

**SUMMARY MINUTES
PELICAN BAY SERVICES DIVISION ADVISORY BOARD REGULAR SESSION
OCTOBER 7, 2009**

LET IT BE REMEMBERED that the **Pelican Bay Services Division Advisory Board**, in and for the County of Collier, having conducted business herein, met on **Wednesday, October 7, 2009 at 1:00 PM in Regular Session** at the **Community Center at Pelican Bay**, 8960 Hammock Oak Drive, Naples with the following members present:

Pelican Bay Services Division Advisory Board Members

Mary Anne Womble, Chairwoman	Michael Levy
Tom Cravens	Gerald Moffatt
Keith Dallas, Vice Chairman	Geoffrey Gibson
Ted Gravenhorst	Theodore Raia
John Iaizzo	Hunter Hansen (unexcused absence)
	Jill Kobe (commercial interests inaugural meeting)

Pelican Bay Services Division Staff

Neil Dorrill, Administrator
Kyle Lukasz, Field Operations Manager
Mary McCaughtry, Recording Secretary
Lisa Resnick, Administrative Assistant

AGENDA

1. Roll Call
2. Approval of 9/14/2009 Pelican Bay Services Division Advisory Board Special Session Summary Minutes
3. Administrator's Report
 - a) Review and Final Approval of Revised Inter-local Agreement for Submission to BCC
 - b) Discussion of 9/29/09 BCC Budget Amendment Resolution & Carry Forward of Clam Bay Fund 320
 - c) Blue Sky Water Management Video Update
 - d) Website Update
 - e) Monthly Financial Report Update
4. Chairwoman's Report
 - a) Welcome Ms. Jill Kobe, New Commercial Interests Board Member
5. Capital Projects
 - a) Crosswalk and Intersections Thermoplastic Restriping Update
 - b) Lake Bank Enhancements
6. Community Issues
7. Committee Reports and/or Requests
8. Old Business
 - a) Discussion of Florida Sunshine Laws & Code of Ethics
9. New Business
 - a) Roles and Responsibilities of:
 - i. Board Members as Representatives of the Residents of Pelican Bay
 - ii. Board Members as Advisors to the Board of County Commissioners
 - iii. Residents, Property Owners & Interested Parties
 - b) Discussion of BCC decision to install navigational markers in Clam Bay
 - c) Discussion of performing audit of funds to confirm utilization is as intended
10. Miscellaneous Correspondence
 - a) Turrell, Hall & Associates' Subcontract Update
 - b) Ongoing Projects Status Sheet
11. Audience Comments
12. Adjournment

ROLL CALL

All Board members were present with the exception of Mr. Hunter Hansen. Mr. Hansen did not respond to several attempts to contact him.

CHAIRWOMAN'S REPORT

Chairwoman Womble welcomed and introduced Ms. Jill Kobe to the Board and audience. Ms. Kobe is a new commercial interest's Board member and General Manager of the Waterside Shops. The Board of County Commissioners appointed her 9/15/09.

APPROVAL OF SEPTEMBER 14, 2009 SPECIAL SESSION SUMMARY MINUTES

Mr. Gravenhorst made a motion to approve the September 14, 2009 Special Session Summary Minutes.

Mr. Levy seconded.

Dr. Raia referred to page 8160 that reads, "Mr. Dorrill said that staff was looking into continuing to utilize Mr. Hall's services through his firm, Turrell, Hall & Associates without incurring any extra overhead cost by the primary contractor. He said he did not expect a problem, but if it were, he would disclose that information at the next meeting of October 7, 2009." Dr. Raia said he did not see any agenda item regarding Mr. Hall's continuation of services. He asked if there would be a discussion.

Chairwoman Womble said the subject of Mr. Hall's continuation of services is incorporated into Mr. Dorrill's "Miscellaneous Correspondence, Agenda Item 10 A, Turrell, Hall & Associates' Subcontract Update and added that although the description was vague, was where Mr. Dorrill would discuss and provide an update of Mr. Hall's subcontract.

Dr. Raia said there is a typo, page 8170, third paragraph and suggested inserting "to" after "does the Services Division get keep the plans." The amended sentence should read, "Mr. Iaizzo asked if Wilson Miller gets the initial contract to carry out the phases and there is fallout, does the Services Division get to keep the plans." Referring to the September 14, 2009 minutes, Dr. Raia began to discuss his suggestions for amendments to the inter-local agreement.

Regarding the amended language of the inter-local agreement as approved by the Board and recorded in the 9/14/09 summary minutes, page 8166, Dr. Raia suggested further amending page one, the fifth WHEREAS that reads, "The District and the Foundation are both funded only by the residents and property owners of the Pelican Bay Community." He suggested striking "residents" to read, "WHEREAS, the District and the Foundation are funded only by the property owners of the Pelican Bay Community." He recognized that the language had already

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been amended, pointing out originally it read, "WHEREAS, the District and the Foundation are both funded only by the residents" and that the Board voted to amend the language by adding "property owners." Dr. Raia said, "I think there is a little ambiguity and it should just say 'funded only by the property owners.' That includes everybody. Once you put in residents and property owners it almost means you have to be a resident and a property owner. If someone is a property owner but not residing here then that could mean they are not eligible. I would be satisfied just having 'property owners' because the people who vote are the property owners. You might want to get an opinion on that, but I think it just leaves it open for somebody to question it." Dr. Raia's consensus was to strike the term "residents," so the clause would read, "Funded only by the property owners..."

Chairwoman Womble asked Mr. Hoppensteadt to clarify if there are any circumstances where residents who are not property owners, i.e., renters, did they ever pay the Foundation.

Mr. Hoppensteadt answered no and that only property owners pay the Foundation, just as only property owners pay the Services Division's Municipal Services Taxing & Benefit Unit (MSTBU) non-ad valorem assessment. He added, "Dr. Raia is right," and the term "residents" should be stricken, so the inter-local agreement reads only, "property owners."

Dr. Raia commented he did not understand why the term "District" refers to the Services Division, when he believes it should be "County." He added, "It looks like this is a boilerplate document made to fit everybody and it gets a little confusing because sometimes a Municipal Service Taxing and Benefit Unit or MSTBU can be referred to as a 'Districts' and it could be confusing. If they mean 'County' it should say 'County.'"

Chairwoman Womble said Mr. Dorrill would address Dr. Raia's concerns regarding the inter-local agreement under his "Administrator's Report, Review and Final Approval of Revised Inter-local Agreement for Submission to BCC."

Mr. Cravens asked Dr. Raia if he was making a motion to amend the minutes to reflect his observations.

Dr. Raia said yes, and made a motion to amend the minutes striking "residents," including only "property owners."

Mr. Levy said the minutes are a reflection of what happened at the meeting and based on Dr. Raia's motion the Board cannot amend the minutes.

Chairwoman Womble concurred.

Dr. Raia did agree and said the minutes were correct. He explained he was referring to amending the language of the inter-local agreement.

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Mr. Gibson said, "I was not at the last meeting and my method of catching up to speed are these minutes. I think Lisa might have done these, I'm not sure, but they are much easier to read and so much more absorbable," then the prior format, "so whomever is doing it gets kudos from me."

Chairwoman Womble agreed and said, "I took pretty intensive meeting minutes last time just to see how close it would be and this is better than I could have done. Thank you very much, Lisa."

Ms. Resnick said thank you.

Mr. Gravenhorst made a motion to approve the September 14, 2009 Pelican Bay Services Division Advisory Board Summary Meeting Minutes. Mr. Levy seconded the motion. A Board vote approved unanimously the meeting minutes.

ADMINISTRATOR'S REPORT

REVIEW AND FINAL APPROVAL OF REVISED AND INTER-LOCAL AGREEMENT FOR SUBMISSION TO BOARD OF COUNTY COMMISSIONERS

Mr. Dorrill began his Administrator's report by summarizing the objective of the inter-local agreement. This was for the benefit of Ms. Kobe, the new Commercial Interests Board member. He explained the Board has been discussing for several months an innovative concept forming a joint venture with the Pelican Bay Foundation, which is the Master Homeowner's Association in Pelican Bay, to carry out a comprehensive master plan with a look at redevelopment over the course of the next six to nine months. Mr. Dorrill said the innovative part is asking the Board of County Commissioners to declare the Pelican Bay Foundation a "sole source provider" to manage this project. This will allow the Services Division to utilize the services of the local civil engineering and planning firm Wilson Miller. Wilson Miller is the original design engineer and urban planner for this community's redevelopment. At the last meeting, with the assistance of Mr. Hoppensteadt and his attorney, Mr. Anderson the Board reviewed the agreement, amended the language and provided to the County Attorney's office for legal sufficiency. The County Attorney made minor changes pertaining to legal form and the signature page and the agreement is to be under consideration by the Board of County Commissioners at their October 13, 2009 meeting. This Board has already voted to recommend this document, subject to the County Attorney's review. All of the changes and amendments made at the last meeting reflect in this document. He offered to answer questions.

Mr. Cravens referred to Ms. Ashton-Cicko's email that stated Collier County would not be responsible for any payments related to Wilson Miller. He asked Ms. McCaughtry if she had a copy of the email.

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Ms. McCaughtry said that she did not have the email with her, but that Mr. Cravens was correct. Collier County is not responsible to Wilson Miller because the Services Division does not have a contract with Wilson Miller; the Services Division has a contract only with the Foundation.

Mr. Cravens said that he was, “curious as to how that affected our position with the County saying they are not responsible for paying any fees and they are in fact the ones who will be paying fees ultimately.”

Chairwoman Womble said, “This is what the crux of the problem was to begin with and why we had to go to the Foundation and say, okay, you be in charge. Because of the situation with the government and trying to get subcontractors or work orders approved through the County is a very difficult task.”

Mr. Hoppensteadt said the issue that Mr. Cravens was referring to was very narrow and had to do with the County’s absorbing of interest and being able to provide payment on time and the Foundation recognized that clearly as an item that they could not hold the Services Division responsible.

Chairwoman Womble said it is the same reason that the Services Division is not a contractor and considered a client.

Mr. Moffatt said he had some comments on the inter-local agreement in addition to what Dr. Raia has already suggested. Page 2, No. 3 there is a typo at the end of the first line. “PBSB” should be “PBSD.” Page 2, No. 7 he said was insert after the Board’s last meeting and, “I have no idea what it refers to. I don’t know if we have an officer of the Foundation who is related to Wilson Miller, or why that is there.”

Mr. Gravenhorst said, “I think we need an explanation.”

Mr. Hoppensteadt explained it was language inserted by the County for legal purposes.

Mr. Dorrill added, “The County has an ethics policy and I presume in this case, if anyone from the Foundation has a blood relative associated with the contractor who in this case would be Wilson Miller, then they would have to disclose that. I presume this is standard boilerplate language that is consistent with the County’s ethics policy.”

Mr. Moffatt said, “So it’s not that we’re dealing with something that is an issue today.”

Mr. Dorrill confirmed.

Mr. Moffatt said that the County Manager’s name requires amending on page 4.

Mr. Levy said that the copy emailed yesterday states, “Collier County Manager” with no name.

Chairwoman Womble said that Ms. Ashton-Cicko changed it.

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Mr. Dorrill said in regards to the inter-local agreement, he did not believe that the Board needed to re-vote. The Board already voted to approve the inter-local agreement in its present form. He added that corrections to spelling errors and comments made today would reflect as Scrivener's errors.

Mr. Gravenhorst said there was a major change made to page three, paragraph 8. He said the change made during the week reads entirely different from what the Board approved. Paragraph 8 is a redo. It is correct now, but the first draft email was incorrect.

Chairwoman Womble said the current form is final and sent to the County Commissioners.

Mr. Gravenhorst said, "But we didn't approve it in this form. We approved it in the form that was corrected."

Mr. Dallas said, "I'm not following you."

Chairwoman Womble said, "I'm not either. If we approved it in this form, then what is the problem?"

Mr. Gravenhorst said, "But we didn't approve it in this form. This is the corrected form. Last meeting we approved it. It was emailed out and there was an ambiguity in paragraph 8 and was corrected. It is now correct from the original email that went out about 10 days ago."

Chairwoman Womble read the 9/14/09 meeting minutes pertaining to page three, paragraph 8. The language was identical to what the Board had approved and the final document was correct.

Mr. Cravens said page 3, paragraph 8 is in correct form from the original.

Mr. Dallas said he thought they discussed it before the Board approved it.

Mr. Gravenhorst accepted this explanation. He said that he had an old copy of the agreement and thanked Madam Chair Womble.

Mr. Moffatt expressed that he had questions about the schedule.

Mr. Dorrill said the exhibits contain a detailed outline of the Scope of Services, a fee schedule with a "not to exceed" cost sharing formula and a phase schedule estimated to be from October through April.

Mr. Moffatt said that if he was interpreting the proposed phase schedule correctly, it appears that Wilson Miller is reporting to the Strategic Planning Committee before the Services Division. He added at the last Services Division meeting they had agreed that Wilson Miller would report to both the Strategic Planning Committee and the Services Division Board at the same time.

Mr. Dorrill said the intent is to hold advertised joint workshops between the Services Division and the Strategic Planning Committee at each "Milestone" date.

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Mr. Dallas asked Mr. Moffatt if he was referring to for example, item A 4, the first "Update Meeting with the Foundation Planning Committee."

Mr. Moffatt said yes and that he was looking at anywhere there was a circle, which represents the Strategic Planning Committee, before there was a square, which represents the Services Division. The circles and squares should coincide schematically having the same date and same time, signifying a joint workshop, but they do not.

Chairwoman Womble and Mr. Dallas agreed that schematically, the circles and squares should line up together and have the same date and same time signifying a joint workshop.

Mr. Dorrill said where there are circles and squares schematically are representative of advertised joint workshops between the Services Division and the Strategic Planning Committee.

Mr. Moffatt said that from his interpretation, the regular Services Division meetings is when Wilson Miller is scheduled to provide updates and that he did not see any special workshops on the schematic.

Mr. Gravenhorst said not all squares on the schematic correspond to joint workshops, i.e., A 2) Meetings with administrator and individual Board members; and A 6) Update with Services Division Administrator and Board.

Mr. Dorrill said as a part of their approach, Wilson Miller will be conducting a set of interviews with Services Division and Foundation similar operational staff.

Chairwoman Womble referred to a motion at the 9/14/09 meeting made by Mr. Dallas, seconded by Mr. Levy and unanimously approved by this Board. The motion to amend the language of the inter-local agreement, page two, No. 3 reads, "The Foundation shall provide regular, at least at each Phase, reports to the Pelican Bay Services Division Advisory Board and shall consult with and schedule workshops with the Pelican Bay Services Division Advisory Board and Foundation's Strategic Planning Committee for input on the overall plan and direction of the work project." The language of the final agreement sent to the Board of County Commissioners was different from what this Board approved on page two, No. 3. The Board approved language "Foundation's Strategic Planning Committee" replaced "appropriate Foundation committee."

Mr. Cravens said if the Foundation has already approved the Strategic Planning Committee to work with the Services Division, then why would the language change to "appropriate committee." He said any group other than the Strategic Planning Committee would seem to be inappropriate.

Mr. Hoppensteadt confirmed.

Mr. Cravens asked why the language was changed.

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Mr. Hoppensteadt said he did not believe that the Board specified the committee, but the Strategic Planning Committee is the appropriate committee. He added he was amenable to correcting the Scriveners error by identifying the appropriate committee on page two, No. 3 to be "Foundation's Strategic Planning Committee."

Mr. Dallas directed the discussion back to scheduling joint workshops. He believes the dates corresponding to joint workshops are A 4, Update Meeting with Foundation Planning Committee- 30 and 60% Conceptual Design - 11/11/09 and 11/24/09; B 4) Foundation Planning Committee Design Review at 90% - 01/26/10; and C 3) Foundation Planning Committee Design Review at 90% - 03/31/10.

Mr. Hoppensteadt said Wilson Miller could meet and might meet with the Strategic Planning Committee outside of the workshop format. At those non-workshop meetings there would be no decisions made. The Foundation did not attempt to limit the number of interactions with Wilson Miller leading up to the joint workshops at each phase. The challenge obviously is the public noticing of meetings. The intent is to meet jointly.

Mr. Dallas said, "I don't know how other people feel, but I would like to be there as part of our committee."

Mr. Cravens said that the Strategic Planning Committee played a very substantial preliminary role. The Services Division was not involved, although once invited to come on board they agree, but want to be full partners, not partial. If there are meetings between the Strategic Planning Committee and Wilson Miller exclusively, that does not make him feel as though he is a full partner. A full partner is what he wants to be and what he said the Foundation offered.

Mr. Gravenhorst asked Chairwoman Womble if a subcommittee would be appropriate.

Chairwoman Womble said enough Board members are interested in attending the Strategic Planning Committee meetings, that a subcommittee is not necessary, although they would have publicly notice the meeting within the requirements of the Sunshine Law.

Dr. Raia said Sunshine Law encumbers the Board and it makes it difficult to accomplish anything.

Chairwoman Womble said that is why they are scheduling the publicly noticed joint workshops.

Dr. Raia said there are a minimal number of workshops scheduled.

Mr. Dallas disagreed and said there are two or three monthly and another at each stage.

Dr. Raia said if the joint workshops were that frequent he would throw out his comment regarding a minimal number of workshops. He said to notice a meeting publicly, it must be done 48 hours prior to the meeting and both sides would have to cooperate to ensure compliance.

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Chairwoman Womble recognized Noreen Murray in the audience.

Ms. Murray, a Foundation Strategic Planning Committee member, said during the selection process that resulted in Wilson Miller's hiring, Mr. Dallas attended all of the Strategic Planning Committee meetings because they are open to the public. Chairwoman Womble is a member of the Strategic Planning Committee. She said she did not find any reason why members of the Services Division Board cannot attend a public meeting. She recognized that only one Services Division member could speak publicly at the meeting per Sunshine law. She said publicly noticed joint workshops will be scheduled often, but that Services Division members can always attend the always public Strategic Planning Committee meetings and observe.

Mr. Dallas said he did not just want to observe. He wants to participate, hence the reason for a publicly noticed joint workshop.

Mr. Cravens agreed that participation in the decision making process is key.

Chairwoman Womble agreed and happy this issue is out in the open. She deferred to Mr. Hoppensteadt.

Mr. Hoppensteadt said, "I don't want to be disingenuous and say that there couldn't possibly be a Strategic Planning Committee meeting that Wilson Miller would not be there giving an update and answering questions. I think we all agree that collaboratively any decisions made will be joint decisions at each phase in the workshop process." He offered to provide the schedule to the Services Division staff to notice publicly all Strategic Planning Committee meetings.

Dr. Raia said the project is huge and minor decisions made daily. Unless something significant occurs, a cumulative report of ongoing project operations should be sufficient. There are many people involved if the cost could double if everyone reports to everyone at all times. The Board should keep costs and spending in perspective. The consultants and the Strategic Planning Committee should have the day-to-day responsibility of the operation. If something comes up they are obligated to inform this Board, but otherwise this Board will receive a report three times per month.

Mr. Dallas said he wants to participate at Strategic Planning meetings when Wilson Miller is presenting options because when the options are heard it is "the nature of the beast" to start sorting them out.

Chairwoman Womble said once the concept forms, joint workshops are not going to happen as often because at that point, they will be focusing on details and Mr. Lukasz will be more involved then. She said, "Kyle is going to be involved with this quite a bit, is that correct, Kyle?"

Mr. Lukasz said yes.

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Chairwoman Womble said, "So we have our man on the floor watching out for things."

Mr. Gravenhorst referred back to page 8177 of the September 14, 2009 summary meeting minutes and a motion made by Mr. Cravens to amend the language of the inter-local agreement on page three, No. 8 to read, "The term of this agreement is for one (1) year unless earlier terminated and it may be renewed upon the same terms. Said renewal notice must be delivered at least thirty (30) days prior to the renewal expiration date. Written notice shall be provided as follows..." He indicated "Said renewal notice must be delivered at least thirty (30) days prior to the renewal expiration date" was stricken and asked for confirmation of the final language of the inter-local agreement.

Chairwoman Womble compared Mr. Cravens' motion to amend the language on page three, No. 8 with the final inter-local agreement.

Mr. Gravenhorst said the statement "Said renewal notice must be delivered at least thirty (30) days prior to the renewal expiration date" was stricken. The Board did not approve it.

Mr. Dallas suggested that the Board vote to approve it.

Mr. Gravenhorst said, "I'm just saying if there was a problem down the road, the minutes show we approved it one way and it was submitted another."

Mr. Cravens said that if everyone was pleased with the final version of the agreement then the Board should approve it now and that would resolve this issue.

Mr. Dallas made a motion to approve the language of the inter-local agreement in its final form as presented at the October 7, 2009 Pelican Bay Services Division Advisory Board Meeting.

Mr. Cravens seconded the motion.

There was no further discussion and the Board voted unanimously to approve the language of the inter-local agreement in its final form as presented at the October 7, 2009, Pelican Bay Services Division Advisory Board meeting.

Mr. Dallas made a motion to approve the language of the inter-local agreement in its final form as presented at the October 7, 2009 Pelican Bay Services Division Advisory Board Meeting. Mr. Cravens seconded the motion. The Board voted unanimously to approve the language of the inter-local agreement in its final form as presented at the October 7, 2009, Pelican Bay Services Division Advisory Board meeting.

**DISCUSSION OF 9/29/09 BCC BUDGET AMENDMENT RESOLUTION & CARRY FORWARD
OF CLAM BAY FUND 320**

Mr. Dorrill advised the Board of recent action by the Board of County Commissioners to amend their year-end budgets. There was a legal notice published by the Naples Daily News that caused some public concern because

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the County's forecasted carry forward published in the paper was about three times the actual amount, which could lead one to draw a whole series of incorrect conclusions. He said he met with County budget staff and they disclosed a miscalculation in processing their year-end budget amendment for all funds. Apparently the County's proprietary budgeting software has a "fairly-odd way of reflecting carry forward for multiyear capital improvement projects," therefore the amount printed in the Naples Daily News as approximately \$1.2 million actual carry forward for the Clam Bay Restoration Fund 320 was incorrect. The actual cash on hand October 1 for the Clam Bay Restoration Fund 320 was \$381,487. The total amount available in the Clam Bay Restoration Fund 320 is equal to the \$381,487 carry forward, the fiscal year 2010 property assessment of \$102,400 that will be transferred from the County's General Fund 111, and some minor interest earnings and is intended for use to evaluate the water management berm for repairs and renovation, and associated engineering costs. Due to the County's inaccurate and compounded calculation of capital carry forward of Clam Bay Restoration capital Fund 320 and capital fund 322 and the reported amount is substantially more than the actual amount, in addition to the public concern, it is appropriate for this Board to direct the administrator to request from the Clerk's internal auditor, a reconciliation of actual cash carry forward for capital funds 320 and 322 starting with the beginning and ending of each fiscal year. He asked how far back in time did the Board want to request reports.

Dr. Raia asked how long the County has been using this software.

Mr. Dorrill answered from his understanding the County has been using this software since 2002.

Dr. Raia said, "And they just discovered that the carry forward is way off."

Mr. Dorrill said he did not know the answer to Dr. Raia's question.

Dr. Raia said, "This money is for maintenance of Clam Bay."

Mr. Dorrill said the funds are for restoration or other eligible work.

Dr. Raia asked how the Board could be sure that work they are requesting and authorizing funding for is the work performed. "Now that we have two Clam Bay Advisory Boards, I just want to make sure that the money collected from our residents is being used as these residents want their money used."

Mr. Dorrill explained Clam Bay Restoration Fund 320 is a County fund used only for projects decided by the direction of this Board. The funds cannot come in or be used for any other purpose unless there were to be a loan booked and repaid with interest against any withdrawal other than for its intended purpose because collection and the intention to expend the funds is within the geographical boundaries of this community. "You could not suck that money out to meet some kind of cash flow need or send it to another County project without expecting it repaid

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in full plus interest. That is something that they wouldn't do, but that is the only way they could, if they chose to do so."

Dr. Raia confirmed with Mr. Dorrill that staff could use the Clam Bay Fund 320 monies only for operations directed by this Board.

Mr. Dorrill confirmed and reiterated that because the legal notice run in the newspaper is untrue, it would be appropriate for this Board to direct the Administrator to request from the Clerk's internal auditor, a reconciliation of the actual beginning cash balances have been for the appropriate period determined by this Board.

Mr. Moffatt said, "This issue came to light because somebody read the newspaper and it didn't make sense. If any Budget Committee members compared the amount published in the newspaper to the amount in Table A of the budget, which is where the unspent funds move from one fund to capital this year, they would realize the numbers do not add up. The County's software processes capital funds differently from operating funds. Funds 320 and 322 are capital funds. Capital funds carry forward; Operating funds do not carry forward. "If you just work off the cash balance and the projection we made on the results of operations in funds, we can't spend any more than that because that's the only cash that's available to spend. The amounts published in the paper were well in excess of that."

Mr. Dorrill said the easiest way he could explain it is the County is double counting the carry forward. If a project begins in one fiscal year and is to run for two years, the County's software treats encumbered and unexpended funds and it compounds that when it carries forward to capital in the following fiscal year.

Mr. Cravens addressed Mr. Dorrill and said, "When you were talking about these funds you made some mention of a dollar amount that was I think somewhere around \$300,000 plus some additional monies to be used for restoration of the berm and water management system." He asked Mr. Dorrill to confirm.

Mr. Dorrill answered, "That is the basis of this year's Clam Bay Restoration Fund and the money that is there is intended to be used for an evaluation for rehabilitation of the water management berm."

Mr. Cravens asked if there was any indication as to why the berm needs rehabilitation and do any problems currently exist that necessitates spending these funds.

Mr. Dorrill answered that from his understanding, the reasons predate both he and Mr. Cravens' affiliation with the Services Division. He said that it is part of the anticipated master planning work and there are some issues with the side slopes of the berm in certain locations. There is a desire on the part of the the strategic master planning

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to at least evaluate the engineering aspects of trying to widen the berm to be able to incorporate an additional lane for pedestrian or bicycle traffic in addition to the tram lane.

Mr. Levy said when developing the budget, the Board learned the south section of the berm from the Commons all the way to the south end of the property was deteriorating and uneven with ruts and bumps. The amount budgeted is \$350,000 plus an additional \$25,000 for an engineering consultant. He added the money is entirely for rehabilitation and restoration of that side of the berm and has nothing to do with widening or angles.

Mr. Dorrill said that is correct. The primary purpose is to evaluate the integrity of the side slopes and any settling that has occurred within the existing tramway. There is a separate issue and part of the master plan to evaluate the potential for widening the berm.

Mr. Cravens understood the same as Mr. Levy. The berm is deteriorating on the south side. He said that although he is not an engineer, he does walk the entire berm daily and cannot see any difference in the conditions that exist between the south side and the north side. He said he also asked the tram drivers He said he was concerned that money was set aside to rehabilitate something that he did not feel needed rehabilitating.

Mr. Lukasz said there was money set aside in the budget for an engineering firm to evaluate the integrity of the berm. There is some settling that you can notice next to the culvert pipes across from the weir structure.

Mr. Cravens said there are cracks in the weir structures all along the berm, not just on the south side.

Mr. Lukasz said settling is more pronounced on the south side of the berm, but the very first thing would be to have an engineer evaluate it.

Chairwoman Womble said, "I believe what you just said, the first thing to be done. I think we were thinking in terms of the future and where do we start and we will continue this as we have the funds for it in order to bring it up to speed because it is showing wear and tear."

Mr. Dorrill said there are three local approved Collier County contracted civil engineering firms to choose from (Wilson Miller, Johnson Engineering, and Agnoli Barber & Brundage) to perform an assessment. The engineers may examine the pavement and take core samples, especially at the culvert crossings and look for degradation of the base or sub-base, which is probably made of lime rock, to determine what may need repairing or replacing and the Board will see this engineering analysis before any money is spent.

Mr. Moffatt said to Mr. Cravens that if he rode the tram from the south end of the berm to the north end, he would notice a difference "bouncing around" on the south side especially near the culverts or weirs.

Chairwoman Womble agreed.

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Mr. Cravens said he asked the tram drivers for their observations rather than ride the tram himself and from what he understands, the tram drivers he asked did not feel there were significant problems, “but again, they are not engineers either.”

Mr. Moffatt asked Mr. Dorrill if a motion would be helpful for him in dealing with the County to do away with the carry forward that is “a lot misleading.”

Mr. Dorrill said he met with the County yesterday and they are going to amend their year-end amendment to reflect what the actual carry forward is as opposed to the compounding issue he previously mentioned. He said that a motion by the Board directing the administrator request from the Clerk’s internal auditor, a reconciliation of beginning and ending actual cash balances for capital funds 320 and 322 for the period the Board considers appropriate.

Mr. Moffatt made a motion to direct the administrator to request from the Clerk’s internal auditor, a reconciliation of beginning and ending actual cash balances for capital funds 320 and 322 cash balances going back to the dates of inception.

Mr. Cravens seconded the motion.

Mr. Levy asked what records are useful for comparison.

Mr. Dorrill said the Clerk of Courts accounting system is the accurate record for comparison.

Mr. Cravens asked Mr. Dorrill if this compounding of carry forward is isolated to the Services Division or is it Countywide.

Mr. Dorrill said the Budget Director, John Yonkosky has been out for an extended period due to health issues and there are a number of people who have been performing tasks they do not normally do. He believes the error is an oversight by a budget analyst preparing the amendment and does not believe it to be a conspiracy. If it is determined there is a bigger problem, he would report it back to this Board.

There was no further discussion and the Board voted on the motion, which carried unanimously.

Mr. Moffatt made a motion to direct the administrator to request from the Clerk’s internal auditor, a reconciliation of beginning and ending actual cash balances for capital funds 320 and 322 going back to the dates of inception. Mr. Cravens seconded the motion. The Board voted unanimously to direct the administrator to request from the Clerk’s internal auditor, a reconciliation of beginning and ending cash balances for capital funds 320 and 322, going back to the dates of inception.

BLUE SKY WATER MANAGEMENT VIDEO UPDATE

Mr. Dorrill advised the Board that he expects Blue Sky to finish the water management video before the end of October. He reiterated that he was withholding a final payment until the Services Division receives the final version of the educational video. He added for the benefit of Ms. Kobe that this Board retained the services of a professional video company to produce an educational video for this community pertaining to the innovative storm water management and drainage system in Pelican Bay, as well as the environmental amenities it provides for the adjacent mangrove conservation area. The Services Division received a draft of the video, made some suggestions and is awaiting the final version before providing payment.

Dr. Raia asked if the Board would have a chance to see the video before accepted as complete.

Mr. Dorrill said, "As a rule, no. To a certain extent, staff has staff work to do. If we get to where we are trying to manage the community by a committee of eleven people in order to determine what work is final is not something that you would normally do. Normally you would expect your administrator to evaluate a project in conformance to a proposal or contract. I certainly intend to share it with you, but I don't know that I can ever get to the point where all eleven of you might think that it is complete."

Mr. Dallas said Mr. Dorrill invited the Board to view the draft video several times.

Dr. Raia said he wants to watch the video and given the opportunity to provide input because he finds the subject of water very interesting and concerning.

Mr. Dorrill said that Dr. Raia and all Board members, as well as the public are welcome to watch the master draft video at the office at their leisure. He added that in his opinion, 95% of the video is well done. One suggestion made was to strike some "odd-cartoonish type" characteristics. There were a number of references made on the subject of the water management berm, but not much footage of it. There was a lot of footage of interviews with the golf superintendent and staff made suggestions to take out some of his redundant comments and replace them with shots of the actual berm and its actual drainage features as opposed to the interview.

Dr. Raia said, "The ten year permit that we had was inundated with water management problems. There is too much fresh water entering Clam Bay and that is the problem. The reason to open up Clam Pass is to get that fresh water out, but if we were not putting too much water in there then there would not be a problem to begin with. I am curious to see the approach because we built a water management system for \$1.2 - \$3 million and spend \$800,000 a year to maintain it. I'm just curious since the first day of construction in 1980 or so, have we ignored

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our own water management plan and forbid more water to be discharged into Clam Bay.” He asked if that is what the subject of the video.

Mr. Dorrill answered no and, “I don’t know if I share your observations. My understanding of what contributed to the original mangrove die-off was the need to improve upon the spreader swale system and to increase the flow of salt water into some of the mangrove areas to improve upon the mix. I don’t know that we are dumping more storm water into the system than what was there in pre-development, but those decisions were made outside of any influences in this community; they were made by the South Florida Water Management District.”

Dr. Raia said, “It is my understanding and if you read the permit that the main problem has been directed toward too much fresh water entering Clam Bay.”

Mr. Cravens added, “Being impounded also once it enters.”

Dr. Raia agreed with Mr. Cravens and said, “Is the correct amount going in there and we are not letting it out, or is there too much water going in there.”

Mr. Dorrill explained the video. It shows how the original design elements of the community and the storm water management system functions, both from a commercial right-of-way perspective and a residential perspective. It also explains how the collection and interconnection of the lake system functions as the water works its way down to the control elevation point and the spreader swale system that distributes the water uniformly over the conservation areas.

Dr. Raia said it was an excellent idea because every year it is such a large budget item and people should know where their money is going.

Mr. Cravens said he was concerned that this video produced by Blue Sky Media was not something that this Board voted

Chairwoman Womble stepped in and said, “Tom, we have already discussed this and it’s already a done deal. Let us not go over it again. You were not on the Board when this happened; it was at the end of a meeting. We looked it up in the minutes.”

Mr. Cravens said it was not. “I asked Mary to do the research on this and this Board did not vote on the expenditures of this money. This was \$65,000. Secondly, I have another issue. How much money can we spend and I’m not saying we spent it, without going through a bidding process in Collier County.”

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Chairwoman Womble said, "Tom, this is already a done deal. At the last meeting, Mr. Dorrill indicated that would not be how he handles things. I do not think we have to worry about that. He's made it very clear that would not be his way of entertaining our educational budget and it would be brought for a vote before our Board."

Mr. Dorrill agreed with Chairwoman Womble.

Chairwoman Womble added, "The whole thing rests on the way it was handled by a number of people on this Board, different people, and the Administrator at that time. That is what occurred and I do not believe we need to concern ourselves at this point because our new Administrator has assured us that is not how he handles things. From what I understand from people at Pelican Marsh and Lely, it's not, so I'm not worried about it."

Mr. Moffatt said there are no funds in the 2010 budget for a similar project.

Mr. Dallas said there were funds in the 2009 budget to use for that project that this board approved.

Chairwoman Womble agreed with Mr. Dallas said this Board approved the budget and this Board chose to go ahead with the project.

Mr. Cravens said, "But there was no line item in the budget for this project.

Chairwoman Womble and Mr. Dallas both said it was in the 2009 budget.

Mr. Cravens said he looked in the 2009 budget and could not find a line item for a video.

Mr. Dorrill said, "That's a good question. The video fund is allocated to educational material through Turrell, Hall and Associates, your environmental consultant, and the annual contract was bid competitively. The video company is a vendor to your environmental consultant, Turrell, Hall & Associates. There was no formal vote or complete presentation to this Board as to what the educational materials would cost." He assured the Board, "that mistake will not be made" by him.

Mr. Dallas said that the Board did not include educational material in the 2010.

Mr. Gibson asked where one could watch the video.

Mr. Dorrill said that the video is available to view at the office in the conference room. The former district administrator's office was now a conference room with a television and DVD player. He added that due to Sunshine Law, Board members should call staff ahead of time to make an appointment to view it so the schedule doesn't overlap with any other Board member. He repeated the public is also welcome.

Mr. Levy asked how long the video is.

Mr. Dorrill said it is thirty minutes. He reminded the Board that the video is a draft and he expects the final version by the end of October.

Chairwoman Womble described where the changes would go. She said there are some dark areas where Blue Sky wants to add scenes. Mr. Dorrill suggested the berm and other suggestions made about different aspects of Pelican Bay. Overall, the educational aspect is complete. There is some fine-tuning needed.

WEBSITE UPDATE

Mr. Dorrill said the staff website project has begun and up and running. He added it is staff's intent to have a website that is up to date and more meaningful to the public.

Ms. Resnick said the new website is at pelicanbayservicesdivision.net and there will be a link from the County's Pelican Bay Services Division webpage. The email address is office@pelicanbayservicesdivision.net.

Chairwoman Womble said, "Thank you Lisa and thank you for doing that. It was mainly you with the help of a friend called Dr. Cravens." She thanked Ms. Resnick and Mr. Cravens for their work on the website.

MONTHLY FINANCIAL REPORT UPDATE

Mr. Dorrill distributed the County's year-end preliminary budget report of revenues and expenditures. He said it is preliminary because the County has not closed out the previous fiscal year. For the most part, the information is good for comparing the budget with actual revenues and expenditures and provides a base. The report on capital funds 320 and 322 is erroneous, as he stated in his earlier report that the County's software compounded the carry forward and the reported numbers are approximately three times higher than actual cash available. He added he would work with County and staff to process the necessary budget amendment.

Mr. Moffatt said based on Mr. Dorrill's discussion earlier regarding the County's budgeting software and calculation of carry forward, page 8 shows numbers "way out of whack" and amounts much higher than the actual. The annual budget column is really the amended budget column. It is not the Services Division's submitted budget; it is the Services Division's submitted budget in addition to the County's roll. The first item, "engineering fees" are budgeted to be \$354,000 and the actual amount spent is \$81,000 and \$81,000 is much more accurate. Other contractual at the bottom of the page displays over \$250,000 and is much higher than the actual expenditures of approximately \$35,000.

Mr. Levy said the actual amount or expenditures column is a more accurate number.

Mr. Moffatt said yes, the actual amount or expenditures column although preliminary, more accurately reflect what the Services Division has spent.

The Administrator's report concluded.

Dr. Raia asked if discussion of the inter-local agreement was complete because earlier he suggested amending the term "District" with "County."

Mr. Dallas said at the beginning of the inter-local agreement the Pelican Bay Municipal Service Taxing and Benefit Unit is "hereinafter referred to as "District." He added that it is not the County; it is the Pelican Bay Services Division.

Chairwoman Womble agreed.

Dr. Raia said, "I'll just drop it. Thank you."

CAPITAL PROJECTS

CROSSWALK AND INTERSECTIONS THERMOPLASTIC RESTRIPIING UPDATE

Mr. Dorrill said the thermoplastic restriping project did begin in accordance with the original schedule. The contractors began work on the residential areas instead of the arterials and the County's Transportation department pulled the contractor from the job before beginning work on the arterial roads. He reported that the contractors are to return and complete the work by October 15, "but that remains to be seen."

Chairwoman Womble said, "They initially told us the end of September."

Mr. Dorrill said yes, and apparently, the contractors missed some work in the residential areas when the County pulled the contractors temporarily from the job. They are expected back to complete the restriping by next week. He repeated the completion deadline is arbitrary.

Mr. Cravens asked if the County pulled the contractors because another project took priority.

Mr. Dorrill said apparently so and he does know they are the same contractors working on the I-75 project.

Mr. Levy asked if the restriping areas included painted arrows indicating to go left, straight or right.

Mr. Lukasz said restriping of left and right turn, and straight-ahead arrows are included in the project.

Mr. Moffatt asked where the contractors performed the work. He drove around the community, but did not see any newly striped areas.

Mr. Lukasz said thermoplastic restriping of stop bars is almost complete along most areas of Oakmont Parkway and Ridgewood single-family home areas and cul-de-sacs streets.

Chairwoman Womble said they have started restriping on Buttonbush and Ridgewood north of Pelican Bay Boulevard.

Mr. Moffatt said they have not restriped at the stop sign at Ridgewood.

Mr. Lukasz said they have not restriped the intersection along Pelican Bay Boulevard and Ridgewood.

Mr. Gravenhorst addressed Mr. Lukasz. He said, "Assuming they come back," when did he estimate the work to be complete.

Mr. Lukasz said the contractors work very quickly and it should only take a few days to finish what they have left. They conveyed work on crosswalks, stop bars, and intersections would be complete by October 15, but not necessarily the lane dividers.

LAKE BANK ENHANCEMENTS

Mr. Lukasz reported \$250,000 has been budgeted for lake bank enhancements over the past two fiscal years for a total of \$500,000. A good portion of Fiscal Year 2010 funds for lake bank enhancements came from the hardscape program. The contract is in place to install geo-textile tubing for lake bank enhancements. St. Maartin Lake was done and prior some "riff raff" work was done on several other lakes and the lake at Myra Janco Daniels. There is approximately \$80,000 in the fiscal year 2010 budget to do additional lake bank enhancements.

Mr. Levy asked if the money was available in the budget.

Mr. Lukasz said yes.

Mr. Dorrill explained the scope of the lake bank enhancement project. He described the geo-textile material like an "inverted sock." Sediment material is dredged and pumped down the "sock." The sediment remains and the water flows through the side of the membrane. The process gives the lake bank a different look over time and the Floratam sod grows to what appears to be the lake's edge and at the rounded portion it will drop off. There will no longer be a long gradual slope or the type of erosion that occurs from it. He asked Mr. Lukasz where lake bank enhancements were complete in the community.

Mr. Lukasz said from the tram road on the east side of the lake at St. Maartin, the lake bank has just been completed and there is a geo-textile tube that is laid out along the lake at either a 12 & ½ foot or 7 & ½ foot circumference based on how much erosion there is. They pump from the lake into the geo-textile tube and sediment is dredged through the tube and water flows through the membrane. As that tube fills up, they put another tube on top called the backfill tube. The water flows out. That tube is of a cheaper material and is used to get the sludge up onto the top. When the water is gone, they slice that tube open and use the sediment to grade out over the base tube and then they lay Floratam sod down on top.

COMMUNITY ISSUES

Chairwoman Womble said a manatee was stranded at Clam Pass on October 5. She said the interesting part of the story is people came to the manatee's rescue for hours until it was finally free. She publicly thanked everyone who helped the manatee survive and get free.

Mr. Cravens presented a short video of the manatee with his narration. He explained that the manatee was beached on October 5. On October 4, a full moon historically results in a very high and low tide. He did not know for sure if that was a factor, but it was a very low tide. He said from his understanding the manatee was discovered at about 6:30 AM while it was still dark, sunrise was 7:21 AM, but there was a lot of moonlight. Many people came out with buckets and attempted various ways to keep the manatee wet, including covering it with wet towels until told not a good approach. The towels were removed and continued to dump water over top of the manatee. A boat came down from Mike Bauer, Director of Natural Resources, City of Naples, but his boat was unable to enter Clam Pass. It was too shallow at low tide, but one can get a good idea of how shallow it is by looking at the people standing in the water. He said there were many people who helped and described two Foundation employees on the left, a beach attendant, on the right is Frank the security officer who was alerted to the stranded manatee at 7 AM. Frank called 911 although Mr. Cravens said he was not sure that was helpful or not. Umbrellas were used to shade the manatee. Pedro Pineiro, the Services Division's Field Supervisor was out there working hard to ensure the manatee did not dry out. The volunteers tried to dig a canal but it was hard with the water coming in. The manatee was freed at about 9:46 AM, a little over three hours. Kay Potter was there. Ms. Potter is preparing an article for the Pelican Bay Post. He said the manatee was in good shape physically with the exception of some minor old propeller scars and some barnacles on its body. It was approximately 10 – 12 feet long and 900 – 1100 pounds. He added that manatees are an endangered species and it is common to see them in Clam Bay.

Applause followed Mr. Cravens' presentation.

COMMITTEE REPORT AND/OR REQUESTS

Chairwoman Womble asked the Board if there were any Committee Reports and/or Requests and there were none.

OLD BUSINESS

DISCUSSION OF FLORIDA SUNSHINE LAWS & CODE OF ETHICS

Mr. Dorrill provided an update of convening board meetings, what constitutes a quorum and participation by telephone. There is a Florida Attorney General Opinion stating in order to convene a meeting of any board, a

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physical majority of the members must be present at the meeting. Members are eligible to participate by phone but only if there is a finding by those physically present that an extraordinary occurrence by vote that it is necessary and essential for the member participating by phone allowed vote privilege. In the absence of that finding, the member may participate by phone, but they are not eligible to have their vote recorded. In summary, those members on vacation or out of town for extended periods, unless there is an extraordinary occurrence and necessity to vote and that reason is determined by the physical majority present, the member can participate by phone and express themselves, but a vote cannot be recorded.

Mr. Moffatt referred to the the County Attorney's opinion of June 27, 2008 that states absent board member participation by telephone is permissible under an extraordinary circumstance, such as illness. Further, an out of state vacation is not an extraordinary circumstance however this determination is one that may be made by the board using their good judgment. Mr. Moffatt suggested that based on the nature of the community and it is common for members to be up north during the summertime for several months (not a "one-shot" vacation) that the good judgment of this Board could decide that to be an extraordinary circumstance. Losing good member input because a member is not physically present is limiting and therefore participation by telephone should be allowable.

Mr. Dorrill said the extraordinary circumstance determination is decided when a meeting convenes.

Mr. Gravenhorst asked if a motion could be made to establish a policy that is applicable at all meetings.

Mr. Dorrill said based on his understanding, no. As part of the approval of the agenda and roll call, the Board members physically present would by motion, second, and vote to determine whether the Board member(s) participating by phone will be eligible to vote.

Mr. Dallas explained he attended the County Attorney's presentation and from what he understood, participating by phone with voting privileges is an exception to the rule. "I think if we are trying to do this blanket, we are treading on very thin ice."

Mr. Cravens asked if an important issue must be under consideration by the Board in order for this process to be applicable.

Mr. Dorrill said the Board members present must make that determination at the beginning of the meeting. The Attorney General Opinions are just that, opinions and are not legally binding, but he did agree with Mr. Dallas to proceed with caution on a case-by-case basis. "The last thing I want you to do is to read your name in the local section of the Naples Daily News as suddenly the suspects in an ethics investigation."

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Mr. Cravens said the Board of County Commissioners do allow participation by phone, so why not look to them as setting precedence.

Mr. Dorrill said the issue might be as simple as how the vote is recorded. If an issue is voted affirmatively by all members present and voted affirmative by 2 members participating by phone, then it is just a matter of how that is recorded.

Mr. Dallas said he encourages phone participation and the issue is really what is official and what is not.

Mr. Dorrill agreed and there was no further discussion.

NEW BUSINESS

ROLES AND RESPONSIBILITIES OF BOARD MEMBERS AS REPRESENTATIVES OF THE RESIDENTS OF PELICAN BAY

Dr. Raia requested this item on the agenda because, "Being directed by the County to do certain things, I think it is very important that we exercise our responsibility to advise the Board of County Commissioners of the issues that concern us. I hope that we influence the course of action they take, but regardless, I think it is important that they know what our concerns are and position is on issues. Failure to do that could reflect that we do not care about our community, we do not care about what is happening and we are free to do what we want, so I just want us to recognize that we do have a responsibility to those who elected us."

Chairwoman Womble said, "You do realize that is taken care of. They are advised as to our concerns."

Dr. Raia answered, "Well, I hope so, but I have some detail I would like to go into. I am not comfortable in knowing they do receive that and I do not know if that is on the agenda for me to go into that now."

Chairwoman Womble advised Dr. Raia to proceed because this item was his request.

Dr. Raia introduced, "information I feel should be before the Coastal Advisory Committee and the Board of County Commissioners and my reason for presenting this is to have the Board listen to me. Then I would like to ask that the Board votes for authorizing a member of this Board present this to the Coastal Advisory Committee and to the Board of County Commissioners, so I will proceed with this and then you weigh what I say and make your decision afterwards, but I think it is important to bring this up. Mr. Gary McAlpin is the staff advisor to the Board of County Commissioners on coastal affairs. He does not share it, but he is kind of the advisor to the Coastal Advisory Committee and Mr. McAlpin claims that the Army Corp. of Engineers requires lateral navigational signs. We cannot ignore something that is happening in our backyard in the mangrove conservation area that could deteriorate and devalue our property, so this is an important issue. Mr. McAlpin claims the Army Corp. of Engineers requires

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lateral navigational signs. Fact, the Army Corp of Engineers does not require lateral navigational signs; however the Corp. does permit them if requested. Mr. McAlpin claims the U.S. Coast Guard requires lateral navigational signs. Fact, the U.S. Coast Guard does not require any navigational signs, but they do require that navigational signs comply with their standards as to design, type, placement, and maintenance. The Coast Guard will also hold the County responsible for any claim that may result from the alleged negligence of the maintenance or operation of these approved aids. Mr. McAlpin claims that the Pelican Bay Services Division or the County did request in their permit to install the lateral navigational signs. At least that is his interpretation of the permit and this is where the problem lies. The problem is Mr. McAlpin and the County claim that we put in the permit to install lateral navigational signs. The minutes of the Pelican Bay Services Division meetings developing the permit only describe non-lateral signs and ways to limit navigation, not increase it. The permit only lists the non-lateral signs and stresses that there will be no change in the use of the Pass. The sentence on the bottom of page 38 of the permit, and I quote, 'finally the main channel will be marked in accordance with requirements imposed by the United States Coast Guard to ensure that those who use this system clearly know where the channel is and the prohibition against operating the watercraft outside of same.' The County is interpreting that sentence to mean that we have to install lateral navigational signs. Why they are insisting this, I do not know. There are many reasons why they have teamed up with the City of Naples and Seagate, but that will not be part of this discussion. Let me point out that only regulatory signs will do that and or the black and white stripe buoys. The non-lateral signs that are requested in the permit satisfy all of the requirements of the permit, including the safety of all users and protect the conservation areas. Only the non-lateral signs will accomplish what they want to accomplish and that is to keep people in a channel. Channel markers are not obligatory, they just point out where safe passage is. You can see how safe that passage is when you look at that poor manatee that was stranded on the sandbar and even a flats boat could not get in there. It is important to understand that we want to demonstrate that this is not the place to put lateral navigational signs. I have presented to the Board excerpts from all of the minutes I reviewed. One after another, they go into detail of expressing the point that you just need the non-lateral signs. Commissioner Hancock who was the Commissioner at the time did attend many of the Services Division meetings." Dr. Raia read and reported the July, 1998 Services Division meeting minutes. Commissioner Tim Hancock stated that the County is under no obligation to keep Clam Pass open because it is not navigable, however tax dollars were allocated for its maintenance and it was his goal to keep Clam Pass under the County's purview because once the Pass was closed it was no longer viable. The consultant at the time, Ted Brown said the signs described as required in the permit are the signs the

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regulatory agencies expect. Mr. Brown also pointed out that the permit is a Collier County permit therefore the County is responsible for posting the signs and Sheriff for enforcing policy. There is no mention of lateral navigational signs, channel markers have to meet Coast Guard standards and clearly mark the channel. The intent was to maintain the status quo, not disrupt the estuary and not encourage navigational use. Dr. Raia said the Services Division/Collier County did meet the permit requirements however the County insists they are indeed noncompliant and therefore, must install lateral navigational signs at the entrance to Clam Pass. Dr. Raia contacted the National Oceanic and Atmospheric Administration (NOAA) because the nautical charts read the Pass is non-navigable, hence the dilemma. He asked NOAA how it was possible to place lateral navigational signs at the entrance of a Pass that is non-navigable. Dr. Raia said this information was not provided to the people responsible for making the decisions, i.e., Board of County Commissioners and the decision was already made.

Mr. Cravens asked Dr. Raia if the current canoe trail marking signs in Clam Bay met the permit requirements.

Dr. Raia said yes, but regardless of what signs have been installed, the County feels duty-bound to install lateral navigational signs.

Mr. Cravens said from his understanding this Board directed Mr. Tim Hall to replace the missing canoe marker signs in Clam Bay.

Mr. Hall said yes. The Services Division Board did direct his firm to install the missing canoe marker signs in Clam Bay. The project did not happen. Following protocol, Mr. Hall notified the the Florida Fish and Wildlife Conservation Commission (FFWCC) that the missing canoe markers would be installed, Tara Alford of the FFWCC notified Collier County Coastal Zone Management and asked if they were aware of the Services Division's project. Coastal Zoning responded that they did not want the signs to be installed at that time.

Mr. Cravens confirmed understanding of Mr. Hall's statement and said, "So what you are saying is, action by the Coastal Zone Management was designed to prevent the Services Division's compliance with the permit."

Mr. Hall said that he received an email from Coastal Zone Management that conveyed they did not want the signs installed at that time.

Dr. Raia said it was possible that the canoe marker signs may be viewed as an obstruction to passage.

Chairwoman Womble said the Board of County Commissioners may be introducing a new policy to reconsider items they have already voted on October 13, 2009 and suggested waiting for the outcome and act accordingly.

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Dr. Raia said he would like assurance the BCC has accurate information because at the time they voted, they were told lateral navigational aids are an Army Corp. of Engineers permit requirement and they were non-compliant. The next day he received an email from the Army Corp. of Engineers stating lateral navigational aids are not a permit requirement and it was too late to bring to the Board of County Commissioner's attention. He said he believes the Foundation did forward the information to the BCC.

Mr. Dallas asked if the Foundation was involved currently.

Mr. Hoppensteadt said the Foundation's issue involves proprietary rights and the prevailing covenants of that area when ownership from Coral Ridge Properties was transferred to the Foundation.

Dr. Raia said that contradicts what the County Attorney has said regarding the property. He said the State owns the property and Westinghouse has no right to covenant submerged lands.

Mr. Hoppensteadt said the other precedent is the County accepted the land as part of a contractual agreement with the Grantor, so even if they own the land, they still have a contractual obligation to comply.

Dr. Raia said Mr. Hoppensteadt is talking law and he wants to argue the law, but that will cost money. He wants to be sure that when the BCC makes a decision that they have the facts. It would cost less if they can influence the law at the level of the County Commissioners. Dr. Raia said he wants to present the facts to the Coastal Advisory Committee and asked Mr. Jim Burke if they have received information about permit requirements and compliance.

Mr. Burke confirmed.

Dr. Raia said the purpose of Pelican Bay advisory boards and subcommittees was to represent the residents of Pelican Bay and he believes the Clam Bay Advisory Committee members do not adequately represent the residents of Pelican Bay. He added he does not know what they do represent, what their intentions are, or if they have their own agendas. He reasoned that because no other Pelican Bay community advisory committee is looking out for residents' best interests, that he should be the representative of the Services Division that attends the BCC meeting of 10/13/09 to state the Services Division's position regarding permit requirements and installation of channel markers.

Chairwoman Womble asked Dr. Raia if he had contacted the Clam Bay Subcommittee or any other group to request a presentation of this information.

Dr. Raia said that he wants to go to the next BCC meeting to sign up as a public speaker. He said three minutes will be long enough for him to "get the gist across" that the Services Division is in full compliance with the

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permit and the County is using their belief that the Services Division is non compliant as a tool, so they can install lateral navigational markers in Clam Bay.

Mr. Moffatt said the Clam Bay Subcommittee is meeting in Special Session tomorrow, Thursday, October 8 at 9:30 a.m. at the County Building Room 301.

Dr. Raia said he wants to attend the Coastal Advisory Committee meeting, also Thursday, October 8 at 1 p.m. and then bring before the BCC at their Tuesday, October 13 meeting.

Mr. Moffatt said Dr. Raia's information is not new information.

Dr. Raia said the Coastal Advisory Committee did not provide this information, so he wants to provide them the facts, so they have an opportunity to respond.

Chairwoman Womble encouraged Dr. Raia to provide his report to the Coastal Advisory Committee, but suggested delay commenting to the Commissioners until they determine their policy for reconsideration.

Dr. Raia recalled BCC meeting discussion and vote of 2-2 regarding a Cap Antibes issue. The County Attorney ruled that because there was no voting majority, the issue could never be brought forward for reconsideration. This vote was 4-1, so it is an uphill battle. He said he wants to ensure the BCC has this information prior to reconsidering.

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Chairwoman Womble suggested that Dr. Raia provide his research and findings to the Coastal Advisory Committee, as an individual Pelican Bay resident and property owner, not as a representative of the Pelican Bay Services Division.

Mr. Moffatt said to Dr. Raia that he should follow the chain of command and start by providing information to the Clam Bay Advisory Committee (CBAC) because they operate under the Coastal Advisory Committee (CAC) who would be second and then third, the County Commissioners.

Dr. Raia said he wants to present his information to the Committees and Boards as a representative of the Pelican Bay Services Division and the Pelican Bay community, not as an individual. He requested a resolution of the Board.

Mr. Gravenhorst said that a resolution that it is unanimous by this Board would strengthen the cause.

Chairwoman Womble asked Mr. Dorrill his thoughts.

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Mr. Dorrill said the Board of County Commissioners created the Clam Bay Committee to handle Clam Bay issues, therefore, “we can huff and puff and blow their house down” but that decision was political and this Board should discontinue involving itself in issues that are no longer under its jurisdiction. Expressing views as an individual citizen is the best course of action.

Chairwoman Womble agreed and said she would back Dr. Raia as an individual.

Dr. Raia said time is of the essence and he asked for this Board’s consensus.

Chairwoman Womble told Dr. Raia that he has done the research and his concern is well found, but politically it is a better idea to go as an individual resident and property owner of Pelican Bay because the Pelican Bay Services Division is not an advisory board to Clam Bay anymore. She again suggested waiting until the Commissioners determine their policy for reconsideration to give them a chance to regroup

Dr. Raia said he does not feel the Collier County Commissioners represent the residents of Pelican Bay very well. He added another problem is Pelican Bay’s reputation. He recalled Commissioner Tim Hancock’s comment at a Services Division many years before. He said because of Pelican Bay ‘s reputation as being a wealthy community and contentious, the County Commission was never going to provide support and that Pelican Bay should become resigned to take care of Clam Bay themselves. He said that Mr. Burke would not give him a straight answer.

From the audience, Mr. Burke said the information is out there. This issue has been hashed out many times, Dr. Raia and others have said the same thing many times, and he invited Dr. Raia to come to the Coastal Advisory Committee meeting tomorrow (10/8/09) at 1 pm.

Dr. Raia said thank you.

Mr. Dallas said to Dr. Raia that he agrees with what he is trying to do as an individual and encourages him to act individually. He added it is not a good idea for this Board to act officially on Clam Bay. The County said this Board is no longer responsible for Clam Bay and to do the opposite would most likely antagonize people and give this Board less input further down the road on another issue.

Chairwoman Womble agreed and reiterated her support to Dr. Raia as an individual resident.

Dr. Raia said he was fulfilling his role doing his job as an advisory board member to the Board of County Commissioners. He added that he does not understand and cannot accept this Board’s inaction due to fear of stirring up trouble in the future.

ROLES AND RESPONSIBILITIES OF RESIDENTS, PROPERTY OWNERS, & INTERESTED PARTIES

Mr. Moffatt said he is very concerned that in the near future the Services Division will lose all control over Clam Bay and the mangroves forever. The Clam Bay Advisory Committee is developing a Clam Bay management plan that includes the mangroves. They will most likely recommend someone or some entity to manage that management plan. He added he has not heard that the Services Division is in good “stead” with the Commission and somehow this Board needs to change its perceived image with the County. He said he read an email, but did not disclose the sender, only that the sender is female. The email chastises the County for doing berm repairs “without our knowledge” and goes on to castigate Gary McAlpin. From the very first sentence it shows that she does not understand the issue, yet goes on to offend additional County employees. It does not make sense. It is one thing to go about advising in a positive manner, but “if we’re going to take shots at them, we’re going to kiss that baby goodbye. Or the berm won’t exist.”

Chairwoman Womble said she agreed saw it happen several times. The Services Division had the support of Commissioner Halas and Mr. Mudd to install the non-lateral channel markers, but that changed due to criticism of the Board face to face and behind their back.

Mr. Moffatt said the problem is also that people do not clearly identify themselves as representing themselves as individuals. He said he could not recall what the issue was, he attended a Clam Bay Advisory Committee meeting and someone from Seagate asked why the Services Division opposes an issue. Mr. Moffatt volunteered that the Services Division has not expressed an opinion on the issue and that they were interpreting the statements made by individuals as representing the Services Division and Clam Bay in total. “That’s going to kill us. We have to stop making inflammatory statements and start dealing responsibly. To the extent that we are dealing with a Services Division issue, let us deal with the Services Division staff first before we go out of the room and agitate others at the County level. If Mary, Kyle and Neil cannot be helpful lets figure out a strategy to get the information we are looking for without making everyone think we are crazy up here. It must be something in the water. Clam Bay is only 95% within Pelican Bay. Another 5% needs consideration. We have to start acting much differently than we have in the past. I’m concerned that it is slipping away at a gallop’s pace.”

Chairwoman Womble agreed.

Dr. Raia said, “Perhaps I know too much history.” The troubles with Seagate and the County started with sea grass. He feels they both tried to discredit the Services Division by saying, “you saved the mangroves, but you

killed the sea grass.” The County brought in an independent consultant that refuted their accusations. He asked Mr. Moffatt why the County insists on installing lateral navigational signs.

Mr. Moffatt said he has no idea, but it was after Dr. Raia sent a letter to the Army Corp of Engineers. He emphasized the letter was a positive one, but that is irrelevant because they have been talking for an hour about something this Board has no control or jurisdiction. What is not out of this Board’s control is development of the management plan going forward and that should be the focus. He said they may have lost with the lateral navigational sign issue, but maybe the Foundation will be successful with their attorneys. The Services Division needs to look at the big picture.

Chairwoman Womble said to Dr. Raia that she understands this is a passionate issue, but he has done the research, can answer any questions, and suggested and encouraged him to present it to the BCC before their meeting, as well as to the Coastal Advisory Committee meeting. She reiterated the Commissioners asked the Services Division to step aside and created an additional advisory board to deal with Clam Bay and ended the discussion.

MISCELLANEOUS CORRESPONDENCE

TURRELL, HALL & ASSOCIATES’ SUBCONTRACT UPDATE

Mr. Dorrill reported the Turrell, Hall & Associates was not selected by the County as an annual contractor for environmental services, however they are an approved sub-consultant through Humiston and Moore Engineers which is a County approved annual environmental consulting firm. He contacted Ken Humiston and informed him the Services Division would continue to subcontract Turrell, Hall & Associates through Humiston and Moore. He also requested Humiston and Moore waive any additional overhead and profit and Mr. Humiston did agree.

ONGOING PROJECTS STATUS SHEET

Mr. Dorrill said that he would update the ongoing projects status sheet as directed by the Board and request from the Clerk’s internal auditor, a reconciliation report of Capital Funds 320 & 322 going back to the dates of inception provide the update report at the November 4, 2009 meeting.

AUDIENCE COMMENTS

Mrs. Marcia Cravens was the first public speaker and identified herself as President of the Mangrove Action Group. She expressed her disappointment that the Services Division Board did not provide official support to Dr. Raia. On behalf of the Mangrove Action Group, she expressed support for what Dr. Raia is trying to accomplish absolutely, as well as how he described the Board’s role as being representative, and the statements

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within the MSTBU that this Board is responsible for maintenance of the conservation area. She added she is hopeful this Board understands that is part of their responsibility and why the Board exists. She asked if the internal audit of capital funds would include revenue and expenses and requested a clarification.

Mr. Dorrill answered the Board directed the administrator verify with the Clerk's internal auditor the beginning and ending cash balance for all years going back to each capital funds' inception. If the findings show a discrepancy and determine the fund not spent properly, then the Board could direct him to request a full audit. He added a full audit could be expensive.

Mrs. Cravens said she thought the agenda item 9 c "discussion of performing audit of funds to confirm utilization is as intended" inferred a full audit of revenues and expenditures.

Mr. Dorrill said no and repeated the Board's direction by motion of directing the Administrator to request from the Clerk's internal auditor, a reconciliation of beginning and ending cash balances for both capital funds 320 and 322, going back to the dates of inception. There was no discussion of a full audit of all revenues and expenditures.

Mrs. Cravens said she had a meeting with County Budget staff on October 1 and has an audio version that once converted to digital she would distribute to the Board. John Yonkosky, the County's Budget Director, confirmed that \$1.2+ million is the amount reported by the County's SAP system on September 15, so she said there are questions that remain. In her opinion, a reconciliation report showing fiscal year beginning and ending balances did not appear to be sufficient. She added this Board should know the actual amounts of how much money came in, how much money spent, and how much money was unspent and requested a more thorough report.

Mr. Dorrill said if Mrs. Cravens has concerns, she could request a report directly from the Clerk of Courts internal auditor. The request did not have to go through the Pelican Bay Services Division Board. He added if she believes there is unlawful activity, the States Attorney's office is also a good resource.

Mrs. Cravens said she was not making allegations; she believes two different accounting systems created problems.

Mr. Dorrill clarified there are not two separate accounting systems but the Budget staff reported erroneous information by compounding the carry forward over multiple years and that inaccurate information was then reported incorrectly to the public and Board through the media. He added the Budget office intends to correct.

Mrs. Cravens said at the next BCC meeting, Gary McAlpin is going to present the Clam Bay Advisory Committee recommendations for developing a Master Plan for the health, management and long-term viability of

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the Clam Bay Estuary. Their plan includes installation of lateral navigational signs, so if this Board thinks it can act later on this, later will be too late.

Mr. Dorrill said the Pelican Bay Services Division Advisory Board no longer has the authority to issue comment on the subject of channel markers in Clam Bay. The Services Division's responsibility was taken away from them and the responsibility given to somebody else.

Mrs. Cravens said the permit was issued to the Pelican Bay Services Division, not the Clam Bay Advisory Committee.

Mr. Dorrill said who the permit was issued is irrelevant in this case because both the Services Division and the Clam Bay Advisory Committee are under the authority of the Board of County Commissioners.

Mrs. Cravens said she understood but still disagreed and stated she agreed with Dr. Raia.

Dr. Raia made a motion for the Pelican Bay Services Division accept the report he made.

Mr. Dorrill said there was no need for a motion. Dr. Raia's report is received and a part of the meeting record, but there was no findings of fact or conclusions in regards to permit status. Board members have the opportunity to give presentations. The Board discussed Dr. Raia's report and he was encouraged repeatedly to provide his findings to other Committees and Boards, and the Board of County Commissioners, so that they may have all information should they decide to reconsider. Dr. Raia gave a presentation and that is the end of it. There is no official action.

Ms. Linda Roth, a resident of Pelican Bay's Montenero was the next public speaker. She said the County and agencies involved in the Clam Bay permit all came to the same conclusion that the channel markers installed meet U.S. Coast Guard standards. There are two types of aids to navigation or ATON. One type is non-lateral informational markers and the other type is lateral navigational markers. There is no requirement for lateral navigational signs.

Chairwoman Womble encouraged Ms. Roth to express herself and go before the Board of County Commissioners as public speaker representing herself as resident of Pelican Bay.

Dr. Raia said he disagrees with Mr. Dorrill and disagrees with Madam Chair Womble. Regarding the subject of Clam Bay channel markers, Dr. Raia believes it to be the Pelican Bay Services Division Board's business. As a full body, the Pelican Bay Services Division Board should bring the information to the attention of the Board of

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County Commissioners. He suggested Madam Chair Womble step down and a new Chairperson be elected, but no Board members or anyone in the audience responded.

Ms. Estelle Fishbein, a resident of Pelican Bay's Beauville and final public speaker said there was an article in Naples Daily News by Doug Caudwell regarding the threat of white flies to fichus hedges on Vanderbilt Beach and other areas adjacent to Pelican Bay. She asked if there was a plan to thwart the white flies.

Mr. Lukasz said the Services Division is aware of the issue. The Institute of Food and Agricultural Sciences (IFAS) of the University of Florida County Extension Service issued bulletins and he has distributed information to residents who have inquired.

Mr. Hoppensteadt said the Pelican Bay Post is running an article about the white flies in its next issue.

Chairwoman Womble said she would like the Services Division to resume writing articles for the Pelican Bay Post to report on issues that the Services Division is interested or subjects of discussion that come up at meetings to let people know what is going on with the Services Division. She asked if anyone would like to volunteer from the Board or staff.

Ms. Resnick and Mr. Dallas volunteered. Chairwoman Womble did not give formal or official direction.

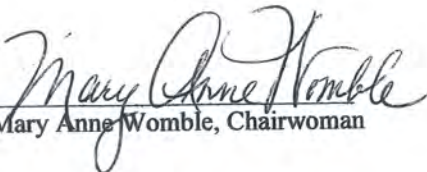
Mr. Cravens suggested returning audience participation on the agenda because it allows the Services Division to hear residents' concerns. He said the item should be following the approval of the minutes.

Chairwoman Womble directed Ms. Resnick to place audience participation as agenda item 3.

Ms. Resnick said she would add audience participation to the agenda as item 3.

ADJOURNMENT

Mr. Cravens made a motion to adjourn. Mr. Gravenhorst seconded the motion. The Board voted unanimously to adjourn at 3:46 p.m.


Mary Anne Womble, Chairwoman