

August 5, 2010

MINUTES OF THE MEETING OF THE COLLIER COUNTY
COASTAL ADVISORY COMMITTEE – CLAM BAY
SUBCOMMITTEE

Naples, Florida, August 5, 2010

LET IT BE REMEMBERED that the Coastal Advisory Committee – Clam Bay Subcommittee in and for the County of Collier, having conducted business herein, met on this date at 9:00 A.M. at Conference Room 609/610 of the Growth Management Division/Planning & Regulation Building 2800 North Horseshoe Drive, Naples, Florida with the following members present:

CHAIRMAN: Anthony Pires
Jim Burke
John Arceri

ALSO PRESENT: Gary McAlpin, Director, Coastal Zone Management
Gail Hambright, Accountant

I. Call to Order

Chairman Pires called the meeting to order at 9:03 am

II. Pledge of Allegiance

The Pledge of Allegiance was recited.

III. Roll Call

Roll Call was taken and a quorum was established.

IV. Changes and Approval of Agenda

Mr. Arceri moved to approve the Agenda subject to the following additions:

Item VII. – Staff Reports

2. Clam Pass Dredging Application Update

3. Status on the analyzing the impacts of delayed dredging of Clam Pass and Emergency Declaration to dredge during litigation (should it occur)

4. Navigational Markers Update

5. Biological Assessment Update

Second by Mr. Burke. Carried unanimously 3 – 0.

V. Public Comments

None

VI. Approval of Minutes

1. June 17, 2010 Minutes

Mr. Arceri moved to approve the minutes of the June 17, 2010 meeting subject to the following changes:

Page 3, paragraph 1, line 3 – from “...James C. Riveria...” to “...James C. Riviere...”

Second by Mr. Burke. Carried unanimously 3 - 0.

VII. Staff Reports

Gary McAlpin, Director of Coastal Zone Management provided the following updates:

1. Boardwalk E-mail from John Domenie

Email to Tony Pires, dated July 21, 2010 from Mr. Domenie recognized the County’s ample response to concerns raised by Mr. Domenie on the refuse in the area of the Clam Pass Boardwalk.

Gary McAlpin noted the area is scheduled for maintenance on a semi-annual basis.

2. Clam Pass Dredging Application Update

Staff continues to address comments provided in the FDEP and USACE Request for Additional Information. An email of the response to the RAI’s will be sent out to Subcommittee members when it is submitted to the Agencies.

3. Status on analyzing the impacts of non-dredging Clam Pass and Emergency Declaration to dredge during litigation (should it occur)

None

4. Navigational Markers Update

Staff continues to address comments provided in the FDEP Request for Additional Information. An email of the responses will be sent out to Subcommittee members when it is submitted to the Agency. A definition for “*shallow draft vessels*” has been developed as requested by the Subcommittee and will be submitted to the members for their records.

5. Biological Assessment Update

None

The Subcommittee requested updates for items VII.2 – 4 be placed on future Agenda under “Old Business.”

VIII. New Business

1. Pelican Bay Foundation Technical Work Group discussion

Gary McAlpin provided an email from Steve Feldhaus to the Pelican Bay Foundation dated July 1, 2010 outlining the results of a meeting between James Hoppensteadt, Steve Feldhaus, Marla Ramsey - Administrator of Collier County Public Services and Gary McAlpin for the purposes of determining whether the Foundation and Collier County can find a way to work together on the Clam Bay ten year permit and Management Plan.

Gary McAlpin noted:

- The meeting resulted in development of the concept for a proposed resolution (inter-local agreement) for joint management of Clam Bay including the permit for dredging the Pass for tidal flushing purposes and the ten year management plan.
- The initial concept is for the inter-local agreement to be between Collier County and the Pelican Bay Foundation (PBF.)
- The resolution would not address the lateral navigation issues or an acknowledgement by the County that the 1982 Declarations apply to the submerged lands of Clam Bay.
- The City of Naples may need to be included in the resolution/agreement.
- The email indicates the Foundation wants to ensure “Pelican Bay” speaks with “one voice.”
- The Foundation would be responsible for a “Peer Review” for the modeling study to be completed by PBS&J/Coastal Planning and Engineering.

A follow up email was provided from Mr. Feldhaus to Gary McAlpin dated July 7, 2010 requesting the County authorize PBS&J and Coastal Planning and Engineering release their work to date on the modeling study to their consultants – Erik J. Olsen of Olsen and Assoc., Inc. and Douglas J. Durbin, Entrix, Inc.

Committee discussion occurred on the following:

- It would be favorable for the Pelican Bay community to speak with “one voice.”
- The inter-local agreement should outline the management/financial responsibilities for the various parties including the City of Naples and/or the Seagate Community.
- The agreement would be an avenue for resolving technical/management issues, not legal issues.
- Future updates on the concept should be a standing item on the Subcommittee’s Agenda.

2. Peer Review Discussion/Approach

Gary McAlpin provided the document “*Clam Bay Sub-Committee Peer Review Discussion*” dated July 21, 2010. He noted:

- The document includes the directive from the 12/15/09 BCC meeting to Staff regarding management activities of the Clam Bay Estuary.
- Fund 111, the budget for Management of the System is included.
- Staff is attempting to reach a closing point on an agreement with the Pelican Bay Services Division for the Peer Review of the PBS&J Water Quality Study.
- The PBS&J is considering completing their own “Peer Review” of the PBS&J Water Quality Study.
- Staff proposes to re-allocate funds within the approved budget in the amount of \$4500 authorizing PBS&J to provide any information and consultations required in a request by the PBS&J and/or their consultant for review of the Report.

The Subcommittee noted the directive for Clam Bay activities provided by the Board of County Commissioners (BCC) to Staff at the 12/15/09 meeting may need to be amended to reflect the proposed concept of an inter-local agreement and the change in the concept for the Peer Review.

Gary McAlpin requested approval on the concept of the County working with Pelican Bay Foundation on the Modeling Study and the working with the PBS&J on the “Peer Review” of the PBS&J Water Quality Study.

The Subcommittee determined to hear the speakers for both items VIII.2 and VIII.3

Speakers

Keith Dallas, President, Pelican Bay Services Division addressed item VIII.3, “*Revision 8 to PDS&J/CZM Peer Review Proposal*” prepared by Gary McAlpin and himself noting the Division did not approve the document by a vote of 5 “no” – 4 “yes. The specific concerns revolved around the concept that one of the

experts could be from a National Estuary Program, and some of the language in the section “*Activities to be performed during this Peer Review.*”

Mr. Arceri requested clarification if Mr. Dallas made the PBS&D aware of the motion approved by the Subcommittee at their June 17, 2010 meeting on the timing of approving a “Peer Review” concept?

Mr. Dallas stated he did inform the PBS&D of the Subcommittee’s directive and recommends the County delay developing any further Peer Review proposals.

David Roellig, Pelican Bay Resident expressed concern the concept to be considered of PBS&D completing their own “Peer Review is not a true “Peer Review,” rather consultants providing separate expert opinions. The concept of the County and the PBS&D agreeing on one consultant to provide a “Peer Review” on the PBS&J Report is not likely at this point. If the PBS&D would like to complete their own “Peer Review,” they should move forward and complete it. He questions whether Mr. Feldhaus, who is appointed, speaks for “Pelican Bay.”

Chairman Pires noted it is time for the Subcommittee to provide recommendations to the Coastal Advisory Committee (CAC) regarding the issues of the Peer Review and Modeling Study.

The Committee determined to review the document for Item VIII.3 “*Clam Bay Estuary Peer Review Scope of Work - July 29, 2010 – Rev. 8*” for the purposes of providing a recommendation to the CAC.

Kathy Worley, Conservancy of Southwest Florida noted under item VIII.2, the concept for the PBF consultants to provide input on the modeling study should not be considered a “Peer Review.”

With respect to the document provided for item VIII.3, *Clam Bay Estuary Peer Review Scope of Work - July 29, 2010 – Rev. 8*,” the scope of work outlines constraints, and under a Peer Review, consultants work “without constraints.” She recommended:

- Section “**Considerations**,” 2nd paragraph - strike entire paragraph which states “*The water quality expertise... in these disciplines.*”
- Section “**Activities to be performed during this Peer Review**”, item #1 line #2 - eliminate the words *...to include.*”

Chairman Pires moved, in regard to items VIII.2 and VIII.3, to forward to the Coastal Advisory Committee, a recommendation of approval of the “*Clam Bay Estuary Peer Review Scope of Work - July 29, 2010 – Rev. 8*” subject to the following changes:

1. *Title of document be revised to “Clam Bay Estuary Peer Review Scope of Work in Collaboration with PBS&D.”*
2. *An introductory Executive Summary be provided with the document indicating the Peer Review w/ PBS&D is in relation to the PBS&J Water Quality Report of October 2009 prepared for the Clam Bay Estuary System*

- and the parameters of the circulation and modeling study are to be coordinated with the Pelican Bay Foundation under separate consideration.*
4. *Section Consideration Page 2, paragraph 1, which states - “The water quality expertise that is required...of the review expertise needs to be focused in these discipline areas.” be deleted from the document.*
 5. *Section Activities to be performed during this Peer Review Page 2, paragraph 2, Item #1 to read - “Review, analysis and critique of the Clam Bay System Data Collection and Analysis report dated October 2009 performed by PBS&J in recognition of the constraints in preparation of the Report.” Remainder of bullet points in this section to be deleted.*
 6. *Section Evaluation of Proposals - Page 3, item 4 – to read – “The final selection must be approved by both the Pelican Bay Services Division Board and the CZM/CAC, which with approval will not be unreasonably withheld. The final candidate will also be approved by the BCC.”*

Second by Mr. Arceri. Carried unanimously 3-0.

Chairman Pires noted he would provide a copy of the proposed language to Staff for preparation of the document for the August 12, 2010 CAC meeting.

Mr. Arceri moved to recommend the Coastal Advisory Committee work in collaborative effort with the Pelican Bay Foundation (PBF) in development of the circulation model, with the costs of the PBF consultants to be borne by the PBF. In addition the BCC objectives outlined in their 12/15/09 directive to Staff regarding the objectives for the Management of the Clam Bay Estuary System be revised to reflect these activities. Second by Mr. Pires. Carried unanimously 3-0.

Mr. Arceri moved to recommend the budget for Clam Bay Management Activities (Fund 111) re-allocate funds to provide an expenditure of \$4,500 for the item “Peer Review of the PBS&J Report – PBS&J” and \$45,000 for the item “Peer Review of Modeling PBF.” Second by Mr. Burke. Carried unanimously 3-0.

It was noted Staff may consider changing the title of the budgetary line items to “Expert Opinions” as opposed to “Peer Reviews” as necessary.

3. Revision 8 to PDSD/CZM Peer Review Proposal

Gary McAlpin provided the document “*Clam Bay Estuary Peer Review Scope of Work - July 29, 2010 – Rev. 8*”

See above discussion and actions.

4. Modeling Update

Gary McAlpin noted the funding for the Circulation Modeling Study was approved by the Tourist Development Council at their June 26, 2010 meeting.

IX. Old Business

None

X. Announcements

None

XI. Committee Member Discussion

Speaker

Marcia Cravens expressed concern a Staff presentation at the previous Subcommittee meeting indicated there may have been typos or inconsistencies between the plans approved, and the related “approval” letter issued by FDEP on December 15, 1998. The letter indicated an authorized maximum dredging cut of - 4.0’ NGVD in the Pass and the plans indicate a different depth of cut. She contended there were not inconsistencies as the presentation did not include a letter dated December 7, 1998 from Humiston and Moore where drawings were presented to FDEP with the letter indicating a “permit modification may be required.” This prompted the follow up letter in question from FDEP dated December 15, 1998 authorizing a maximum cut of -4.4’ in the Pass.

Chairman Pires requested Staff attempt to obtain a letter from the FDEP indicating their position on the historic approvals for the dredging depths of -5.5 feet and a distance of 237.5’ as previously indicated by FDEP to Staff.

XII. Next Meeting Date/Location

September 17, 2010; 2pm - Growth Management Division/Planning & Regulation Building, Conference Room 609 & 610, Naples

There being no further business for the good of the County, it was moved and seconded to adjourn. The meeting adjourned by order of the chair at 10:53 A.M.

**Collier County Coastal Advisory Committee –
Clam Bay Subcommittee**

Tony Pires, Chairman

These minutes approved by the Board/Committee on _____
as presented _____ or as amended _____.