

Collier County Government



Communication &
Customer Relations Department
3301 East Tamiami Trail
Naples, FL 34112

(239) 252-8848
www.colliergov.net

Jan. 23, 2009

FOR IMMEDIATE RELEASE

NOTICE OF PUBLIC MEETING CLAM BAY ADVISORY COMMITTEE COLLIER COUNTY, FLORIDA

THURSDAY, FEBRUARY 19, 2009
2:30 p.m. till 5:00 p.m.

The *Clam Bay Advisory Committee* will meet *Thursday, February 19* at 2:30 p.m. at the Regional Library Sugden Theater, located 2385 Orange Blossom Drive, Naples.

Two or more members of the coastal advisory committee may be present and may participate at the meeting. The subject matter of this meeting may be a future item for discussion and action at a Coastal Advisory Committee meeting.

Two or more members of the Pelican Bay Services Division Board may be present and may participate at the meeting. The subject matter of this meeting may be a future item for discussion and action at a Pelican Bay Services Division Board meeting.

This meeting is open to the public.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Collier County Facilities Management Department located at 3301 E. Tamiami Trail, Naples, FL 34112, (239) 252-8380 at least two days prior to the meeting. Assisted listening devices for the hearing impaired are available in the Board of County Commissioners Office.

For more information, call Gail Hambright in the Coastal Zone Management office at 252-2966.

-End-

MEETING AGENDA

CLAM BAY ADVISORY COMMITTEE

THURSDAY, FEBRUARY 19, 2009 - 2:30 P.M.

SUGDEN THEATER (2385 Orange Blossom Drive, Naples)

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Changes and Approval of Agenda
- V. Chairman's Comments
- VI. Approval of Minutes
 1. January 20, 2009 – Clam Bay Advisory Committee minutes
 2. February 2, 2009 – Mission Subcommittee minutes
 3. February 6, 2009 – Navigational Marker Subcommittee
- VII. Staff Reports
 1. Sunshine Law – Colleen Greene
- VIII. New Business
 1. Mission, Powers, Functions, Duties and Responsibilities of CBAC; and Assignment of Subcommittee Members
 2. Update progress on Navigational Marker Subcommittee
 3. PBS&J Clam Pass Draft Permit
 4. Coral Ridge Collier Properties Quit Claim, Declaration of Restrictions and Department of Army Permits
- IX. Old Business
- X. Announcements
- XI. Committee Member Discussion
- XII. Next Meeting Date/Location
March 20, 2009 – Sugden Theater at the Regional Library, 2385 Orange Blossom Drive, Naples at 2:30PM
- XIII. Adjournment

All interested parties are invited to attend, and to register to speak and to submit their objections, if any, in writing, to the board prior to the meeting if applicable.

For more information, please contact Gail D. Hambright at (239) 252-2966.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Collier County Facilities Management Department located at 3301 East Tamiami Trail, Naples, FL 34112, (239) 252-8380.

Public comments will be limited to 3 minutes unless the Chairman grants permission for additional time.

Collier County Ordinance No. 99-22 requires that all lobbyists shall, before engaging in any lobbying activities (including, but not limited to, addressing the Board of County Commissioners) before the Board of County Commissioners and its advisory boards, register with the Clerk to the Board at the Board Minutes and Records Department.

January 20, 2009

MINUTES OF THE MEETING OF THE COLLIER COUNTY
CLAM BAY ADVISORY COMMITTEE

Naples, Florida, January 20, 2009

LET IT BE REMEMBERED, that the Collier County Clam Bay Advisory Committee, in and for the County of Collier, having conducted business herein, met on this date at 2:30 P.M., at the Office of Coastal Zone Management, 3300 Santa Barbara Blvd., Naples, Florida with the following members present:

CHAIRMAN: James A. Carroll
John Arceri
Ronald A. Glah
Noah Standridge
Robert Rogers
Kathy B. Worley
David Roellig
Tahlmann Krumm, Jr.

ALSO PRESENT:

Gary McAlpin, Director, Coastal Zone Management
Pamela Keyes, Environmental Specialist
Colleen Greene, Assistant County Attorney
Sandy Martello, Administrative Asst.

I. Call to Order

Gary McAlpin, Director Coastal Zone Management called the meeting to order at 2:30 PM.

II. Pledge of Allegiance and Invocation

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. Roellig moved to approve the agenda. Second by Mr. Glah. Carried unanimously 7-0.

V. Public Comments

Speakers

Martha Dykman, Seagate resident addressed the Committee noting the Seagate Community has been left out of the process to date. They have residents within the community who boat and many of the management facets of the existing permit have been ignored by Pelican Bay. She requested the Clam Pass Park Plans remain a separate issue from the issues to be addressed by the Committee. She requested clarification if the Pelican Bay Foundation has approval rights in Clam Bay for installation of signs, dredging or other intrusive activities; and whether the Coast Guard and Army Corp has required the installation of navigation aids

Doug Finley, Naples resident addressed the Committee noting he kayaks in Clam Bay at least once a month and is interested in the issue as it is a great recreational asset for the County.

Mary Bolin, Pelican Bay Community addressed the Committee noting her main concern was the health and stability of the Mangrove community.

Anne Geolger Harris, Pelican Bay Homeowner addressed the Committee noting concern over the state of the Mangroves and highlighted the great work that has been completed in this area over the last 15 years. She is also concerned with the possible negative impacts on this environment in conjunction with navigation in Clam Pass.

VI. Approval of Minutes

Gary McAlpin noted the minutes provided will be summary minutes. (Not verbatim)

VII. Introduction of Clam Bay Advisory Committee and Housekeeping

Gary McAlpin provided a packet containing the following documents:

- "Clam Bay Advisory Committee Section I *"Introduction of Clam Bay Advisory Committee and Housekeeping"* and Section II *"Background"*, Section III *"Immediate Staff Recommended Priorities for the Clam Bay Advisory Committee"* dated 1/20/09.

January 20, 2009

- *Clam Bay Advisory Committee Member and related Staff contact list.*
- *"Ordinance No. 2008-48" establishing the Clam Bay Advisory Committee.*
- *"Clam Bay Seagrass Assessment" prepared by PBS & J dated October 2007.*
- *Letter from Jon M. Iglehart, Florida Department of Environmental Protection to Jim Mudd, County Manager - Re: Collier County Pelican Bay dated August 26, 2008*
- *Email from Gary McAlpin, Director Coastal Zone Management to Pamela Keyes, Environmental Specialist dated June 12, 2008 – Subject: FW: Clam Bay*
- *Memorandum from the Lainie Edwards, Florida Department of Environmental Protection to Gary McAlpin dated June 9, 2008 – Subject: Interpretation of Joint Coastal Permit: Clam Bay Restoration and Long Term Management Project (0128463-JC)*
- *Letter from Pamela Keyes, Collier County Environmental Specialist to Joe Embres, US Coast Guard dated April 21, 2008 – REF: Private Aids to Navigation, Clam Bay Collier County*
- *Letter from Pamela Keyes, Collier County Environmental Specialist to Lainie Edwards Florida Department of Environmental Protection dated April 11, 2008 – RE: FDEP Permit No. 0128463-001-JC.*
- *Letter to Tara Alford, Management Analyst from Pamela Keyes, Environmental Specialist dated 5/09/08 – Subject: Clam Bay Waterways Markers, Collier County*
- *Letter from Pamela Keyes, Environmental Specialist to FLDEP dated April 21, 2008 – Subject Exemption Application for Rule #40E-4.501(7)*
- *Letter from Tim Schwan, Environmental Specialist, FDEP to Pamela Keyes dated May 21, 2008 – Re: Collier County – ERP File NO. 11-0288121-001*
- *Email from Tara Alford to Collier County Clam Bay Pass Stakeholders dated June 3, 2008 – Re: Proposed markers in Clam Pass/Clam Bay*
- *Copy of Proposed "Caution SeaGrass" Areas Sign*
- *Tim Hall, Turrell Hall and Assoc. proposed channel markers map.*
- *Marcia Cravens, proposed channel markers map dated 10/30/08*
- *"Clam Bay Advisory Committee Draft Proposal dated 1/16/09 identifying Creation, Function, Powers and Duties, etc. of the Clam Bay Advisory Committee.*

Mr. Krumm moved to nominate James A. Carroll as Chairman of the Clam Bay Advisory Committee. Second by Mr. Arceri. Carried unanimously 7-0.

Mr. Krumm moved to nominate John Arceri as Vice Chairman of the Clam Bay Advisory Committee. Second by Mr. Roellig. Carried unanimously 7-0.

The members introduced themselves and provided their backgrounds to the attendees. Staff also introduced themselves.

Mr. Rogers arrived at 2:50 pm

January 20, 2009

Gary McAlpin provided a brief overview of the Committee, which was appointed by the Board of County Commissioners to deal with the Management of Clam Bay. It will sunset on December 31, 2009.

The Committee meetings will be held at Sudgen Theatre, at the Regional Library (Orange Blossom Drive) on the 3rd Thursday of each month at 2:30 PM

Discussion ensued on the concept of adopting the rules of procedure utilized by the Coastal Advisory Committee (CAC), which limits a public speaker to 3 minutes of time. It was noted at the discretion of the Chairman, the time may be increased for a particular speaker, if necessary.

Colleen Greene, Assistant County Attorney recommended the rules of the CAC be distributed to the members for review, and a formal vote on adopting them be taken at the next meeting.

Colleen Greene, Assistant County Attorney provided an overview of the Sunshine Law via a slide show entitled "*Government in the Sunshine*" prepared by the Office of the County Attorney highlighting the following:

- The Committee is subject to the Sunshine Law.
- The meetings must be properly noticed, open to the public and minutes taken.
- Minutes are not required to be verbatim.
- The meeting must be open to the public; however there is no requirement to allow "*public participation*". Collier County encourages the public to participate.
- The Law applies when two members of a Committee discuss any business that may come before the Committee (outside of the publicly noticed meeting).
- One member may meet with County Staff without violating the law.
- One member of a Committee may meet with one member of another Committee without violating the Law (a Clam Bay member with a CAC member, etc.) *She cautioned on this procedure, as information may not be relayed to a second CAC member.*
- One-way communications are allowed, *however she cautions against it* and recommends all information to be distributed to the Committee by a member be submitted to Staff for distribution.
- *Fact-finding missions are outside the scope of the Sunshine Law, but she urged extreme caution in utilizing this procedure. Please contact the County Attorney's Office before undertaking the endeavor.*
- A quorum must be physically present to conduct business; a member available by teleconference may not be utilized to obtain a quorum. A member available by teleconference may participate if the quorum present finds an "*extraordinary circumstance*" for that person to participate.
- She will provide a handout on the email rules. (Public to member, member-to-member, member to Staff, etc.)
- If a public person contacts a member, it is not required to be distributed to all members or Staff; however the email should be retained.
- Violations of the Law are subject to criminal misdemeanor charges.

Ms. Worley and Mr. Roellig noted they are members of the Estuary Conservation Association.

Colleen Greene will research the details of the Association and provide a recommendation on any potential Sunshine Law issues.

VIII. Background

Gary McAlpin provided an overview of the history of the Management of the Clam Bay. This included an overview of the activities of the original Clam Bay Advisory Group that initiated the Task of renewing the applicable permits. This Group began in the spring of 2008 and was disbanded.

He reviewed Section II "*Background*" of the document *Clam Bay Advisory Committee* dated 1/20/2009 referenced at the beginning of item VII.

It was noted Pelican Bay initially funded the efforts when the Mangroves suffered die off (approximately 10-15 years ago). As of late, the County has contributed the larger share of expenses in the Management.

The purpose of the Committee is to expand on the excellent work completed by Pelican Bay, and incorporate the whole Estuary into Best Management Practices. To date the expenditures in Management of the Bay are as follows (approximately):

Pelican Bay Services Division \$1.3M

Westinghouse \$1.0M

Collier County \$1.3M

Gary McAlpin referenced the letter from Jon M. Iglehart, FDEP dated August 26, 2008 and noted he will obtain clarification on the permit issues associated with maintaining the Mangroves.

IX. Immediate Staff Recommended Priorities for the Clam Bay Advisory Committee

Gary McAlpin reviewed Section III ("*Immediate Staff Recommended Priorities for the Clam Bay Advisory Committee*") of the document *Clam Bay Advisory Committee* dated 1/20/2009.

He referenced the proposed navigation aids maps prepared by Tim Hall of Turrell, Hall and Assoc. and Marcia Cravens. Staff has no preference in the number of navigational aids installed in the Bay, but recommends the minimum number necessary to address environmental and safety concerns.

Discussion ensued on how to approach the priorities outlined in the document.

Gary McAlpin stated for the next meeting he would provide a draft of funding details. He noted the main issue to address initially should be the navigation markers.

Discussion ensued on the various Agencies (Coast Guard, Army Corps of Engineers, etc.) opinions for the requirement of navigation markers, and whether the permit requires navigation markers be installed.

Ms. Worley provided the following background information for consideration:

- Copies of Page 8 and 9 of FDEP permit #0128463-001-JC

- Collier County Ordinance 97-10 and attached maps
- Historic Aerial photos of the area

Mr. Arceri referenced the Ordinance the Committee is subject to and noted the BCC required approval of a proposed work plan before proceeding.

Gary McAlpin noted the Ordinance states this, however some of the items could be conducted concurrently (marking the channel, etc.). The 2nd “*Immediate Priority*” is developing the duties, responsibilities and Charter of the Committee which addresses this consideration included in the Ordinance.

Discussion ensued on the feasibility of appointing one member to meet with Staff to provide a recommendation to the full Committee on the issue of the navigational aids. It was determined that more than one member should undertake the activity.

Gary McAlpin noted the navigation markers need to be installed in order for the County to come into compliance with the existing permit.

Mr. Roellig noted marking the “Pass” might be difficult as it is dynamic in nature and self-flushing causing the channel to shift.

Ms. Worley noted some of the information she provided documents that phenomena.

Mr. Arceri moved to appoint Mr. Rogers and Mr. Tahlmann to a Subcommittee for the purpose of reviewing with Staff a plan for navigational aids for Clam Bay Estuary and report back with a recommendation to the full Committee within the next 2 meetings. Second by Mr. Standridge.

Speakers

Marcia Cravens, Friends of Clam Bay provided a handout – Re: “*From Clam Bay (Long Term) Restoration and Management Plan Section 3.0, Management Options*” and other attached documents. She is challenging the assertion by Cynthia Ovdenk of the US Army Corps of Engineers that channel markers are required. They (County and Pelican Bay Services) are in compliance with the permit and have never received a non-compliance letter.

Ted Raia, Pelican Bay Services Division noted National Oceanographic and Atmospheric Administration maps denote the Pass as “non-navigable” with no indication of navigation markers. Navigation aids are shown on the maps for other Passes in the area. A book by the National Oceanographic Atmospheric Administration describes the Pass as a changing shoal, passable in high tide and to be avoided in bad weather. It is extremely shallow between # 4 and 5 with no existing channel. He recommended placing a bridge at Seagate as the water in Seagate is 6 feet deep, but only 1 foot in most places in the Bay.

Martha Dykman, Seagate Resident submitted an original real estate brochure for “Seagate” which advertised boating was available. She stated the community will not surrender the boating rights, which they have fought for before and prevailed. The waterway is a State waterway, and the issue should not be decided by Pelican Bay homeowners. They will continue to defend their boating rights in relation to the Bay.

Anne Geolger Harris, Pelican Bay Resident noted the Seagate brochure was a sales brochure and may not accurately represent the rights to the homeowner. The community (Pelican Bay) will offer any assistance to all involved to resolve the situation.

Ms. Worley noted she has received conflicting information regarding whether the marking of the channel is required. She recommended the issue be resolved as well.

Mr. Arceri amended the motion to appoint Mr. Rogers and Mr. Krumm to a Subcommittee for the purpose of reviewing with (the information) Staff and determine if navigational aids are required by permitting requirements, etc., and if not required, should they be installed. If they are to be installed, develop the plan for navigational aids. Said Subcommittee to report back with a recommendation to the full Committee within 2 months. Second by Mr. Standridge.

Motion carried 6 "yes" – 2 "no." Mr. Roellig and Ms. Worley voted "no."

Mr. Arceri moved to appoint Mr. Arceri and Ms. Worley to a Subcommittee to work with Staff in developing a draft document of the duties, responsibilities and Charter of the Clam Bay Advisory Committee and possible work frame. Second by Ms. Worley. Motion carried unanimously 8-0.

X. Public Comments

Marcia Cravens, Friends of Clam Bay recommended investigating the possibility of the Seagate community accessing the Gulf southward through deeper water in channels already utilized for navigation. An option is a "lock" at Seagate to facilitate boat access to the Gulf. In addition, she objected to any references from work by the previous Committee (Clam Bay Work Group minutes or other documents) that was dealing with the issues because the group was disbanded.

The Committee requested Staff discuss with the Subcommittee the Venetian Bay access option.

Jim Burke, Pelican Bay Resident stated he was not on the Navigational Marker Committee as indicated in the information provided by Staff.

Linda Roth, Pelican Bay Resident stated the channel shifts constantly and is dangerous and not suitable for channel marking. Seagate homeowners have not had 40 years of boating access as the channel has been closed numerous times over the course of history.

XI. Announcements

None

XII. Next Meeting Date/Location

Tentative – February 19, 2009 – Sudgen Theater at the Regional Library, 2385 Orange Blossom Drive, Naples

January 20, 2009

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 5:00 PM.

**COLLIER COUNTY CLAM BAY ADVISORY
COMMITTEE**

James A. Carroll, Chairman

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

February 2, 2009

MINUTES OF THE MEETING OF THE COLLIER COUNTY
CLAM BAY POLICY SUBCOMMITTEE

Naples, Florida, February 2, 2009

LET IT BE REMEMBERED, that the Collier County Clam Bay Policy Subcommittee, in and for the County of Collier, having conducted business herein, met on this date at 1:30 P.M., at the Office of Coastal Zone Management, 3300 Santa Barbara Blvd., Naples, Florida with the following members present:

John Arceri
Kathy Worley

ALSO PRESENT: Gary McAlpin, Director, Coastal Zone Management

The Meeting was called to order at 1:40 PM

Jim Burke, Coastal Advisory Committee Member and Marcia Cravens, Mangrove Action Group were also present.

Mr. Arceri reviewed the purpose of the meeting, which was to determine the function and duties of the Clam Bay Advisory Committee per the Ordinance approved by the Board of County Commissioners, which empowers the Clam Bay Advisory Committee. A draft document will be generated and submitted to the main Committee for review and subsequent forwarding to the Board of County Commissioners.

The document "*Collier County Clam Bay Advisory Committee*", prepared by Mr. Arceri and Gary McAlpin, Director of Coastal Zone Management and "*Policy Subcommittee – Mission and Scope of Work Subcommittee – Ideas*" prepared by Kathy Worley were submitted for review.

It was noted the documents would be merged utilizing the "*Collier County Clam Bay Advisory Committee*" as the baseline document.

The following was noted:

- *The Clam Bay Advisory Committee is not a Subcommittee of the Coastal Advisory Committee.*
- *The Clam Bay Advisory Committee is subject to its Ordinance approved by the Board of County Commissioners.*
- *The purpose of the meeting was to develop a framework for the Clam Bay Advisory Committee to address the areas of concern identified, not to make technical, detailed recommendations on these duties,*

The Subcommittee reviewed the document by Section, with interaction from Jim Burke, Marcia Cravens and Gary McAlpin. The following changes were recommended:

Page 1 – RECOMMENDED BOUNDARIES

- Line 1 –2 to read - "*The Clam Bay Advisory Committee (hereafter "the Committee") has defined the boundaries of the NRPA (National Resource Protection Area) Clam Bay Estuary (hereafter "the Estuary")....*"
- Line #2, - deletion of "*south of*" which is repeated as a scrivener's error.
- Add the legal definition of the NRPA to the Section.

Page 1 – COMMITTEE MISSION

- Line 1 to read - "*The Committee's mission is to advise, assist and make recommendations to the Coastal Advisory Committee...*"

Page 1 – COMMITTEE DUTIES

- Line 1 to read - "*The Committee has defined its specific duties and scope of work relative to its defined mission...*"
- Eliminate #4, - **Development of Best Management Practices for Clam Bay** and replace with *Estuarine Wildlife and Habitat Subcommittee – to review all biological and ecological data available and make*

recommendations on how to improve the overall health of the Estuary (mangroves, sea grasses, oysters, clams, etc.). Completion by July 1.

- #11 change "Marine life Optimization" to "*Estuarine wildlife and habitat optimization.*"

Page 2 – COMMITTEE WORK PLAN

- Line 1 to read – "*The Committee's work plan is to review the issues listed above by the formation of...*"
- Add language to provide the Board of County Commissioners (BCC) with an update on the status (whether it should be extended or eliminated) of the Clam Bay Advisory Committee. A deadline of the update to be submitted to the BCC would be October 20, 2009.

Page 2 - 1. Permit Subcommittee: to read – "*review navigational issues and marking associated with Clam Pass for the specific purpose of compliance with old permit conditions and closing out of such permit. This Subcommittee will also complete the required application for a new dredging permit for Clam Pass that enables minimal dredging for tidal flushing. Expected completion of these issues by March 30.*"

Page 2 – 2. Water Quality and Sampling Subcommittee: to read "*review prior water quality data, technical reports, QA/QC procedures, laboratory certification, State reporting requirements, investigate water quality trends and impact on estuarine wildlife and vegetation and make recommendations on the sampling protocols to be consistent with other water quality programs. Planned completion date of May 20.*"

Page 2 - 3. Mangrove Maintenance and Hand Dug Channel Maintenance: no changes

Page 2/3 - 4. Tidal Flushing and Mixing: to read "*Review technical data available and make recommendations on studies that could be undertaken to improve the overall health of the Estuary by the identification and optimization of tidal flushing and mixing. Overall optimization to enhance estuarine life is the goal of this committee. Identification of estuarine life most suited for this habitat and habitat restoration recommendations if appropriate are also to be considered. Review complete recommendations by July 1.*"

Page 3 – 5. Maintenance and Sand Bypassing of Clam Pass: revised to "*Maintenance, Dredging and Sand Bypassing of Clam Pass*"

Page 3 – 6. Nutrient Loading and Runoff Control Subcommittee: to read, "*Review previous reports on the sources and impact of run off on the Estuary's water quality, mangroves and estuarine life. This will include a complete review of nutrient loadings and identification of the major sources of runoff and recommend actions to reduce any controlled runoffs that are having a negative impact on the Estuary. This Subcommittee will utilize the output of*

the Water Quality Subcommittee (described in #2 above) in reviewing what part this runoff plays in degrading the Estuary's water quality. Completion by August 15."

Page 3 – 7. Development of Best Management Practices for Clam Bay: - Elimination of this item.

Page 3 – 8. Public Education and Outreach Subcommittee: to read – *“prepare outlines of a proposed education plan for the public, local residences and major users of the Estuary waters. The Subcommittee plan would include suggested material needs and methods for reaching all of the Estuary users. The focus of the public outreach program will involve all users on the need for public involvement and action to help assure the long-term viability of the Estuary. Planned completion by September 30.”*

Page 3 – 9. Funding Subcommittee: to read – *“review all of the recommendations of the Committee Subcommittees and formulate estimated funding requirements and sources of funds to enable implementation of the recommended total management plans for the Estuary. Identify possible funding sources such as Tourist Development Council funds, local and national governments' grants and associations, and County government grants. Planned completion by September 30.”*

It was noted the main Committee may choose to combine some of the Work Plan Subcommittees above for the purposes of providing a more efficient framework to complete the assigned task.

Ms. Worley moved to approve the recommended changes to the document. Second by Mr. Arceri. Carried unanimously 2-0.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 3:40 PM.

CLAM BAY ADVISORY COMMITTEE

JAMES A. CARROLL, Chairman

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

MINUTES OF THE MEETING OF THE CLAM BAY
NAVIGATIONAL MARKER SUBCOMMITTEE

Naples, Florida, February 6, 2009

LET IT BE REMEMBERED, that the Collier County Clam Bay
Navigational Marker Subcommittee in and for the County of Collier, having
conducted business herein, met on this date at 1:30 P.M., at the Office of
Coastal Zone Management, 3300 Santa Barbara Blvd., Naples, Florida with
the following members present:

Tahmann Krumm, Jr.
Robert Rogers

ALSO PRESENT: Gary McAlpin, Director, Coastal Zone Management
Gail Hambright, Accountant, Coastal Zone Management
Pamela Keyes, Environmental Specialist

Gary McAlpin, Director, Coastal Zone Management called the meeting to order at 1:34 PM

Pledge of Allegiance was recited.

A quorum was present. It was noted James Carroll and Kathy Worley; Clam Bay Advisory Committee Members were also present.

Mr. Rogers moved to nominate Tahlmann Krumm and Robert Rogers as co-chair of the Clam Bay Navigational Marker Subcommittee. Second by Mr. Krumm. Carried unanimously 2-0.

Gary McAlpin provided an overview of two handouts provided by Staff:
E-mail String from Staff and Cynthia Ovdenk, US Army Corps of Engineers from June 11, 2008 Subject: "Clam Bay" which states,

- *"The Permittee agrees to comply with the components and timeframes as specified within the Clam Bay Restoration Management Plan (CBRMP), which is attached to this permit as Attachment "A." All attachments to a Corps permit are included as part of the permit and therefore enforceable. A section of the management plan located on Page 38 and 39 states: the main channel will be marked in accordance with the requirements of the United States Coast Guard (USCG) to ensure that those who use the system clearly know where the channel is and the prohibitions of operating their water craft outside the same. Therefore, in order for this permit to be in compliance the channel must be marked per the USCG's requirements. Please submit a letter to the Corps indicating the channel markers are in place, along with the dates and pictures."*

Letter from Lainie Edwards, Environmental Permitting Section, Florida Department of Environmental Protection dated June 9, 2008 – Subject: Interpretation of Joint Coastal Permit: Clam Bay Restoration and Long Term Management Project (0128463-001-JC) which states,

- *"Furthermore, the Joint Coastal Permit does specifically address signage/environmental protection markers that the Bureau of Beaches and Coastal Systems requires in the Pass area through Specific Condition 5, which discusses 10 signs required to be installed in specific locations, in order to protect the natural communities as well as the boating public. The Bureau of Beaches and Coastal Systems requires that these signs be installed as protective environmental measures (although the wording on the signs will have to be amended to meet legal requirements of FWC)."*

He noted the following:

- There would be 10 signs in total, in 5 locations visible for (boat/canoe/kayak traffic) coming and going (in relation to FDEP requirements).

- The waters are Federal waters with US Coast Guard jurisdictions who specify the size and specifications of the signs, with locations determined by local knowledge.
- The US Coast Guard declares the waters navigable.
- The channel is dynamic, but the County proposes the channel be marked and whether boaters can utilize the channel will be at the discretion of the boater.

Speakers

Ted Raia, Pelican Bay Resident stated the Services Division has never received a letter from Agencies, which declare the permit is "not in compliance." He submitted the documents "*National Oceanic and Atmospheric Administration, (NOAA) On-line Chart Viewer*" which identifies the Pass as "non navigable" and "*NOAA Coast Pilot 5, Atlantic Coast: Gulf of Mexico, Puerto Rico and Virgin Islands*" which indicates "*Clam Pass, is a shoal drainage canal to Outer Clam Bay. The pass is used only by outboards in good weather.*" He also submitted a document "*US Coast Guard Private Aids to Navigation Application Instructions*" for consideration.

Michael Seef, North Naples Resident, also representing his son, a Seagate property owner noted he kayaks in Clam Bay and the signs existing are adequate and requests clarification where the direction is coming from to place navigational markers. He expressed concern over the additional cost associated with placing the markers.

***It was noted the marking is at the initiative of the US Army Corps of Engineers.

Linda Roth, Pelican Bay Resident, submitted a copy of a portion of the "*Clam Bay Management Plan Draft*", prepared by Turrell, Hall and Assoc., dated August 29, 2007 which provided a history of the Pass and indicated the Pass has been continually opened and closed for navigation due to a variety of reasons. She noted dredging for navigational purposes is not allowed in Natural Resource Protection Areas. She expressed concern placing the markers will actually increase the frequency of boats grounding in the Pass due to sediment building up around the markers.

Doug Finley, Naples Resident notes he kayaks in Clam Pass and the Pass is dynamic, however has distinct channels. The existing canoe marker signs are in disrepair and the area is not properly marked for canoeing/kayaking. Navigational markers are located throughout the Preserves in the County and the rest of the Country. These markers assist in protecting the environment.

Marcia Cravens, Mangrove Action Committee submitted the following documents:

- Appendix M of the Natural Resource Protection Areas and related information on Clam Bay Management Plan,
- Letter from Pamela Keyes of Coastal Zone Management to Florida Department of Environmental Protection dated April 21, 2008 Re: Exemption Application for Rule #40E-4.501 (7)

- Letter from Pamela Keyes of Coastal Zone Management to Joe Embress of the United States Coast Guard dated April 21, 2008 – Re: Private Aids to Navigations, Clam Bay, and Collier County.

She noted the statement that the Permit and Management Plan requires the installation of navigation aids is incorrect; these issues are “Management Options,” as opposed to requirements.

She reviewed a letter from the Department of the Army July 21, 1997, which detailed the following benefits of the Clam Pass Management Plan:

1. *Installing a tidal flap.*
2. *Deeping (deepening) and widening of Clam Pass to provide enhanced tidal exchange.*
3. *Open a deteriorating network of interior channels to improve tidal exchange.*
4. *Selective cutting of 50 -75 percent of the dead mangrove trees to improve the aesthetic quality of the Clam Bay System.*
5. *Development and implementation of revised freshwater/stormwater management system for the developed upland lying east of Clam Bay to facilitate re-examination of the role of freshwater in the Clam Bay system.*

The letter does not mention navigation or the installation of channel markers.

She reviewed historic letters written by Martha Dykman, (Seagate homeowner) which recognized the Bay has limited (boat) access to the Seagate community.

Kathy Worley suggested the main Committee should be provided documentation from the various Agencies identifying which portions of the Permit are out of compliance. She referenced the County Zone Management Plan Section 7.6.1.2 which recognizes the Pass as “non-navigable.” She expressed concern over liability to the County if the Pass is marked with navigational markers as the shifting Pass causes boaters to run aground.

Mr. Krumm requested clarification on any correspondence on the issue of non-compliance from the various Agencies.

Gary McAlpin noted the non-compliance is referenced in the email string provided above. He noted any solutions will need to address the “shifting Pass.” The US Army Corps of Engineers (USACE) is requiring the County to provide navigational markers so the channel provides “historic access” for boaters.

Linda Roth noted documentation indicates “historical access” to the Pass is “limited.”

Kathy Worley suggested Staff obtain a “letter” from the USACE as opposed to emails.

Jim Carroll questioned if the “statement” of non-compliance has been “challenged” by the County.

Gary McAlpin noted the City of Naples and Seagate Homeowners have requested the County comply with the permit and mark the channel for historical navigational rights. Staff has no opinion on the issue but has been directed to come into compliance with the permit.

Michael Seef, North Naples Resident questioned if the Army Corps has reviewed the area for the definition of "historical access." He also sought clarification if the Seagate Homeowners are actually in favor of marking the channel.

Jim Hays expressed concern that boats in environmental areas cause environmental damages due to wake, etc. He expressed concern if the channel is marked, in the future it will require dredging to maintain the channel as navigable.

Gary McAlpin noted the Permit permits dredging for tidal flushing only. It will not be dredged for navigation in the future, only for tidal flushing. He has requested the County Attorney's Office review the restrictive covenants (in the deed from Pelican Bay to Collier County) on "dredging" and provide an opinion to Staff on dredging activities allowed.

Jim Burke, noted over the past weekend, two boats with outboard motors grounded in the channel.

Marcia Cravens, Mangrove Action Committee objected to Gary McAlpin running the meeting.

Mr. Krumm noted Gary McAlpin is the Staff liaison and the facilitator of the meeting. He has no voting power as Mr. Krumm and Mr. Rogers co-chair the Subcommittee.

Mary Bolen, Pelican Bay Resident noted the US Army Corps of Engineers Permit (USACE) 79K0282 issued in 1995 states no dredging is allowed in the area "*except for maintaining waters to the Gulf of Mexico.*"

It was noted this was the original permit issued by the USACE.

Mr. Rogers noted the following:

- He is on the Seagate Homeowners Association Board and the Board supports marking the channel.
- He is the representative of the Community; there are no other Seagate residents present at the Subcommittee meeting as the Community has decided to speak with one voice.
- He boated out through the Channel/Pass this past weekend and provided pictures as documentation of the trip, as well as photos of the drawbridge.
- The drawbridge was constructed as part of the original Permit, which indicates clear intent boats were to navigate the Channel/Pass.
- Seagate Homeowners request the minimum amount of markers required for safety.
- Seagate Homeowners recognize the Pass is dynamic; however the Pass should provide some type of marking for safety of all involved (boaters, swimmers).
- He suggested the outcome of the meeting provide a proposed plan for marking, to the main Committee.

Gary McAlpin provided an overview of two plans for marking the area. One prepared by Tim Hall of Turrell, Hall and Assoc. and one provided by Marcia Cravens, Mangrove Action Committee.

He recommended the Subcommittee attempt to reach closure on some aspects of the location of channel markers.

Pamela Keyes, Environmental Specialist provided an overview of the types of navigational markers allowed by the US Coast Guard. Informational signs may be placed before entering the Pass/Channel (from either direction), which state, "local knowledge required" and state a controlling depth (i.e. "controlling depth 3 feet"). This would deter boaters not familiar with the Pass from entering the system, and assist in reducing County liability.

***It was noted the area (including the entrance from the Gulf of Mexico) could be marked with 10 or less aids to navigation.

Marcia Cravens, Mangrove Action Committee noted her plan indicates navigational aid markers and her intent was for "shoal markers" as opposed to "channel markers." It would be consistent with the area being a Natural Resource Protection Area and provide the historic access to the Seagate Homeowners. When Tim Hall mapped her proposal it indicated "channel markers" inadvertently. She expressed regulatory "channel markers" increase the liability of the County (as opposed to shoal markers).

Ted Raia, Pelican Bay Resident noted the Pelican Bay Service Division is willing to post standard canoeing/kayaking signs, as many as necessary, to provide the Seagate Homeowners with the benefit of navigating the area.

Mr. Krumm sought clarification if the County has pursued an appeal of the non-compliance decision.

Gary McAlpin noted this conversation has not occurred, rather has been notified through conversations (emails), the Permit is out of compliance. The discussions included actions required for bringing the Permit into compliance.

Marcia Cravens, Mangrove Action Committee noted she has personally challenged Cynthia Ovdenk's statement that the permit is out of compliance.

Discussion ensued regarding clauses in the Pelican Bay Covenant's in the deed to Collier County, which may restrict navigational dredging.

Ted Raia, Pelican Bay Resident read a portion of the Covenant's into the record, which dealt with the restrictions in the Conservation Area.

It was noted it did not address dredging, and the County Attorney is providing an opinion on dredging within the area.

February 6, 2009

*Mr. Rogers moved for Staff to obtain a letter from the US Army Corps of Engineers indicating the Permit is out of compliance for the "following reasons:" (letter to identify the specific reasons)
Second by Mr. Krumm. Carried unanimously 2-0.*

Ted Raia, Pelican Bay Resident requested a similar letter be issued to Pelican Bay Services Division (PBSD). If this letter had been received in the past, it would have resulted in a different direction for the PBSD.

Marcia Cravens, Mangrove Action Committee stated the email string provided between Gary McAlpin and Cynthia Ovdenk is only a "partial string" and Gary McAlpin requested an interpretation of the Management Plan sections and "wanted her to say it required channel markers."

Gary McAlpin objected to the statement and noted Ms. Cravens (or anyone) cannot speak of any conversations between himself and the USACE. The statement "Collier County wants channel markers installed" is an inaccurate statement.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 3:15 PM.

**COLLIER COUNTY CLAM BAY ADVISORY
SUBCOMMITTEE**

**Co-Chairman, Robert Rogers and Tahlmann
Krumm**

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

EXECUTIVE SUMMARY

Recommend that the Clam Bay Advisory Committee review, modify and approve the Mission, Powers, Functions, Duties and Work Plan for the Clam Bay Advisory Committee as generated by the Mission Subcommittee.

OBJECTIVE: To review, modify and approve the proposed mission, powers, functions, duties and work plans for the Clam Bay Advisory Committee as generated by the Mission Subcommittee.

CONSIDERATIONS: The Board of County Commissioners tasked the Clam Bay Advisory Committee with developing the Mission, Powers, Function, Duties and Work Plan for the Clam Bay Advisory Committee. In addition, the Ordinance requires the Clam Bay Advisory Committee to submit these recommendations to the BCC for approval.

The Clam Bay Advisory Committee developed a subcommittee consisting of John Arceri and Kathy Worley to develop this document along with staff and present it at the February 19, 2009 Clam Bay Advisory Committee meeting.

ADVISORY COMMITTEE RECOMMENDATION: The Mission Subcommittee recommends approval of this item after review and modification if appropriate.

FISCAL IMPACT: A proposal will be developed and presented to the Board of County Commissioners for FY 09/10 funding once sufficient subcommittee task definition has occurred.

GROWTH MANAGEMENT IMPACT: All activities will be consistent with and support Collier County's Growth Management Plan.

LEGAL CONSIDERATIONS: The County Attorney will review this document for form and legal sufficiency.

RECOMMENDATION: Staff recommends approval of the Mission, Powers, Function, Duties and Work Plan for the Clam Bay Advisory Committee as generated by the Mission Subcommittee subject to review and approval by the County Attorney.

PREPARED BY: Gary McAlpin, CZM

COLLIER COUNTY "CLAM BAY ADVISORY COMMITTEE"

MISSION, POWERS, FUNCTIONS, DUTIES & WORK PLAN

RECOMMENDED BOUNDARIES

The Clam Bay Advisory Committee (hereafter "the Committee") has defined the boundaries of the Clam Bay Estuary (hereafter "the Estuary") as, generally, that wetland area south of Vanderbilt Beach Road and north of the Sea Gate Community. The Committee will limit its review and recommendations to this defined area which will include upper, middle and lower Clam Bays with the interconnecting canals from Vanderbilt Beach Road to Seagate Drive. Specifically, the Estuary area will be as defined as the National Resource Protection Area (NRPA); that is, "the entire Clam Pass system which includes the 2 miles of beach and dune ridge north to Vanderbilt Road, 0.6 miles of beach and dune ridge south to Seagate Drive, the associated back bay systems including those of outer, inner and upper Clam Bays, and the adjacent developments of Seagate and Pelican Bay, east to U.S. 41".

COMMITTEE MISSION

The Committee's mission is to advise, assist and make recommendations to the Coastal Advisory Committee (hereafter "CAC") and the Board of County Commissioners (hereafter "BCC") with all major issues affecting the management, use, direction, health and long term viability of the Clam Bay Estuary in accordance with the protection afforded Clam Pass and Clam Bay's NRPA and conservation designations as delineated in the Future Land Use Element of the Collier County Growth Plan and Coastal Zone Management Plan. In doing so, the Committee will formulate recommendations for review and recommend possible funding sources that may be required by such recommendations.

COMMITTEE POWERS AND FUNCTION

The Committee's only powers and functions are as an advisory group with the responsibility of making recommendations pertinent to the Estuary.

COMMITTEE DUTIES

The Committee has defined its specific duties and scope of work relative to its defined mission as the review and recommendations associated with, but not limited to, the major issues listed below. The Committee plans on integrating their recommendations on these specific issues into a comprehensive long term management plan as well as suggested guidelines for the day-to-day operation of the Estuary.

1. Permit issues, requirements and compliance
2. Water quality and sampling programs
3. Tidal flushing and mixing
4. Mangrove maintenance
5. Maintenance of hand dug channels
6. Nutrient loadings and runoff control
7. Maintenance of Clam Pass
8. Sand bypassing at Clam Pass
9. Navigational use and marking
10. Estuarine wildlife and habitat optimization
11. Public education and outreach
12. Funding

COMMITTEE WORK PLAN

The Committee's work plan is to review the issues listed above by the formation of various subcommittees and to integrate their specific findings into a recommended long-term management plan for the Estuary. The subcommittees to be formed and their specific responsibilities and planned task completion dates are listed below. Each subcommittee will submit their recommendation to the Committee for changes, modification and approval. The plan would be to integrate the findings of these subcommittees, complete the management plan and submit a written draft report to the CAC by September 30, 2009. The Committee will work with the CAC to make necessary changes to the Committee's draft report and to submit a revised recommended written plan to the BCC by mid-November. In addition, the Committee will submit a written report to the BCC by October 20 with recommendations on whether the BCC should continue with this Committee. If continuation is approved, the Committee will make necessary changes to the recommended plan based on input and guidance from the BCC and finalize the report by December 31, 2009.

It should be noted that the Committee recognizes that some of these subcommittee duties overlap and interconnect and the Committee may, at its discretion, combine the duties of several subcommittees and/or schedule joint meetings of multiple, related subcommittees.

1. Permit Subcommittee: review navigational issues associated with Clam Pass for the specific purpose of compliance with old permit conditions and the closing out of such permits. This subcommittee will also complete the required application for a new dredging permit for Clam Pass that enables minimal dredging for tidal flushing. Expected completion of these issues by March 30.
2. Water Quality and Sampling Subcommittee: review prior water quality, technical reports, quality assurance and control procedures, laboratory certifications, State

reporting requirements and investigate water quality trends and impact on estuarine wildlife and vegetation. Make recommendations on required water sampling and testing to assure the long term viability of the Estuary. Make recommendations on the sampling protocol to be consistent with other water quality programs. Planned completion date of May 20.

3. Mangrove Maintenance and Hand Dug Channel Maintenance Subcommittee: review prior technical reports on the present condition of the Estuary mangroves, trend analysis and previously recommended actions to assure long term health of the mangrove community. Planned completion by May 20.
4. Tidal Flushing and Mixing Subcommittee: Review available technical data and make recommendations on studies that could be undertaken to improve the overall health of the Estuary by the identification and optimization of tidal flushing and mixing. Overall optimization to enhance estuarine wildlife is the goal of this subcommittee. Identification of estuarine wildlife most suited for this habitat and restoration recommendations, if appropriate, are also to be considered. Review completed and recommendations by July 1.
5. Maintenance Dredging and Sand Bypassing of Clam Pass Subcommittee: review previous reports on channel related issues. Responsibility will include review and recommendations associated with maintenance requirements for dredging Clam Pass and an evaluation of the potential of various levels of sand bypassing on Clam Pass and its surrounding beaches. The subcommittee will also review and consider the impact of tidal flushing and mixing on these channels. Planned completion by August 15.
6. Nutrient Loading and Runoff Control Subcommittee: review previous reports on the sources and impact of run off on the Estuary's water quality, mangroves and estuarine wildlife and habitat. This will include a complete review of nutrient loadings, an identification of the major sources of runoff and recommended actions to reduce runoff that is having a negative impact on the Estuary. This subcommittee will utilize the output of the Water Quality Subcommittee described above; in reviewing what part runoff plays on degrading the Estuary's water quality. Completion by August 15.
7. Estuary Wildlife and Habitat Subcommittee: review all available biological and ecological data and make recommendations on improving the future health of estuarine wildlife and habitat. This includes, but not limited to, mangroves, seagrass, oysters, clams, etc... Planned completion by July 1.
8. Public Education and Outreach Subcommittee: prepare outlines of a proposed education plan for the public, local residences and major users of the Estuary waters. The subcommittee plan would include suggested material needs and methods for reaching all of the Estuary users. The focus of the public outreach program will involve

all users on the need for public involvement and action to help assure the long-term viability of the Estuary. Planned completion by September 30.

9. Funding Subcommittee: review all of the recommendations of the Committee subcommittees and formulate estimated funding requirements and sources of funds to enable implementation of the recommended total management plan for the Estuary. Identify possible funding sources such as the Tourist Development Council, local City governments and associations, national, state and county governments and a review of availability of grants from all possible sources. Planned completion by September 15.

Upon completion of the work of the nine subcommittees the Committee will utilize several workshops to integrate all recommendations into the required comprehensive long term management plan for the Estuary by October 15.

EXECUTIVE SUMMARY

Navigational Marker Update.

INFORMATION ONLY: Navigational Subcommittee Update

OBJECTIVE: Update the Clam Bay Advisory Committee on the Navigational Subcommittee progress.

CONSIDERATIONS: Update as follows:

1. A Subcommittee meeting was held on February 6, 2009. Subcommittee members were Tahlman Krumm and Robert Rogers.
2. Staff presented history and documentation from regulatory agencies supporting channel marking for navigation and environmental informational markers. Staff indicated that based on the information received from the Regulatory Agencies, the channel needed to be marked in the least way possible to protect the environmental assets and ensure safe navigation. How to accomplish that was based on local knowledge.
3. Considerable public comment on why Navigational Markers were not needed, authorized or desired in Clam Bay.
4. Staff presented two navigational marking options; the original twenty-eight marker proposal and the eight marker version.
5. Robert Rogers presented the Seagate desire to have an additional one or two markers. One at the mouth, but inside the channel and another at the mouth, but outside the channel on the Gulf side.
6. Significant public comment ensued on channel marking versus no channel marking
7. Subcommittee direction to staff:
 - No decision can be made until additional written documentation is obtained from the USACE specifically addressing the permit compliance issue on channel marking. The Subcommittee would like to obtain specific direction if the markings are required to obtain permit compliance.
 - No additional meetings, discussions or recommendations will take place until this documentation is obtained by the USACE.
8. Contact made with the USACE Regulatory Compliance Deputy in Jacksonville with assurance that a Guidance Document would be forthcoming within two weeks.

FISCAL IMPACT: Not Applicable. Information update only.

GROWTH MANAGEMENT IMPACT: Not Applicable. Information update only.

LEGAL CONSIDERATIONS: Not Applicable. Information update only.

RECOMMENDATION: Not Applicable. Information update only.

PREPARED BY: Gary McAlpin, CZM