

**Beaches & Shores Advisory Committee
Charlotte County Administration Center
March 4, 2010
Room #B-106**

Members Present

Robert Pierce, Chairman
Dick Whitney, Vice Chair
Tommy Brock
John (Jack) Landis
Kevyn Schweim

Staff Present

Commissioner Bob Starr
Missy L. Christie, Environmental Specialist
Rich Browne, Assistant County Attorney
Jane Starr, Recording Secretary

Excused

David Nellis
Bill Weller

Guests

Michael Poff, CEC
Chad Lach, Florida Park Services

- I. **Call to Order/Roll Call/Determination of Quorum**
Vice Chairman Whitney called the March 4, 2010, **Beaches and Shores Advisory Committee** meeting to order at 9:12a.m. noting there was a quorum present.
- II. **Approval of Minutes**
A motion was presented by **Tommy Brock** to accept the Beaches and Shores Advisory Committee minutes as written. The motion was seconded by **Jack Landis** and the minutes for **January 25, 2010** were unanimously accepted.
- III. **Additions/Deletions to Agenda** - *None*
- IV. **Chairman Comments**
Vice Chair Whitney announced the Chairman's comments would be deferred until his arrival.
- V. **Commissioner Comments**
Commissioner Starr commented on a discussion that took place at the Marine Advisory Committee meeting in January regarding a joint meeting with the Beaches and Shores Advisory Committee, the Marine Advisory Committee, and the Parks and Recreation Advisory Committee and said he felt this would be a good idea and something the Committee should think about in the future. He suggested meeting once a quarter. **Vice Chair Whitney** agreed and advised that the Committee also wrote a letter to the Marine Advisory Committee requesting that consideration be given to removing the buoys at Stump Pass.

(Chair Pierce arrived at 9:15am.)

Commissioner Starr confirmed MAC did address this at their last meeting and suggested that this would be a good topic for discussion at a joint meeting. **Mr. Landis** commented that previous joint meeting agendas were completely drawn by the Parks and Recreation Advisory Committee and did not contain topics relative to this Committee. **Commissioner Starr** asked **Attorney Browne** questions regarding Sunshine Law and offered to draw up the final agenda if the agenda items could be forwarded to him. **Attorney Browne** said he would check into Sunshine Law and the possibility of having a meeting consisting of only the Chairs from each Committee. Discussion continued regarding Sunshine Law. **Commissioner Starr** again offered to facilitate as needed. **Michael Poff** suggested having two of the Chairman attend the third Advisory Committee's meeting and to include discussion of the Joint Meeting agenda as a topic of business on their agenda. **Chair Pierce** commented further on Sunshine Law.

Vice Chair Whitney announced **Chair Pierce** was present and would chair the meeting from this point forward. **Chair Pierce** stated he did not have anything to add to Chairman's Comments.

VI. New Business

Discussion on Legal Issues – Attorney Rich Browne
1. Beach Restoration Easement Contract

Mr. Brock asked **Chair Pierce** about comments that were made at the last meeting indicating that false statements were contained in his letter to Commissioner Starr. He provided a copy of the letter for review and clarified why he sent it directly to Commissioner Starr instead of the Committee. **Chair Pierce** confirmed that previous minutes did state **Mr. Brock** would be supplying a letter to the Commissioner in this regard and he apologized for his previous comments. He stated his concern was that the Committee stay on topic with regard to the agenda and Committee procedures.

Attorney Browne stated the Easement Contract was sent to his office only for a review for legal sufficiency and on April 9th, he deemed it to be sufficient for the purpose it was intended. **Michael Poff** confirmed the document was originally drafted for the 2003 initial project and went on to say it was a culmination of a lot of people in the business that put this together and parallels a lot of other easements that are used in other municipalities. **Mr. Poff** explained that it was re-used in 2006 and again in 2009 and provided an explanation as to why it was mass re-mailed to the constituents. **Chair Pierce** added that he felt part of the confusion was that the document encompasses everything and was sent to everybody.

Mr. Brock commented further on the history of the Easement and statements in his letter to the Commission. Attorney Browne addressed additional questions and concerns from members. An open discussion ensued. **Mr. Poff** suggested asking Public Works to provide a sketch that would show the intent of the landward limit of the easement. **Commissioner Starr** inquired about the possibility of providing an addendum to the original paperwork that would address residents' concerns. **Commissioner Starr** asked **Mr. Poff** to contact Public Works in this regard and suggested they contact him if they have any questions. Additional comments were made regarding the number of residents that still need to sign the Easement.

2. Field Trips and Sunshine Law

Chair Pierce made known that a lot of the beach area the Committee would like to inspect is not accessible by land and inquired if a field trip by boat would be allowed under Sunshine Law. **Attorney Browne** responded that under Florida Sunshine Law, two or more members can take field trips if it is promised in advance not to discuss anything that is seen. Since this would not be feasible, he suggested going individually and discussing the results during a regular meeting. The third alternative would be to give public notice of the trip and to make available transportation for public participation. **Commissioner Starr** made note that in the past, field trips were taken and public notice given but it was rare that citizens attended and he did not think transportation would be a problem. It was decided to move forward with plans for a land accessible field trip and to provide boat access for the public with staff taking minutes if a Recording Secretary is unavailable. Public Notice will be given with a request to RSVP so that transportation can be arranged. It was understood that if more people attend than can be accommodated, the meeting would need to be cancelled. Discussion continued regarding rules governed by Sunshine Law.

(Attorney Browne left the meeting at 10:08am)

Mr. Poff responded to an inquiry from **Mr. Landis** about the letter recently submitted to MAC discussing the potential liability caused by the markers in Stump Pass. He advised that Dan Quick in Public Works has requested that he work with Jason Ouimet to do a routine position survey of Stump Pass to advise on moving the buoys and markers and/or pulling them. He anticipates the first survey to begin in the next week or two and to continue on a monthly or every other month basis until the dredge begins.

VIII. Old Business

Chair Pierce advised there would be a change in the order of Old Business.

Update on Ropes at Englewood Beach – Missy L. Christie

Missy L. Christie provided an update on the ropes at Englewood Beach and confirmed the permits have been acquired to install the ropes and it should be completed before the next meeting.

Stump Pass Update – Michael Poff

Mr. Poff provided an update on the status of Stump Pass and confirmed that Federal Assistance has been granted, but will not be received as quickly as it is needed. DEP was contacted and a plan was constructed to issue two Notice to Proceeds. The first would allow them to re-dredge Stump Pass and start sand placement on the permitted fill limits where a new Biological Opinion is not needed and the second would be for the fill extensions once the Biological Opinion is issued. **Mr. Poff** discussed the issues involved and the procedures and costs going forward. He added that plans would change if there are any reports of shorebird nesting in the bar area and said he has suggested to Public Works and Purchasing that they consider having a contractor degrade the spit before April 1st to help prevent nesting in the area and to protect the ability to dredge the sand. **Chad Lach** asked **Mr. Poff** to comment further on the timeframe to

begin and **Ms. Christie** and **Mr. Poff** responded to a question concerning the required buffer around nesting birds.

***ACTION:** Tommy Brock made a motion to support Michael Poff in his efforts to proceed and complete the project this year. Mr. Poff discussed the potential benefits of waiting to begin the project and suggestions were made regarding the best way to proceed. The motion did not receive a second and was withdrawn.*

IX. Action Items - None

X. Committee Reports

Parks and Recreation – Dick Whitney

Vice Chair Whitney advised of a meeting yesterday but said there was nothing to report relative to the Beaches and Shores Advisory Committee.

Vice Chair Whitney went on to advise of a Kayak event taking place at the Charlotte Harbor Recreation area in April and provided **Chair Pierce** with an update regarding the National Estuary's Volunteer Program to inspect the Mangroves around Charlotte Harbor. Discussion continued regarding other areas of interest to the Committee. It was **Vice Chair Whitney's** recommendation to visit Stump Pass at the next meeting. **Mr. Schweim** said he felt the Committee's recommendations are sometimes overlooked by the Board when making decisions. **Commissioner Starr** disagreed and commented on the importance of input received by all of the Advisory Committees.

***ACTION:** A motion was presented by Dick Whitney for the Charlotte County Commissioners as follows: The Charlotte County Beaches and Shores Advisory Committee would prefer the Beach Restoration work at Stump Pass be done as soon as possible. However, should the work not be done until November, 2010, it would not be detrimental to the County, in our opinion, for the following reasons: 1. An additional \$300,000.00 for the work might be available from FEMA for additional sand placement. 2. The contractor awarded the work would not have to relocate during the work awaiting Biological Opinions and to avoid nesting birds and relocating turtle nests making his work less expensive. 3. The sand at the south end of Manasota Key would not have to be manipulated to prevent bird nesting during the work. 4. Additional qualified contractors would be available to bid the project this summer/fall as these contractors are previously engaged this spring. The motion was seconded by Jack Landis and a vote was taken. The motion passed.*

(Commissioner Starr left the meeting at 10:42am)

Chad Lach asked **Mr. Poff** to reiterate information concerning the timeline and the procedures moving forward.

Mr. Brock asked **Mr. Lach** to comment on the deterioration of the beach in the past year and was told the beach is now approximately forty (40) yards less than it was last year. **Chair Pierce** asked **Mr. Poff** about an updated diagram showing the areas to be

dredged.

Mr. Lach mentioned a recent news article regarding residents in North Naples who blocked off their beach front property from public access.

(Chad Lach left the meeting at 10:49am)

XI. Correspondence and Communication - None

XII. Public Comments - None

XIII. Staff Comments

Shorebird Presentation – Missy L. Christie

Missy L. Christie presented members with a PowerPoint presentation of the 2003-2009 Beach Nesting Bird Overview:

- Shorebird Management Plan for Stump Pass
- Permit Conditions
- Colonial and Solitary Nesters
- Bird Monitoring
- Charlotte County Erosion Control Project Data
- Charlotte County Erosion Control Nesting Shorebird Data 6-yr. overview
- First Nest of the Season Data
- Shorebird Stewards & Volunteers
- Education and Outreach
- Challenges
- 2009 Palm Island Black Skimmer Family

A question and answer period followed.

Chair Pierce led a discussion regarding plans to take a field trip next month in lieu of a regular meeting.

XIV. Member Comments - None

XV. Next Meeting

The next meeting is scheduled for 9:00am on April 1, 2010, and will be a Field Trip for the purpose of on-site inspections of Stump Pass Beach State Park, Englewood Beach, and Palm Island.

Mr. Brock commented further on the letter to MAC regarding the markers in Stump Pass and was advised that the Committee can vote to table an item if they do not feel they have sufficient information.

XVI. Adjournment

BSAC
Draft Minutes
March 4, 2010
Page 6 of 6

The meeting was called to a close at 11:16a.m.

Respectfully Submitted,

Jane Starr

Jane Starr
Recording Secretary

/jms