

## Captiva Community Panel

# MINUTES

*March 10, 2020*

**Attending:** David Mintz, John Jensen, Mike Kelly, Antje Baumgarten, Mike Boris, Ann Brady, Rene Miville, Jay Brown, Mike Mullins (phone), Tony Lapi, Mike Lanigan (phone)

Meeting convened 9:10 a.m. Following introductions, the minutes of the Feb. 11, 2020, meeting (motion Bois/Kelly) were unanimously approved.

*Mintz:* Spoke to Sanibel City Manager Judie Zimomra on virus, nothing external in touch with state and county, some internal protocols. Meetings and vacation locales, etc. *Brown:* CIYC committee to develop recommendations, as has Sanctuary. Discussion.

**CFD:** *Chief Jeff Pawul:* Handout has facts on virus. Common sense guidelines, main symptoms is fever. Call health care professional before you go anywhere. Links on CFD website. International travel is the common tie. Cases in Lee County. *Brown:* If on islands, how would we know about it? *Pawul:* Through us, probably. Not in media. If you call with an emergency, we will qualify you first before we walk in the door. **LCSO:** NBC-2 has sheriff's news conference with DOH spokesperson. *Pawul:* Finished Storm Ready designation for island, new sign has been posted. *Jimi Batchelor:* Ages and health conditions of those who died? *Pawul:* Over 70 with underlying conditions. Same as the flu. Corona not new, just a new strain.

**LCSO:** *Lt. Mike Sawicki:* Recurring question since expansion of golf cart zone about equipment required under ordinance. Read ordinance language. Most carts have all but reflectors, ordinance is not specific. Don't skirt it by underdoing, it's meant for your safety. If operating at night, also must have lights and signals and windshields. May have to retro fit with turn signals. Had a lot of questions. Cannot selectively enforce. *Mintz:* Where do you get equipment? *Sawicki:* Ask Jimi. *Brown:* Amazon as well. We can order for you. *Robert Fox:* Noticing more cars passing into other lane. *Sawicki:* Expected and predicted in previous meetings. DOT should look for areas where passing is allowed. Discussion. *Sawicki:* Tough to establish a learning curve during tourist season, people don't stay on island long enough. May have to look at a road design solution – bumps, better signage, etc. Enforcement is an element of roadway safety but not the only thing that does it. *Mintz:* Concerns about safety were expressed during zone expansion discussion. Expected Lee DOT to look at it, they just established the larger zone. Monitor it closely to see if we can self-police. May re-assess. *Sawicki:* Cart needs to be in the lane of travel, not in the shoulder. No passing due to sightlines, may need to reconsider Captiva Drive zones. *Miville:* Length of new area? *Sawicki:* 6/10 of a mile. Most carts top out at 14 mph. Discussion of delays. *Kelly:* One or two headlights? *Sawicki:* Vague, as long as it provide ample illumination. Jimi; Single lights usually brighter. *Tom Libonate:* Possible to get speed indicator southbound? *Sawicki:* Look at the expense. Something we can approach. Issues with how current one gets repaired. *Mark Clark:* Signs, put something at Tween Waters about passing carts. *Sawicki:* Have to go through DOT, have to confirm to federal standards. ???: Peds and bikes? *Sawicki:* Supposed to be in shoulder, OK to pass.

**Roosevelt Channel:** *Mintz:* A number of conversations between county and state. State removed “no wake” and “slow speed” signs on many areas of channel. Described conditions. We're concerned about seawalls, erosion, boats, safety with kayakers. Signs replaced after Hurricane Irma were installed by state

regulations, old signs were county. Steve Boutelle and Lesli Haynes contacted, explained rationale. Manatees here now, rules not consistent with reality. Spoke with state manatee person, she thought county could establish manatee zone all year on Roosevelt Channel. Not no-wake but low speed. State studies manatee patterns every three years, county can establish one in between that. State data on website probably sufficient to justify county action. *Brown*: Taking this on by yourself? *Mintz*: Pass data on to county and see what happens, follow up with them. *Miville*: Go to state rep? *Mintz*: Could be an option, if county staff can't do it on their own. Then it becomes a political process. *Fox*: Allow boats to anchor in channel? *Sawicki*: Can anchor in state waters with proper anchor light, can't tie off to channel marker. Discussion. *Sawicki*: Path of navigation markers.

**CEPD:** *Administrator Joe Wagenti*: Long-time district attorney Nancy Stroud retired, board hired Ralf Brooks as new attorney. We're starting an ad hoc committee on public access and cost-share issues with state and county. Sign up for newsletter on website.

**Crows Nest:** *Mintz*: Courtesy notification for community, we did not get sufficient notice for this meeting, they will hold a separate meeting at Tween Waters to meet LDC requirement. *Rob Fowler*: Replacing food service structure at pool, one-for-one replacement. Also at Crows Nest, adding building above existing restaurant. Moving usable restaurant space upstairs, to have storage downstairs. Offers view of Gulf, services stay the same. In permitting now for development order and building permit. *Brown*: Roof heights? *Fowler*: 34 feet at peak, I think. Historic committee has reviewed and approved. Floor level same as Wakefield Room. *Brady*: Timeline? *Fowler*: Love to start in April, have to see how permitting goes. *Lapi*: Also redesigning downstairs, updating electric and other things. *Miville*: Discussion of acoustics. *???*: Increase in square footage? *Fowler*: Restaurant going upstairs same space, storage downstairs.

**Captiva Code:** *Mintz*: Introduction, started this process in 2014. Amended Captiva Plan, which is then implemented through Captiva Code. Sent surveys to owners, got a strong response. Described steps through workshops, culling and research to draft language, discussed last spring and revised based on that over the summer. Revisions to code, which many people did not know existed already. Important for people to see the exact language, so we mailed that to everyone on the island and asked for their feedback. Next steps are to send recommendations to county, negotiate with county attorneys and staff, come back to panel to revise and accept changes. Once we get staff agreement, new language goes to county commission for approval at a public hearing. In handout, I tried to collate the community's comments with code language, when appropriate made revisions to be considered by panel. Today, I want to go through provisions, review summarized comments, have a discussion on next steps. If we concur, transmit to county for review, then have full discussion on what we should do. *Brown*: Sounds fine, raise issue about overall process.

*Mintz*: Ran through topics raised. Blind Pass Bridge not a code issue at this point, negotiation between panel and DOT. *Septic*: *Mintz*: Four responses, explained those. Language same as state pending language. *Brown*: Language that state used to provide guidance to counties. *Mintz*: Explanation a mix of language. Capacity, concern about homes having more bedrooms than were permitted. Did not want county looking at capacity vs. bedrooms. We are just trying to document the size of the tank and drainfield so we can create a more complete database of septic systems on Captiva. The second issue was how to define what is meant by a system failure, which is not addressed in state language. What we're

proposing is failure means a system that is discharging pollutants into the ground, the groundwater or into surrounding waters, and this discharge can be documented. Once that occurs, the property owner would be asked to repair whatever was causing the discharge, then send notice to the inspector that it has been repaired. We added a line that says: For the purpose of this subsection, a system may not be deemed in failure solely because the system does not have the minimum separation distance between the drainfield and the groundwater. Because we know there will be septic systems that don't or will not have sufficient separation, so we don't want failure tied to minimum separation from groundwater issue. Trying to get people to pump and inspect systems every five years, as recommended by experts, to ensure system is working and maintaining its integrity to avoid pollution of the nearshore waters. Unpermitted septic systems, about 100. Jensen: But if it's working it's OK. *Mintz*: If it's not polluting, it will not need to change. Page two revisions, not requiring even a partial upgrade if you're not polluting. : Complete failure? *Mintz*: What is a failure is now defined. *Jeff Brown*: Clear on database, you have a record going back 30 years. Who will maintain? *Mintz*: Dept. of Health likely. *Brown*: Might be shifted to Florida DEP. *Mintz*: County needs to decide, don't know yet. Discussion on records. *Brown*: Performance systems are regulated by Florida DEP, separate regulatory regime. Conventional systems rely on natural processing. Performance systems rely on mechanical processing to clean effluent to a certain point. Inspected twice a year to ensure compliance. *Mintz*: Described process. ???: How will it be monitored? *Mintz*: Notifications, if county is willing to take this on. ???: We pump once a year, have five tanks for ten units. Crews Environmental says tanks aren't big enough. Will we have to replace them? *Miville*: Only if you need a new permit, not if you pump. ???: County takes over inspections? *Mintz*: You hire whomever you want to do the pumpout and inspection, not county. ???: Fear of the cost to replacement systems, then sewer comes along and adds its costs. *Mintz*: If systems are working, county won't require upgrade. Only when your system fails or you seek a permit. Will allow systems to continue even if they do not meet newest code, as long as they are working. *Mullins*: Renovations limited by septic capacity. *Brown*: Not restricting, if you want to expand capacity of house you have to expand capacity of system. *Ralf Brookes*: State not county makes decision on who regulates. SB 712 would transfer that to DEP, has not passed Legislature yet. New rules by 2022. *Mintz*: If state acts we'll be preempted. Motion to accept, unanimous.

*Fertilizer*: *Mintz*: One call from landscaper, favored language to be in line with Sanibel rules. Pointed out that dates did not match up. Sanibel is less restrictive than county, rules kick in July 1 rather than June 1. Explanation for county starting earlier was that rainy season starts early in eastern county than on the islands. Recommendation to change date accepted.

*Dune vegetation*: Noted comments, this is based on county code on dunes, we added it to Captiva code to refine. Amending to include currently or historically vegetated pathways. If you want new access, you need to get a permit from Florida DEP. Recommended changes accepted.

*Straws*: Most support, most straw debris found on beaches in Village. Leave as is. *Max Forgey*: Legislature may preempt this year. *Mintz*: Governor vetoed. Accepted as is.

*Beach protection*: Lots of responses, language implicated a lot of issues. Right now, during turtle season you have to remove equipment. Discussion of Coastal Construction Setback Line and enforcement. Asked SCCF how they regulated that for turtles, line is just beyond the dunes. High priority in Village, less elsewhere. Pictures from Village beaches passed around. Problem in Village mostly, Tween Waters has a

different issue. Not cheap furniture, but heavy permanent chairs placed by dune line for winter season. Those are on public land, but not creating the same type of problem we have in Village. Don't know what community thinks about this. Described revisions. *Brown*: Establishing precedence here between village and elsewhere. *Mintz*: Different part of community have different problems. ????: Moved during turtle season? *Mintz*: Absolutely. *Batchelor*: Already have rules on beach litter. What's going to change? *Mintz*: Rental agencies will be advised that it's prohibited and fines are possible, hopefully we get voluntary compliance. *Linda Laird*: Concerned from dune perspective, if things are in dunes it hurts them. To what extent do we want to protect dunes more? *Mintz*: Legitimate question, may be issue with items in dunes but that not intent of this provision. If CEPD or Tween Waters residents or others want to address this, they can. Didn't want regulations to be applied that wasn't intended. Discussion. *Richard Sonking*: Took photos, several issues. Chairs in dunes instead of beach. Not just furniture, but encampments, bottles and trash as well. Ordinance would allow us to tag it and remove it. *Miville*: Have you spoken to the agent? *Sonking*: Who wants to call them every week? *Mintz*: Want rules to get people to voluntarily comply. Dune protection due to storms and sea level rise is an issue for another day. *Mullins*: CEPD has developed new SOPs, monitoring dunes and beach daily. Can monitor rules regularly through that. *Sawicki*: Enforcement, violation only, not authorization for removal. Anything left is considered abandoned and subject to removal. SCCF tells us when equipment becomes a problem, we rely on them to flag action. Hard to determine what is garbage and abandoned, vs. someone just violating the ordinance and coming back the next day. Need mechanism to remove that. *Mullins*: Different rules for different sections of island. Dogs allowed at Turner Beach on leash. At Hagerup, no dogs allowed. Consistency helps enforcement. *Brady*: Agree, it's about protection and not aesthetics. Not enforceable to tie it to appearance. *Lapi*: If SCCF is control agent during turtle season, talk to them. *Mintz*: Protection of dunes may be right thing to do eventually, but we did not look at that in this process. Workshops and surveys was about garbage furniture being left behind. Problem is real but different. Have not discussed this issue with them yet. *Mullins*: Pass on it and get the facts, most comments from Village, for variety of reasons. *Fox*: Need multiple rules for different areas. Chairs not in dunes. Discussion of yacht club. *Mintz*: Scrap it and do further investigation, or apply to Village as proposed. Understand other views, went through workshop on this and a lot of response from people who are concerned about this. Unfair to scrap entire provision, better to focus it on areas of concern. Unanimous to approve as proposed with recommended changes limiting provision to Village.

*Noise disturbance*: *Mintz*: General consensus, except we did not specify end of quiet time, added 7 a.m. Got response from someone in South Seas. Private owners inside South Seas. Did we mean resort-owned property? *Baumgarten*: Resort-owned, same as in Village. General concurrence.

*Outdoor lighting*: *Mintz*: Provision more watered down from other communities' standards. Existing lighting is grandfathered, or complete replacement of fixtures. Landscaping lights to top of tree or structure, not above it. General concurrence. *Jeff Brown*: Lighting required by code not covered. *Mintz*: Can add sentence to that effect to clarify.

*Signs not requiring permit*: Less restrictive than current, four to six square feet total. Two other issues, Sign on corner of Wiles and Chapin, construction sign was 10.5 SF, contractor dealt with it but most other signs are too large. Consensus to make residence and construction signs same size requirements. *Miville*: In Southampton, construction signs are small there, its word of mouth vs. a huge sign. Discussion of current vs proposed, no limit vs. two signs, 10 days instead of 30 days. Discussion. Who enforces? *Mintz*:

Most people don't know we have these rules. How many people did not know we have a Captiva Code, or a sign ordinance? Got request from real estate agent about advertising for open houses, regulation against directional signs. General consensus not to allow.

*Parking: Mintz:* General agreement from all comments. Suggestion about scooters and skateboards. Different than what we asked, have to deal with it separately. ???: What about parking during CCA events? *Boris:* Not allowed on the street. ???: Open it up a little to one special event every 30 days. *Mintz:* Allowed now in different provision, county did not allow church services to be considered special events. *Lisa Riordan:* Work to limit people attending by carpool, carts, etc. and get 125-130 people to our events without using streets for parking. *Mintz:* Other comments and issues captured for the record, can put on agenda going forward if there is interest. Thanks to the community for comments, made a lot of changes in response. Balance needs and thoughts. Entertain a motion to transmit recommendation to county for review and begin negotiation with county.

*Brady:* Jay added letter to panel about process to packet. *Brown:* Long thought-out process expertly led by Mintz, thanks for his efforts on this. One concern I have is about process. We have done everything we can to communicate to community to get input, but we still get feedback from a small part of the community on this – 250 responses for first survey, less with review of the final product. These regulations impact individual property rights. Implications on lighting, beach furniture, septic systems, etc. Not had a lot of input expressed by the community. Somewhat squeamish about this. Is another step needed to survey the community on our final product? Discussion. *Mintz:* Spoke to others who raised this issue. Not aware of history of panel. Authorized by county Administrative Code to compile concerns and make recommendations about them to county. People not aware of process we went through. Did survey, had workshops and research on options and how other communities addressed these issues, then further discussed and winnowed, then sent final language out to community one more time. Still have to negotiate with county, bring changes back to panel and community, then goes to county commissioners. Jay has suggested a vote of property owners, a referendum on each provision. County is asking for recommendation, not to conduct an election. We're not in that business. We should be engaging our community in writing, holding workshops, then we make recommendations on what we think is right. *Brown:* What if community votes against our proposal, does that not matter? Discussion. *Brown:* Nonresponse is acceptance? *Miville:* Always trickle-up process, don't tell people what to think but ask them their thoughts. Recounted how height restrictions were changed back in the 1990s with community input or notification. *Kelly:* Did this all before, long and laborious process. A continuation of what we've done for 20 years. *Mintz:* That's not the process we use, we have a different representation process. *Jensen:* Captiva is not a neighborhood in town, dealing with people who are rarely here. *Baumgarten:* Democracy is a duty more than anything else. Asking people to participate, trying to get new ways to communicate. *Libonate:* We're not experts, what's you've done is more inclusive than any other public body to seek and act on input. Unanimous approval of motion to submit to county.

Break @ noon, back at 12:07 p.m.

**Blind Pass bridge:** *Mintz:* Spoke to Sanibel about bridge, city has no jurisdiction and it's strictly a county issue. Go back to county, need to see what happens. *Brown:* Any other approach, concerned about snook mortality. *Mintz:* Go back to county and see who can weigh in. DOT has no interest in changing rules on fishing, we need to find out who the real decision maker is and see if we want to pursue this further.

*Miville*: Political suicide for county officials to ban fishing. *Brady*: Discriminating against people who don't live here. Discussion about line disposal, other issues. *Sawicki*: Safety issues, barriers might help solve issues. If you create larger areas, will fisherman just fill the space? *Brady*: Provide signage to direct users. *Miville*: Possible to move barrier out more, see what happens. *Mullins*: Solution is to convince county to limit fishing. *Mintz*: Identify decision-maker and invite them here. *Mullins*: Squeaky wheel approach has driven panel, people express what affects them on their part of the island and the others respect that. *Miville*: Issue is the wall. Is there will to get rid of that? *Mullins*: Create another fishing amenity.

**Golf cart safety**: *Mintz*: Committee formed, includes Antje Baumgarten, Jimi Batchelor, Ann Brady, Tom Libonate. Contact Marcel Ventura to participate. Mike Kelly and Tom Brouster want to be on it. Discussion. *Baumgarten*: Stickers on carts good, but people don't read. Will work to set up committee meeting before next panel meeting.

**MSTU Committee**: *Mintz*: Explanation of schedule: Delayed for one year, start petition drive in October to get sufficient numbers for approval by April 1, 2021. Committee needs develop plan before season ends to it's ready to implement next October.

**Kampichi Fish Farm**: *Mintz*: Comment period closed. EPA will evaluate, will let you know if they reopen. Would be first farm in Gulf of Mexico.

#### **Committees:**

**Wastewater**: *Brown*: Recap of past meetings, developed materials for straw poll. To make more progress, will take substantial time and investment to move forward – design and feasibility, impact on island and properties. Discussion of SCCF objections to Tomasko report, felt groundwater samples were not evenly spread around island, clustered in a few areas closer to package plants. *Boris*: What do you think? *Brown*: Not a scientist, concur with Tomasko's conclusions. *Mintz*: First study was looking for bacteria, not nutrients. If samples were not good enough for nutrient how would they work for bacteria? SCCF relied on modeling which had nothing to do with actual samples. Due to separation, if not bad now it will be bad in the future. *Mullins*: SCCF said island has changed with more short-term rentals having a bigger impact on septic systems today. Join with CEPD to ask that county give us info on bed tax collections to better understand implication of short-term rentals. *Brown*: Last thing, SCCF put together a research design to better clarify samples and nutrient impact. I would rather continue with the poll. *Miville*: Ideas, when mailed out have people take a picture of the completed card and email it to someone. Open the envelope, read it and understand it. *Brown*: What's going out is letter and card. Link to longer report online. *Miville*: Too academic, needs to be FAQ. Pitch and then poll. *Brady*: Also mail longer report, people will want information. Missing a timeline explanation, 5-10 year process to install central system. Cite TKW for timeline. From effort to approve to finished and functions system in 5-10 years. *Gooderham*: Described mailing process, non-South Seas owners only, from property appraiser's list. *Kelly*: Why not include SSIR people? *Brown*: SSIR has wastewater treatment system, owners would not support going to Sanibel. We need to assess rest of island to see if there's support. Questions will arise, we would need a different set of economic analyses for South Seas properties due to FGUA system. Probably doesn't make economic sense to operate two WWTP plans in same area, particularly with investments needed over time to keep FGUA operating. FGUA has franchise for resort, but county could take that over at a cost, possibly a considerable cost to buy out FGUA. *Brown*: Get poll out, see results at

April meeting, set plans to work on over summer. Do anything special at April meeting when we ask panel to formally support this effort? *Mullins*: Can't act, did not have 7 days' notice. *Mintz*: Not a vote on contents of survey, just assent to continue. *Mullins*: Let me read and get back to you this afternoon. Artificial deadline to get it out before April. *Mintz*: Include special notice in mailing that it will be discussed.

**Communications Committee:** *Baumgarten*: Letter to HOAs, addresses from yacht club. *Gooderham*: I cannot act on getting it out, do not have access to addresses or HOA president contact information. *Baumgarten*: Sanibel put beach safety on hold due to LCEC. Send letter to Lee County to put up beach safety equipment? *Sawicki*: Discussed in past, for Turner and Hagerup parks, discuss with Parks & Rec.

**Financials:** *Baumgarten*: Changed report to show YTD and balance. Communications spent more due to straw poll, every mailing costs \$1,200. OK to spend a little more, may need mid-year budget reconciliation in May before everyone leaves. MATM, is there risk to hold it due to virus? Committee felt risk was not too high due to outdoor venue. Reserves in bank, any target amount you want to have. *Mintz*: Discussed in past, criticized for having too much in bank. Discussion *Mintz*: I've been avoiding this conversation in hopes I could get it resolved. Has to do with Captiva drive sidewalk. Finishing design and engineering, budgeted for that. Just got email that we need additional surveys for County Lands to request rights of way, three more at \$750 each or \$2,250 total. In original meeting with DOT and Johnson Engineering, it was decided that the county paid for survey, the community would pay for design & engineering, and county said they would build and maintain the sidewalk. Explained the meeting and why that assumption was that county would fund project. When Johnson had a more recent meeting with DOT, officials were surprised that was the assumption. They said DOT would take it from there, handling all the steps of procurement and management and maintenance, but not funding. Misunderstanding or reversal, don't know which. Handed out Johnson's estimate of \$383,000 to construct project as designed. County CFO said the project could be eligible for TDC funds, not certain. I went to Manning, explained the situation, he said he will take care of it. He planned to meet with staff, not certain about timetable. I want to make sure it's shovel ready when we get funding. *Brady*: Can't ask for property owners to pay the difference? *Lapi*: Others did not pay, can't ask these to do so. Motion to approve additional expenditure for ROW descriptions (Boris/???). *Mullins*: Do we want to spend more if we don't know whether county will cover it? Discussion. Unanimous approval. *Mullins*: If the pedestrian space on the bridge gets narrower, may need a sidewalk. Resent people who don't appreciate issues of those of us who live close to the bridge. *Mintz*: What if we move barrier to edge of road? Discussion.

**MATM:** *Boris*: Mostly done by SSIR staff, all we have to do is find participants, playing and contributing and volunteering. In next four weeks, help recruit people, we have to do our part. *Mintz*: Marketing to local golf courses? *Lapi*: Working on reaching out to that group. Put out another email on that soon. On bed tax collections, CEPD to follow up? *Mullins*: \$3 million in bed tax annually, drafting a letter from CEPD, send copy to panel to also request. Discussion. Also good to assess short-term rentals. Impact and growth. *Lapi*: I can contact VCB head Tamara Piggott to get a lump-sum of collections. *Mullins*: CEPD will start with Tax Collector Linda Doggett.

The meeting adjourned at 1:30 p.m.

-- Ken Gooderham