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## THE CCA NEEDS YOU - YOU NEED THE CCA

Dear Members,

While many of our members are spending the majority of the summer and fall months off Captiva Island, the business of the Captiva Civic Association continues. The fulfillment of our mission requires that we maintain vigilance on all matters pertaining to Land Use. To that end we have had numerous meetings to discuss the action we should take to vigorously defend Captiva's Land Use Policy and specifically to "protect our island's ecology." We have spent considerable sums on our legal involvement in this regard, employing the best experts we can find to assist us. We have appeared at hearings and spent many hours working on behalf of all Captivans to maintain its "unique island ambiance." We believe this is what you want the CCA to do for you, and we will continue to carry out our mission with positive enthusiasm.

The CCA needs your support as well. While the efforts of the Board and Staff are the results of the dedicated commitments of several individuals, the practicalities of life dictate that we also need to have the monetary resources in order to succeed. While we have had adequate reserves to sustain ourselves thus far, the costs of involvement in the litigation process are often more than one expects, and our involvement this year is no exception. Fortunately the Sanibel Captiva Conservation Foundation has partnered with us in our effort to accomplish mutual goals. Nevertheless, as we work toward the conclusion of a long, drawn out legal process, we are going to have to find a way to raise more funds to carry out our mission and purpose as an organization. The lack of a major fund-raiser since Hurricane Charley has contributed to our current position.

All of this leads me to not only thank you for your support in the past both in terms of time and effort given to the organization, but also in financial support. At this time, we hope that you can give some thought as to the ways we might successfully move forward fiscally as we get ready to resume a more active year this fall. We also ask your help to further communications regarding legal matters, as we struggle to preserve the island ecology and ambiance. We will seek further input from you in the months to come, and will also seek your financial support in any way that you are comfortable providing it. In the meantime, your encouragement of others to become a part of the CCA will assure us of maintaining the strength we need to fulfill the mission. We look forward to reporting to you in the future of successful results, carefully crafted to keep Captiva the way you want it.

Bottom Line, You need the CCA and the CCA needs You!



Bill Fenniman, CCA President



Roseate Spoonbills near Blind Pass  
*Photo by Rusty Isler*

## THE FIGHT TO SAVE CAPTIVA MANGROVES - STATE PERMIT CHALLENGED

Despite strong objections from a number of citizen and environmental organizations throughout SW Florida, the South Florida Water Management District Board (WMD) in February 2006 approved Mariner's development application to destroy 3.09 fully functioning black mangrove forest wetland areas at Harbour Pointe. The CCA and Sanibel Captiva Conservation Foundation (SCCF) partnered to petition for a formal administrative hearing to challenge this WMD permit. The Conservancy of South West Florida joined the CCA & SCCF as an intervening party. A recommended order from the Administrative Law Judge presiding over the case is expected to be handed down in mid November to the WMD Governing Board.

The WMD is a state agency responsible for reviewing permit applications that impact wetlands. Mariner (former South Seas Plantation Resort Developer and Manager, d.b.a. Plantation Development Limited) intends to build 24 large luxury condos with amenities on the north-east tip of the resort at South Seas.



*Harbour Pointe Peninsula of Mangrove Wetlands at South Seas Resort*  
Photo courtesy of SCCF

There are certain fundamental wetland protection safeguard precepts a developer must overcome before development in wetlands is permitted by the State of Florida. These include avoidance, minimization, and mitigation. The CCA and SCCF firmly believe the WMD did not sufficiently review Mariner's application in accordance with state guidelines and standards for wetland development impacts.

It is a fact that Mariner no longer owns the developed portion of the resort which it sold to CapStar/MeriStar in 1998. Mariner excluded from that sale, 70 some acres of wetlands, 1.3 acres of uplands at Harbour Pointe and the 24 remaining undeveloped density units that it maintains today. According to Mariner, the 1.3 acre upland portion can not support 24 large luxury condo units due in part to the strict Captiva Height Ordinance. Mariner claims in order

to fully exercise its property rights, it must spread out its proposed development into adjacent wetlands. One might wonder why an experienced local developer sold off about 98% of its upland acres while still holding onto 24 building rights in 1998.

It is also a fact that the 24 subject units are part of the 912 units allocated to Mariner by Lee County in 1973 for the whole 302 acres of South Seas Plantation. These units are eligible to be used on any of the remaining undeveloped uplands in South Seas, no different than the approximate 888 units Mariner already developed at South Seas.

Alternatively, Mariner could build all 24 units on the upland portion of Harbour Pointe. The units may not be the 4,300 sq ft size Mariner originally intended but certainly 24 units could fit without impacting wetlands. Mariner has been vested since 1985 to build 18 hotel units on the upland portion of Harbour Pointe but is not vested to destroy wetlands, and it has no permits for road or bridge access to Harbour Pointe. The only permitted access is via water taxi launch to and from the main marina. Mariner can avoid impacting mangroves by building elsewhere on the resort or it can minimize its development footprint to fit on the existing 1.3 upland portion of Harbour Pointe. If the latter, road and or bridge access to Harbour Pointe remain permitting issues.

As to mitigation, Mariner proposes to offer the WMD a conservation easement on the remaining 70+/- acres of zero density wetlands they own at South Seas. Mariner presented a similar deal to the county when appearing before the Lee County Hearing Examiner in 2005 to re-zone Harbour Pointe to allow 24 units and wetland impacts. (That first case is on hold pending the outcome of the WMD Administrative Hearing process and any subsequent appeals). The Examiner questioned whether or not offering a conservation easement to an agency reviewing an application might be considered a conflict. This seemed not to be a concern at the WMD permitting level. The CCA & SCCF however, pointed out at the Administrative Hearing that portions of the conservation easement appear to contain areas already under conservation easements for prior mangrove mitigation impacts at South Seas. Mariner is offering to use wetland restoration credits from their mitigation land bank on Little Pine Island as mitigation. Regardless of what mitigation is being offered, the CCA & SCCF contend there is no acceptable or practical substitution for the deliberate loss of Captiva's wetlands.

At the Administrative Hearing in July, Mariner presented a cadre of local and non local expert witnesses. These included planners, engineers, staff ecologists, a



### NEW SANIBEL CAUSEWAY BRIDGE PROJECT DELAYED

Two of the three new causeway bridges recently scheduled to open Sept. 2006 are now set to open in Spring 2007. Started in the Summer 2004, the entire causeway project completion is expected during the Summer 2007.



*Bridge Photos taken by Rusty Isler on 9/24/06*

### Fight To Protect Captiva Mangroves *continued from page 2*

hydrologist, an archeologist and a storm water runoff expert. On cross examination by our attorneys, Mariner's experts appeared at times to strain the limits of credible testimony. This was especially evident when the experts offered expert opinions that the subject wetland impacts create little or no impairment to the existing black mangrove forest wetland environment presently thriving at Harbour Pointe.

The Petitioners (CCA & SCCF) were skillfully represented at this administrative hearing by attorneys from the Everglades Law Center, the Conservancy and the CCA. Our expert witnesses included two local independent ecologists, a botanist and a world renowned fishery and mangrove expert who presented uncontested testimony that the loss of over three acres of wetlands adjoining Red Fish Pass would cause overwhelming impacts to fish and wildlife habitat in the local region. Also testifying for the Petitioners were staff members for the CCA, SCCF and the Conservancy in addition to a number of Captivans, including property owners from Bryant Bayou.

Following adjournment on the final day of this five day hearing, our attorneys said they were thrilled with the way in which we presented our case and characterized our efforts as coming from local folks making a community based effort to protect their environment in a responsible, non-confrontational manner.

The Administrative Law Judge will likely hand down his Recommended Order to the WMD Governing Board for its

review and consideration sometime late Fall. This is the same authority that unanimously approved Mariner's original wetland impact application last February. We are informed that the board rarely votes in opposition to a judge's recommended order.

Going forward, CCA members might be interested to know that a number of relevant bits and pieces surfaced from depositions and trial testimony as a result of this hearing process. The so-called 1998 "trade secrets" sale agreement documents between Mariner and South Seas resort owners were brought into evidence by our attorneys. The documents attest to a long-term contractual relationship between Mariner and their successors on present and future resort redevelopment projects. These findings will prove valuable when we go back to the County and forward onto the Federal level, the Corps. We anticipate the Army Corps of Engineers wetland impact review process to be stringent and thorough.

We look forward to closely monitoring the next evolution of this permitting process. Meanwhile, we will continue to report back to members on our progress at the county and state levels to protect Captiva's vital and exceptional wetlands. As you might surmise, these legal challenges to protect our coastal mangroves are very expensive in terms of time and money. Thanks to the continued support of our members, the CCA Board of Governors, the CCA Land Use Committee, the SCCF, the Conservancy of Southwest Florida and others, we are making a real difference in the fight to protect our unique island environment.

**Captiva Civic Association  
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## UPCOMING GENERAL ELECTION

The General Election will be held Tuesday, Nov. 7th at the Captiva Civic Center. To request an absentee ballot or for answers to questions about absentee ballots, you can contact Lee County Elections Absentee Department at (239) 533-6915. For more voter information, including online registration forms, go to [www.leeelections.com](http://www.leeelections.com). Voter Registration forms are also available at The Captiva Memorial Library.



## SCHOLARSHIPS AWARDED

The Captiva Civic Association Scholarship Committee is pleased to announce that two new Captiva students have been added to the CCA Scholarship Awards Roster. Summer and Shawn Kilgore, children of Colin and Nola Kilgore, were each recently awarded scholarships toward their education tuition and books. The Kilgores have resided on Captiva for over 25 years and are very active in local church and service organizations. Summer and Shawn grew up on Captiva and after completion of their studies, have a keen interest in beginning their professional careers on the islands. Summer is attending Barry University and expects to complete her teaching degree in two years and aspires to become a teacher at the Sanibel School. Shawn is currently enrolled in the Fort Myers Fire Academy and is seeking a position as a career firefighter-medic on Captiva.

The CCA Scholarship Program is generously funded by the Bruning Foundation. For additional information on scholarship awards and funding, please contact the CCA office.

## 2007 MEMBERSHIP RENEWALS

Your 2007 Membership Renewal Form is included with this edition of the CCA News. Please carefully review your membership record, update and return with your dues check in the envelope provided to the CCA. THANKS!

**We'd be glad to have you as a member! Please call or email us to receive membership information**

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**Members & Guests Are Cordially Invited To Our**

# **Fall Social**

**Monday, Nov. 20th - 6 to 8 pm**

***Please Bring Your Favorite Appetizer To Share***

**For additional information, call (239) 472-2111**