

## Minutes

### Regular Meeting of the Captiva Erosion Prevention District

Tween Waters Inn, 15951 Captiva Drive, Captiva, Florida 33924

July 10, 2013 @1:00 P.M.

**Commissioners Present:** Jim Boyle (Chair); Doris Holzheimer (Vice Chair); Harry Kaiser (Secretary); Dave Jensen (Treasurer); Mike Mullins (Commissioner);

**Staff Present:** Kathleen Rooker, CEPD Administrator; John Bralove, CEPD Assistant to the Administrator; Hans Wilson, President, Hans Wilson and Associates; Robin Mixon, CFO, Hans Wilson and Associates.

#### 1. Call to Order

Chairman Boyle called the meeting to order at 1:00 P.M

#### 2. Roll Call

The roll was called and the results are outlined above.

#### 3. Approval of Meeting Minutes

Mr. Kaiser moved and Chairman Boyle seconded a motion to dispense with the reading and approve the minutes as written from the June 6, 2013 Briefing Meeting, the June 11, 2013 Budget Workshop, and the June 12, 2013 Regular Board Meeting. The motion passed 4-1, with Mr. Mullins opposed to the motion.

#### 4. Public to be Heard

Jack Cunningham congratulated CEPD for achieving the agreement with Lee County and for the other funding it has secured. He said he knew there was a gain over the last project in terms of dollars. The Chairman thanked Mr. Cunningham for his remarks and also thanked him for his support at the Lee County Commissioners meeting when he spoke in favor of the County Commissioners approving the ILA.

Mr. Cunningham also commented since Captiva was 7 to 8 years away from the next project, CEPD might want to approach the County for a set aside of bed tax revenues to be put in escrow, establishing a fund for the next renourishment so as not to have to go through what it has had to this year.

Chairman Boyle called upon Tom Campbell, President of CP&E, for remarks. Mr. Campbell talked about the transition plan CP&E has in place in response to the upcoming retirement of Steve Keehn. He said Tom Pierro would take Mr. Keehn's place, Nicole Sharpe would continue to work on CEPD's project, and he himself would still be around until at least next March. Mr. Campbell then called upon Steve Keehn for his remarks. Mr. Keehn expressed his gratitude for the many years he has worked with CEPD and reminded Commissioners he will still be around to complete the current projects.

Mr. Campbell introduced Tom Pierro, who talked about his professional experience. Mr. Boyle asked Mr. Campbell about what he thought CP&E's parent company's plans were for CP&E and Mr. Campbell said he thought CBI would be expanding CP&E's role. Mr. Campbell then introduced Nicole Sharp, who talked about her professional experience.

## **5. Financial Report**

Mr. Jensen referred to the financial documents in the Board's materials. He said ad valorem tax payments had all been received and travel was over budget because of the unanticipated trips Mr. Boyle and Ms. Rooker have had to take to resolve issues and problems related to the 2013 Project. He called for questions and there were none.

Regarding the Capital Account, Mr. Jensen said the parking lot revenue was running ahead of budget but reminded Commissioners that there will be no revenue when the project begins since the lot will be used as a staging area. He called for questions and there were none.

## **6. Old Business**

### **a) Renourishment Project**

Chairman Boyle shared that the ACOE was scheduled to open bids on July 2 but they suspended the opening at the insistence of the South Atlanta Division (SAD). He described the issues related to the need for public access easements and how SAD thought the ECL law was not sufficient as public access easement. He described the areas involved and how the cost share had shrunk from 27% to 14% to 0.6% each time the South Atlanta Division made a new ruling. Chairman Boyle also told of a letter regarding the ACOE's ruling on easements allegedly signed off on by the CEPD. When CEPD asked for a copy of this letter, the ACOE could not find it. It appears that it was a Corps interoffice memo and was never provided to CEPD.

Chairman Boyle said that CEPD had accepted the significantly reduced cost share as a strategy to get the project started. Consequently, bids are now scheduled to be opened July 12, contract(s) awarded July 26, and construction started the first of September. He said he and Mr. Rooker will be traveling to Washington, D.C. next week to meet with the Deputy to the Assistant Secretary of the Army Darcy at the Pentagon on Tuesday. A senior staff member from Senator Nelson's office and CEPD's lobbyist will also attend. Meetings with CEPD's Congressman and Senators will be scheduled as well. The purpose of these meetings is to get a waiver of the South Atlantic Division's ruling and get the 27% cost share reinstated. Chairman Boyle said CEPD has already submitted documentation of a 1999 Federal Law as to what CEPD's cost share is.

Mr. Mullins asked what "accepted" meant. Chairman Boyle explained that CEPD had a choice to simply go with the emergency funding only but it would be high-risk because it would delay the project start significantly and the dredgers might give the ACOE a low price to get the contract for the emergency nourishment and make up the cost by overcharging CEPD for the non-emergency portion of the project. In addition, Chairman Boyle said, there would be a double cost to CEPD for the area that received the emergency nourishment due to an ACOE Purchasing Department requirement. He added that CEPD also had some sunk design and engineering costs that it would not get back from the ACOE. Mr. Mullins asked what the dollar amount was reduced to that CEPD would now get from the ACOE and Chairman Boyle said \$3.6 million. He added the opening date for bids for the Sanibel

portion has been moved to July 12 as well. If construction starts the first of September, the project could still be completed by the end of the year. However, if the ACOE awards the contract to a dredger that has smaller equipment, the completion date could be drawn out a bit.

Further discussion ensued about what had happened in the past, what might reasonably be expected as a cost share, the need to have CEPD's lobbyist involved, when the easement issue first came up, the Supreme Court ruling of 2 years ago that relates to this issue, and that state funding depends on getting federal funding. Alternatives were discussed and Mr. Boyle went through the decision rationale for accepting the 0.6% again.

Mr. Mullins asked if CEPD were to get \$3.6 million from the ACOE, what the cost Captivans would have to pay is. Ms. Rooker said she had sent a document showing the financial implications of these latest developments to Commissioners last week that contained the figures. After comments from Mr. Keehn about the likelihood of dredgers coming back with high bids, Chairman Boyle calculated the cost to Captivans might go up from the original estimates of \$5.5 million to \$6.5 million if the engineering estimates are correct. If the bids are 25% higher, the cost would go up to approximately \$7.2 million. When Mr. Mullins talked about using the \$15 million available to CEPD for emergency purposes as approved in a referendum some years ago, the Chairman said he did not think CEPD would have to dip into this emergency stand-by.

**b) Permit Renewal Services Scope of Work**

The Chairman called Commissioners' attention to the two proposals from CP&E for \$98,703 and ATM for \$95,685. After discussion, Mr. Mullins moved and Mr. Kaiser seconded a motion to accept CP&E's proposal as provided. The motion passed unanimously. The Chairman asked Ms. Rooker to read Resolution 2013-10 aloud, authorizing an expenditure of up to \$99,000 for State Joint Coastal and Federal Permit Application. Mr. Mullins offered the resolution and Ms. Holzheimer seconded it. The vote was called and the Resolution passed unanimously.

**7. New Business**

**a) Lee County and CEPD Interlocal Agreement Approval**

Chairman Boyle asked for a motion to approve this agreement. Mr. Jensen moved and Mr. Kaiser seconded a motion to approve the Interlocal Agreement between Lee County and CEPD. Mr. Mullins asked why this approval was needed today since CEPD might need to go back to the County for more assistance. Chairman Boyle explained that bids will be opened this Friday and if the bids come in higher than expected, CEPD will have to front more money to the Army Corps. The ILA provides that CEPD can ask the County for 90% of the money up front and this money can be used for this purpose. Other than this, he explained, CEPD does not have any more reserves. Mr. Mullins said CEPD is walking into this with things that are not known and would not be inclined to vote in favor of this agreement. Chairman Boyle said there was nothing wrong with this agreement and if CEPD requires more than a County share of \$6.1 million, the Agreement has a provision that enables the Board to ask the Board of County Commissioners for approval of an increase. The Chairman said he recommended approval and called for the vote. Commissioners Jensen, Kaiser, Holzheimer, and Boyle voted for the motion; Mr. Mullins voted against it. The motion passed 4 to 1.

**b) Tentative FY2013/14 Budget**

Ms. Rooker said that the budget being looked at today is the one that had been developed from the last two Budget Workshops.

**c) Tentative Millage Rate Approval (DR420)**

Ms. Rooker went over Form DR-420 with the Commissioners. The current rate is .3064 and the rolled back rate is a little higher at .3124. At the Budget Workshop yesterday, it was proposed that CEPD use the rolled back rate. She explained that if the rolled back rate were used, it would not constitute a tax increase. She also explained the 95% rule. Mr. Mullins asked what was the maximum millage rate reviewed at the workshop. Chairman Boyle said it was the rolled back rate. He said that the two rates that were discussed yesterday were the current rate and the rolled back rate. Mr. Mullins said since CEPD cannot go for a higher rate in September, historically Commissioners had gone for a higher rate and then knocked it back at the budget hearings if the money is not needed. Mr. Mullins said he would go for a much larger number like 20 to 25 percent higher given the unknown costs of the project. Chairman Boyle said the feeling in yesterday's meeting was that CEPD does not need to do this. Mr. Jensen said an increase of 20 to 25 percent would not help in the current scenario. Mr. Mullins asked what the down side was and Mr. Kaiser said last year CEPD did what Mr. Mullins was suggesting and by September and after the ad went into the paper, he was getting questions about why CEPD was raising taxes. Mr. Mullins said he thought CEPD was missing an opportunity to squirrel away some extra money and therefore would not vote for this rate. The Chairman asked for a motion and Mr. Jensen moved and Mr. Kaiser seconded a motion to move forward with the rolled back rate. Commissioners Jensen, Kaiser, Holzheimer, and Boyle voted for the motion; Mr. Mullins voted against it. The motion passed 4 to 1.

**d) Hans Wilson & Associates Contract**

Chairman Boyle said the proposed contract was for 3 years and the proposed increase for the first year was 4.3% higher than the current year. Mr. Jensen moved and Mr. Kaiser seconded a motion to approve the management services contract with Hans Wilson and Associates. Mr. Mullins asked what had happened to copies of Ms. Rooker's and Mr. Bralove's contracts that he had requested at the last meeting. Mr. Wilson replied that they had been sent directly to Mr. Mullins. Mr. Mullins asked the amount of both Ms. Rooker's and Mr. Bralove's current compensation and was told the approximate amounts. He asked about other benefits and Ms. Rooker said there were none either for her or Mr. Bralove. Mr. Mullins complained that since the 4.3% increase was going to be shared with the staff, he did not know what the new compensation for both individuals was going to be. Mr. Wilson commented Mr. Mullins could see copies of the new contracts when they were signed and know what the new compensation was then.

Mr. Jensen said that he understood the 4.3% was for this first year and asked about subsequent years. Mr. Wilson said fees for subsequent years would be negotiated and would depend on the increase or decrease in the workload. Mr. Mullins asked was a cost of living amount being figured in and Mr. Wilson said yes and explained that he had used the historical average of the last 37 years which is 3.7%. Mr. Mullins asked why CEPD should pay

more than the inflation rate. Mr. Wilson explained that there was a portion allocated for a performance increase and summarized the areas of performance where Ms. Rooker excelled. Mr. Mullins wanted to know what portion was cost of living and what portion was for performance. Chairman Boyle commented he thought Commissioners were getting too deep into matters that were not within the purview of CEPD. Mr. Mullins said he thought CEPD owed it to the people of Captiva to understand how much is performance and how much is cost of living.

Ms. Holzheimer said she did not see a Scope of Work schedule that was referenced in the proposal and asked it be sent to her.

The Chairman said that the contract had been reviewed from a legal point of view by Nancy Stroud. Mr. Kaiser said he thought both Ms. Rooker and Mr. Bralove were doing an outstanding job and would hate to see them leave because of a lack of increase in pay. Mr. Mullins asked whether the new contract bundled in the accounting work and Chairman Boyle said it did not. The accounting work discussion would take place in the next Agenda Item. The Chairman asked if there were any more discussion, and hearing none, called for the vote. Commissioners Jensen, Kaiser, Holzheimer, and Boyle voted for the motion; Mr. Mullins voted against it. The motion passed 4 to 1.

The Chairman asked Ms. Rooker to read Resolution 2013-11 aloud, authorizing a monthly fee to Hans Wilson and Associates of \$16,000 for services outlined in the July 8, 2013 Management Service Agreement. Mr. Jensen offered the resolution and Mr. Kaiser seconded it. The vote was called. Commissioners Jensen, Kaiser, Holzheimer, and Boyle voted for the motion; Mr. Mullins voted against it. The Resolution passed 4 to 1.

**e) Accounting Services**

Chairman Boyle reported that Hans Wilson and Associates had declined to provide accounting services on an ongoing basis but will continue on an interim basis. He said he and Ms. Rooker had interviewed a candidate, described her qualifications, and said she was asking \$60 per hour. Ms. Holzheimer asked what the going rate was and Mr. Boyle responded that he thought CPA's charged \$75 to \$80 an hour. He said perhaps what CEPD needs was a bookkeeper and said the discussion now should involve where the Board wanted to go from here. He thought CEPD should look for a small accounting group either on Sanibel or in south Ft. Myers. In response to a question from Mr. Kaiser, the Chairman said he thought the number of hours of work was around 750 per year. Mr. Mullins asked to see the job description, asked whether CEPD had used Craig's List, and said he might have a referral. Chairman Boyle said CEPD would put together a job description and run an ad. Mr. Mullins suggested CEPD ask Stroemer & Co. for a recommendation and get referrals.

**8. Administrator Report**

**a) Calendar of Budget Public Hearings**

Ms. Rooker said this Agenda Item simply was a reminder of some important upcoming meetings: September 3 at 5:01 P.M for the Tentative Budget Hearing and two meetings on September 23 – the Regular Board Meeting at 3:01 P. M. and the Final Budget Hearing at 5:01 P. M.

**b) FEMA Update**

Ms. Rooker called attention to the two emails from FEMA contained in the Agenda Materials regarding damage from Tropical Storm Debby. She said CEPD is still in the queue – the claim for \$1.7 million had not been rejected. It had been approved at the state level and now is at the federal level, but approval at this level takes longer. She said it was unclear when the money might be obligated; it might be after the project is completed, in which case CEPD would be reimbursed. She also said the money would have to be shared among the DEP, Lee County, and CEPD -22.8% for the DEP and the remainder split evenly between Lee County and CEPD.

**c) Designation of Critical Habitat of Loggerhead Sea Turtles Update**

Ms. Rooker referred Commissioners to the report on Page 83, which was prepared with the assistance of Greg Burns. She commented that additional public comments had not been scheduled and the final rules would be adopted in July 2014. Ms. Rooker said if the time for public comments is reopened, Commissioners will be informed.

**9. Public to be Heard**

There were none.

**10. Commissioner Comments**

Mr. Kaiser asked whether there was an update on the Naples renourishment project and was provided with information. Ms. Holzheimer asked whether there had been a follow-up with Ben Jones and was told the CEPD had gotten back to him. Mr. Jensen observed how the sea oats on the dunes had flourished with all the recent rain.

**Adjourn**

There being no further business, Chairman Boyle adjourned the meeting at 2:38 P. M.