

Upper Captiva Community Panel  
Minutes of the May 2, 2011 Meeting

Meeting called to order at 10:01 AM

Verification of notice posted for the Community Panel.

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

Phone conference option provided: No members of the public attended via the phone-in service.

Introduction of Panel Members

**Peter Aldrian Motion:** approve minutes of the April 8 meeting

**Dave Tompkins Second**

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

Treasurer's Report

**Treasurer's Report:** Rick Fox provided the financial report as of 5/2/11 and requested that it be attached to the 5/3/11 minutes. Balance remaining for the project was \$23,718.

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

**Dave Tompkins:** Second

**Discussion:** None

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

Public Comment

Fran DeTure: Do what is necessary to implement the plan and continue to nurture the organizations.

Arthur Mason: Clarified that the decision at the last meeting was to stay in existence.

Planning Panel Organization

*Revised Timeline and Contract*

Dave Tompkins raised the question about the work plan that would ensue if the timeline and contract were continued.

Kristie Anders described the work that was to be done and what remained:

- 1) Completion of electronic clearinghouse as written in Goal 25
- 2) Pressing Issues from Goal 25
  - a. Garbage – required a report from Lee County Solid Waste. Requirement met. Decision of the island was to take no action at the time.
  - b. Ingress and Egress
  - c. Road/Pathways
    - i. Issue of public safety and perhaps an issue of whether private property owners could be sued if harm done on private pathway.
    - ii. Related to ingress and egress
    - iii. There remains an opportunity to make a statement about safety
    - iv. Resolution would require a deed search to define what pathways are currently and the existing right of ways – are they public? Are they easements? Are they in the correct location?
    - v. The island needs to settle the issue of what the pathways are

Kathie Ebaugh reported on her meeting with County Attorney John Fredyma and Pete Ekenrod. Two options were discussed:

Option 1) Lee County is comfortable with the concept that the roads have an easement established over time – even if they cross private property. The island could define where roads are and where the easements are. Island could use code to define what and where they are.

Option 2) Safety on roads. Island could use MSTU / BU to further define roads and create roadway standards. E.g., “x” feet wide; how maintenance would be accomplished, etc. Optionally, county could come in once a standard is established and have the pathways brought up to the standard and ensure safety at “x” level be maintained. Issue of liability: if pathways are maintained at recognized standard (as per developed code) it further pulls the property owner from liability.

Dave Tompkins noted that the roads are a perpetual stumbling block and that if the road question was resolved it would be well worth the money spent on the issue.

Kathie Ebaugh noted that the County Attorney relayed that you have to have evidence to back up a claim that the pathways should be defined as public or private.

Dave Tompkins questioned whether county was agreeable with the approach the panel may take.

Kathie Ebaugh responded that the planning panel’s ideal outcome would be to come up with a set of standards that the roads should be maintained at a certain level as part of a definition of roadway standards in the code.

Peter Aldrian noted that completion of the work helps to establish the fire department clearance.

Margaret Banyan noted that there are two separate issues regarding the pathways: 1) does it help mitigate liability for property owners? and 2) does it assist in clarifying safety and fire department clearance issues?

**Discussion** ensued with the following points:

- County code is based on health, safety, and welfare. Understanding and acting on the pathways is a health, safety, and welfare issue when it comes to fire access, etc.
- Information about pathways is important to understand scope of problem – where the easements are with respect to where the pathways actually are and what may need to be done to clarify standards.
- UCCA spent \$6,000 on an attorney to do title work. UCCA would make that work available for the panel’s purposes.

*Phone conference turned off at 10:55am, due to a lack of public involvement.*

#### Other Work Plan Tasks

- Kristie Anders questioned whether there were additional Lee County codes that could aid in fire safety. Kathie Ebaugh agreed that local codes could go beyond state standards.
- Peter Aldrian responded that sprinklers were still an important issue

- Kristie Anders stated that encroachment into easements and fire breaks provided greater justification for research into pathway issue.
- Zeke McDonald noted that ingress and egress was a big issue

**Peter Adrian Motion:** To adopt an extension of the panel’s contract with the county as proposed the revisions to the county contract.

**Zeke McDonald Second.**

**Discussion:** Clarify that FGCU should subsume the funds previously allocated to the attorney for the purpose of hiring sub-contractors to research the pathways and hire surveyors if needed.

**Decision:** Unanimous vote in favor

Kathie Ebaugh discussed that they next step would be to see if the contract could be approved by Mary Gibbs as an administrative action or whether it needed to go before the full Board of County Commissioners.

Incorporation and By-Laws Discussion

Kristie Anders reported that she asked the UCCA for \$1,000 to cover the costs of incorporating the panel. UCCA agreed.

Rick Fox and Zeke McDonald thought it was a good idea.

**Peter Aldrian Motion:** Agree that the Chair could go to the UCCA to request funds for incorporation.

**Dave Tompkins Second.**

**Discussion:** Dave Tompkins questioned whether that would that relieve the panel of Sunshine regulations? General discussion ensued that Sunshine applies in the case that the panel is conducting business that will be before the planning panel.

**Decision:** Unanimous in favor.

**Zeke McDonald Motion:** Move that the panel should incorporate.

**Rick Fox Second:**

**Discussion:** None

**Decision:** Unanimous in favor

Work Tasks

**Zeke McDonald Motion:** Moved that Dave Tompkins would select approximately four people to make a proposal for codes related to Brazilian pepper.

**Peter Aldrian Second.**

**Discussion:** Arthur Mason stated that there is no non-code way to accomplish removal. Discussion ensued regarding whether enforcement remains the primary issue. It was clarified that code does not currently require removal.

**Zeke McDonald restated motion:** Dave Tompkins select a subcommittee to suggest code for removal of Brazilian Pepper

**Peter Aldrian Second.**

**Decision:** Unanimous in favor.

Members of the public noted that grants may be available for the purpose of removal (Captiva received two grants for this purpose).

**Kristie Anders Motion:** Zeke McDonald form a subcommittee to investigate a dark sky ordinance.

**Dave Tompkins Second.**

**Discussion:** Peter Aldrian stated that the focus should remain on the roads. Zeke declined the subcommittee chair nomination.

**Kristie Anders** withdrew the motion.

**Zeke McDonald Motion:** Establish a subcommittee of the whole panel to study and discussion bylaws and bring something forward for discussion at the next meeting.

**Dave Tompkins** Second

Discussion. Peter may participate on the phone or via Skype.

**Decision:** Unanimous in favor.

#### Fiscal and Administrative Matters

Addressed as part of Treasurer's Report

#### Next Meeting

Tentatively scheduled for July 22, pending Dave Tompkins travel plans. Peter will participate over the phone or via Skype.

Kristie Anders noted that she has a website reserved for the panel at [UpperCaptivea.info](http://UpperCaptivea.info) and [UpperCaptiveaIsland.org](http://UpperCaptiveaIsland.org)

**Peter Aldrian Motion:** Adjourn

**Zeke McDonald** Second

**Decision:** Unanimous in favor.

Meeting adjourned at 12:30pm