

Upper Captiva Community Panel  
Adopted Minutes of the July 22, 2011 Meeting

Meeting called to order at 10:02 AM

Present: Panel Members Kristie Anders, Chair; Dave Tompkins, Vice-Chair; Rick Fox, Treasurer; Zeke McDonald, Secretary; Peter Aldrian (via teleconference phone joined at 10:58am), Member; Dr. Margaret Banyan, FGCU Planning Consultant; Kathie Ebaugh, Lee County Department of Community Development; and members of the public.

Phone conference option provided: One panel member and at least one member of the public attended via the phone-in service.

Preliminary Meeting Business

Kristie Anders requested that the panel take public input during every item on the agenda. The process has typically been to facilitate a panel discussion, take public input, then go back to the panel for a decision.

May 3 Meeting Minutes

**Rick Fox Motion:** approve minutes of the May 3, 2011 meeting

**Dave Tompkins Second**

**Discussion:** Dave Tompkins requested clarification on his role in leading a subcommittee regarding potential options for addressing the Brazilian Pepper problem. Specifically, what the process was for writing code. Kathie Ebaugh summarized the code writing process. Dave Tompkins requested Kathie summarize the process in writing for the committee.

**Decision:** Minutes were adopted as written by a unanimous vote.

June 17 Meeting Minutes

**Dave Tompkins Motion:** approve minutes of the June 17 meeting as written

**Rick Fox Second**

**Discussion:** none

**Decision:** Minutes were adopted as written by a unanimous vote.

Treasurer's Report

**Treasurer's Report:** Rick Fox provided the financial report as of July 22, 2011 and requested that it be attached to the 7/22/11 minutes. Balance remaining for the project remained at \$23,718.

**Zeke McDonald Motion:** accept Treasurer's Report with gratitude

**Kristie Anders:** Second

**Discussion:** None

**Decision:** Treasurer's Report accepted by unanimous vote.

Update on Easement Research

Margaret Banyan summarized the meeting with Attorney Tom Hart. Atty Hart believed that there were three options for addressing the location and legal designation of easements on the island pathways. These were: 1) an all island class action court case to ask a judge to legally acknowledge the easements; 2) prepare subdivision-wide class action lawsuits to accomplish the above, and 3) to potentially move towards a MSTU / BU arrangement whereby the easements may be acknowledged as a result. Kristie Anders added that the MSTU/BU could be requested for a minimal price, such as road signage. Zeke

McDonald stated that there was a need to establish that where the pathways are currently are where they will be for the foreseeable future. Peter Aldrian said that there is a need to address the lawsuit issue (lawsuits against individual property owners on their portion of the easement).

Mike Fiigon from FGCU reported on the easement research he had been working on and provided handouts to indicate the variation among properties between the different subdivisions. Mike reported that most of the properties he had researched to date were either 15' or 25' foot easements, while some contained no easement language. FGCU is summarizing this research by strap number for the purpose of a potential GIS map and any future work.

Next steps are for Kristie Anders, Margaret Banyan, and Kathie Ebaugh to meet with Commissioner Manning and the Lee County Attorney for ideas on how to best approach the easement issue. Kathie Ebaugh reported that Commissioner Manning might be able to come to a meeting in October on the island.

Dave Tompkins asked Bert Trapanese what he knew about the MSTU/BU. Bert responded that a MSTU was based on the value of the property and a MSBU was a set rate per property. The challenge is that the county charges an administrative process and has to do a bid process for contractors if they will spend money out of the unit. Bert added that a homeowners association would be another option, but required 100% participation from property owners. Kristie Anders asked if there was a threshold under which a competitive bid was required. Kathie Ebaugh offered to do research on MSTU/BU's.

#### *Public Input*

Members of the public stated that:

- Lawsuits were extremely expensive and probably not a reasonable option, similar expense was related to prescriptive rights designations.
- Lack of support for MSTU/BU
- What the purpose was for addressing easements?
- Take care not to damage property rights as a result of easement action

#### *Panel*

Margaret Banyan responded that there are other issues besides road maintenance for easement research, such as making sure plantings were not in easements and/or fire department access.

Zeke McDonald agreed with the direction and would like to see what the simplest way to approach the issue rather than a lawsuit and hoped that the meeting with Commissioner Manning would be enlightening. Kathie Ebaugh suggested a meeting with Lee County staff to see if there was another way to approach pathway issue.

#### Planning Panel Organization

The UCCP reviewed the draft by-laws that were discussed on June 17.

Zeke commented that Island Council was a good idea, but came to the conclusion that it didn't yet exist so it would not be wise to incorporate into the UCCP by-laws. Kristie Anders concurred and stated that Island Council meetings once / year would be an issue for the UCCP. Zeke asked Bert Trapanese to address the idea of the Island Council.

Bert stated that the Island Council is a starting point and a way to address island issues from the big picture. The document was intended to be a starting point to start a discussion.

Zeke stated that the panel shouldn't hold off business until the Island Council is formed. Rick Fox agreed that the UCCP should form the by-laws for what is in place now and that there should be three at large representatives. Kathie Ebaugh wondered whether the by-laws could have 3 at-large positions for the interim and address the immediate concerns of formation for the Island Council.

A general discussion ensued regarding whether or not the UCCP would sunset.

Rick Fox, Dave Tompkins and Peter Aldrian agreed with the idea of at-large positions.

#### *Public Input*

Jane Pugh (via teleconference) thought that the Island Council should be a direct link for routine and emergency purposes and that it should have a broader scope than the UCCP. Jane thought the panel should become a part of the Island Council's work. Jane thought the Island Council could produce by-laws and get started quickly.

Sue Ann Cousar asked Jane to verify that she received a small and relatively negative response to her survey regarding the idea of an Island Council.

Arthur Mason disagreed that the UCCP should give the Island Council three votes when the UCCA was the instrument for the first planning initiative and continues to assist in funding.

Bert Trapanese said that the Island Council should be an amalgamation of all groups and that agreement was needed across the island.

Tom and Georgia Murphy introduced themselves as new property owners and added that it makes no sense to add members for an organization that doesn't exist.

#### *Panel*

Discussion ensued as to the wording and changes to the by-laws as documented in the new draft.

**Zeke McDonald Motion:** Adopt draft language as final draft subject to review of final copy for the purpose of editing.

**Peter Aldrian** Second.

**Discussion:** None

**Decision:** Unanimous in favor.

#### Fiscal and Administrative Matters

Addressed as part of Treasurer's Report

Next meeting tentatively scheduled for September to consider and pass by-laws and October with Commissioner Manning as guest.

**Dave Tompkins Motion:** Adjourn

**Zeke McDonald:** Second

**Decision:** Unanimous in favor.

Meeting adjourned at 12:47pm