than 50 feet, audible from receiving property. Discussion. Motion to move forward (Mullins/Lanigan) with language as discussed – Amplified/outside noise cutoff at 10 p.m., audible 50 feet from receiving property, keep existing noise language as well. Vote to approve 8-1 (Miville no).

Mintz: Outdoor noise, top of page 6: Need to address? Discussion of outdoor music at Sunny Isle Adventures. *Batchelor:* Slippery slope to Andy Rosse Lane crackdown. Discussion. *Mintz:* We don't want to pass rules if it's an issue at one or two places. Hawkers and peddler, not an issue here according to Sawicki. Golf carts? *Batchelor:* Only one of our carts has stereos, none of the rental agencies have stereos. Probably private owners. ????: Boats with loudspeakers? *Sawicki:* One, has permits and licenses to do this. *Mintz:* Vendors: Ordinances for that. *Mullins:* Does noise ordinance apply to boats in Blind Pass? *Sawicki:* Slippery, perhaps if anchored for time so we could measure. If passing by, would have to be a test case. *Mintz:* Roosevelt Channel, could we include boats after 10 p.m.? *Sawicki:* Would have to investigate, conveyances are often regulated differently.

Blind Pass: *Mintz:* Not high on survey, few people who live near bridge, need to consider it. *Mullins:* Problem is other fisherpeople, as other communities have closed off their bridges people come out here to use Blind Pass, end up blocking the path. Attracts people who then move over to adjacent docks, bring chairs and wagons and other gear that makes it hard to get by, also sometimes belligerent individuals. If

we ask them to fish from one side only, could have issue with currents and running of fish. Added lights and gates to my dock after problems. *Lanigan*: Trash and litter issue as well. If it were anywhere else on the island you'd be upset. *Miville*: Wall is problem, ped lane vs. bike lane. Move it further out, to make 8-foot space. ????: That an issue for cyclists and walkers. ????: Safety issue for traffic. *Sawicki*: State statute bans fishing from bridges, study by DOT necessary to allow it, hazardous to public safety. Loose coalition on both side of that bridge looked into that a few years ago, take complaint to DOT, all or nothing answer. Limiting fishing to one side won't work, pushes bike/ped traffic across road and enforcement problem. Access can be enforcement tool. Multiple violations makes it harder to keep clear. People are too intimidated to ask for right of way. Nighttime, leaving bait and trash fish. *Miville*: Boat access under bridge also a problem with lines hanging down. *Sawicki*: Fair number of conflicts between the two. *Miville*: If you cast from the shoreline you can still reach most spots. *Mullins*: During dredging, folks did not pay attention to signs ask them to do certain things for safety of dredgers and themselves. *Sawicki*: Safe space for workers, vs. preventing fishing.

Stilwell: Create fishing area along shoreline, eliminate from bridge. *Riordan*: Jurisdiction, Captiva vs. Sanibel. *Sawicki*: We have jurisdiction over everything, Sanibel boundary is midway across Blind Pass. Good question about jurisdictions. If DOT deems it a hazard, then fishing ban is enforceable under state statute. *Brookes*: FWC preempts local govt. from banning fishing. Ownership of bridge matters, so need to determine. County can prohibit if they own. *Riordan*: Local or day-trippers? *Sawicki*: Local and out of state, not Captivans. Nighttime, can bring more criminal elements as well. Improvement of access from shoreline could be helpful to attract people with limited mobility. *Libonate*: Known fishing destination. *Sawicki*: Whether conduct represents a hazard, not targeting fishing per se. ????: Get small group of impacted people to work on solutions. *Mintz*: Issue for people who live near bridge, no question. County or DOT issue, we cannot unilaterally say no fishing on bridge. All or nothing issue in the past, too difficult to find compromise that will actually work. *Sawicki*: Have to see action in order to charge for certain offenses. Not much more to do with enforcement, Sanibel does cleaning but don't know their schedule for that. Accept it within limits or look at eliminating it. *Mintz*: Other locations on shore to use for fishing to get them off bridge. Also recognize as a safety issue. Does panel want consultants to draft solutions, creates platform, figure out best way to do it with DOT or county? *Sawicki*: That is a county park, overlapping authority. No will to enforce nighttime closure, could look at that as well. Put timed gate across there at sunset. *Miville*: If I was a commissioner, I would not want my name on an action that would prevent fishing from bridge. Possibility to put sign to encourage good behavior. *Mintz*: May not require commission action, DOT could make determination. Proposal to close bridge, include accessible platform, determine process. *Sandy*: Look at TDC funding to pay for access sites. *Mullins*: Draw up resolution to submit to Santiva residents to solicit their support and help. *Jensen*: Possible harm to wildlife as well. Motion to take actions as outlined (Mullins/Mintz), unanimous approval to proceed. *Mintz*: Feb. 12: clean air and water protections, a lot of important issues to discuss. *Libonate*: Kids driving golf carts, issue during busy rental weeks. Wiles Drive issues. *Sawicki*: Not OK for kids to drive. *Riordan*: Very clear in cart rental agreements. *Sawicki*: Only publicly maintained roads, not in resort and others. We let people know. Get cart number and contact the renters. *Batchelor*: We say age 22 minimum for drivers on our carts. Very clear that we oppose that.

Break, back 11:10 a.m.

Wastewater: *Mintz*: Jay Brown out of country. Important issue, addressing potential problems over the

next 30 years. Background explanation. TKW Consulting Engineers will present its report on Wednesday, Jan. 23, 7 p.m. at Civic Center. We urge the community to attend, first step to bring information to community. Let's get posters up at South Seas, library, post office. Wastewater Committee reviewed TKW report, identified areas that we still need more information to make an informed decision. TKW focus was sewer, not septic in the future. Need to know if the current systems are functioning properly now. Or are they polluting Captiva and nearshore pollution sources as well? Important point is not how do we do it, but should we do it? What happens in 20-30 years with sea level rise and rise in groundwater levels? Reached out to other groups to provide information on these questions, David Tomasko with ESA in Tampa offered proposal on additional research. Meeting with him on Feb. 1 to discuss and decide on direction. *Mullins*: A lot of work going into possible sewer, but also at ways to improve septic. To make that move to central sewer, county would need show of support from community and 50% +1 approval to pursue. At the sea level rise symposium, Hans Wilson pointed out the risk to septic systems with groundwater rise. Evaluation effort, no recommendations yet. *Mintz*: Reached out to FGUA on status of its plant at South Seas, should it be included in planning for entire island. They believe their plant will be functional into the future. Whatever the future plans, FGUA will stay independent. *Miller*: Package plants included in 378 count? *Mintz*: No, their own category.

Development: *Rathbone*: Looking for professional fundraisers to join committee. Rely on donations, welcome any help we can get. *Mullins*: Brookes has mentioned grants he pursued for other areas, also need people with experience in grant writing. *Mintz*: 2019 events... doing Rauschenberg event this year? *Rathbone*: Can't do it again this year, have to find something else. *Mintz*: SCCF person here, will try to attend meeting regularly. *Miville*: SCCF awareness event with Chico founders this weekend. Art Haus Marvin. *Jensen*: Tom Libonate is a new SCCF board member. *Max Forgey*: Florida DEO grant was source for Yankeetown study.

Communications: *Mullins*: Need support for newsletters, WordPress experience. *Mintz*: Video and look at CFI grant for support. Branding video, eco-friendly island to promote to tourists. *Lanigan*: What is purpose? Branding or education? *Mullins*: Need to have outline of mission first. *Jensen*: We looked into it previously, not certain it's a panel role. Who's going to watch it? *Mintz*: Form committee, define how and why we should do it, look at funding. Discussion. Jensen, Baumgarten, Lanigan on committee. *Libonate*: Communicating to potential visitors, peoples don't read they watch. Create short video and post on YouTube, promote through agents. *Lanigan*: Branding or education? *Libonate*: Both.

Captiva Drive: *Mintz*: Background. Looked at design costs, reached out to Johnson Engineering, and Morris-Depew Associates. Waiting for MDA estimate. *Miville*: Surveying as cost of design, GPS can be a better option. *Miller*: Landscaping a problem south of Andy Rosse, a lot more bikers on the road. County can act if there's a safety issue. How do you get landowners to be responsible with the landscaping? *Lanigan*: County can maintain the right of way, speed study concluded no issue on Captiva. DOT respectful of island and lets us do our own thing. Information to owners would help. *Mintz*: Could panel engage island landscaper to clean up those areas? *Mullins*: Object to that. IWA paid to redo pavers even if owners broke the law. Not a panel role, for a volunteer group it's too much. Ask county to do its job. *Mintz*: Information first, then use county as a threat. *Sawicki*: Looking through LDC, no mention of responsibility for property owners. Move that off, makes road safer and make people feel safer. You decide distance and height, see if it works in LDC. *Jensen*: Not always a lot of ROW in certain portions of Captiva Drive. *Mullins*: Current shoulders do not meet bike lane standards, need to remember that

when using that term.

Taxation: *Mullins:* Still waiting.

Hurricane: *Lanigan:* Rebirth of prior committee. Response post-Irma raised concerns about Captiva cleanup: Waste issues. LCEC responded to Captiva then called off. Opening up Sanibel before Captiva was ready. *Mullins:* Looking for grant support, other issues. Communicate to broader community to get our messages out. County has public access cable station, Arlene Dillon looking into this for CEPD. *Mintz:* Institutionalize hurricane communications committee, perhaps that's the grant funding source this year. *Riordan:* Will look at CCA board members to assist.

Sea Level Rise: *Mintz:* Do not have committee, four volunteers willing to work, need a chair. See me about that. Committee will need to work with CEPD, joint effort. Discussion of grants, look at Yankeetown, look at who is eligible to apply.

Financial: *Rathbone:* Look at last year P&L, gratitude for community support for this year. Revised budget distributed. *Mullins:* Thanks also to South Seas for their monthly support and event support. Need grant writing capacity to change balance over time.

Captiva MSTBU: *Mintz:* How to get public funds to support panel. Funding via property tax base, to build stable base of support. Asked Gooderham how to form MSTU for this purpose, impact on panel rules and elections, consult with Ralf and bring proposal back to panel. *Miville:* Unincorporated MSTBU fund as source of funding as well.

Public comment: *Jensen:* Iguana calls can come to me, is there more of a problem? Reach out to areas where there's a larger problem to find if their thoughts? *Batchelor:* It's open season on iguanas in Broward County, they're out of control.

The meeting adjourned at 12:05 p.m.

-- *Ken Gooderham, administrator*