

WEST GALVESTON ISLAND PROPERTY OWNER'S ASSOCIATION

MINUTES OF THE BOARD OF DIRECTORS MEETING

November 20, 2010

West Galveston Island Property Owners' Association Board of Directors Meeting was held on November 20, 2010. The meeting was called to order by Jerry Mohn, President at 9:00 a.m. and was held at the Galveston Country Club. A quorum of Directors was established by the attendance of Lee Slataper from Pirates Beach, Carolyn Farmer - Terramar, Tom Booth - Condos, Clay Lewis – Sportsman Road, Peggy Zahler of Spanish Grant Beach, Matt Wigle from Acapulco Village, John Lightfoot (in the audience) from Bermuda Beach, and Jeff Southard from Dunes of the West.

Current officials were introduced including Judge Jim Schweitzer and City Council Member Dianna Puccetti. Corporate sponsors included Johnson Space Center federal Credit Union and Sand 'N Sea Realty.

The minutes were set out for review previously to the Board members. Motion made by Peggy Zahler and seconded by Tom Boothe, the Board approved the minutes of October 16, 2010, meeting.

Treasurer's report was discussed and reviewed. Net income year to date is \$6452 with cash in bank of \$40,233. Jerry Mohn indicated a large bill will be forthcoming for the lobbyist expense for the Galveston County Beach Erosion Task Force of \$16,445. Motion made by Lee Slataper and second by Peggy Zahler, the Board approved the financial report.

Galveston Island Nature Tourism Council: Susan Lewis wanted to remind interested people of the upcoming "Breakfast with the Sand Hill Cranes" to be held on December 11, 2010, at 8:00 AM and to please make reservations by December 6. Visit the website: www.GalvestonNatureTourism.org or Telephone: 409-939-6724 or Email: bondoscout2@aol.com.

Fire Burn: Don Ware from the Friends of Galveston Island State Park indicated the Park would have a fire burn most likely in December and for the west end to be aware.

Jamaica each Fire Department: Troy Beasley made a short presentation of the need for an underwater night camera for the fire department to help rescue victims in the water at night. The cost is \$3600 and they were looking for donations. Marty Bilek in the audience and from Dunes of the West and a former WGIPOA Board Member donated the entire \$3600 with a check. We are very appreciative in Marty's contribution to a great organization, the Jamaica Beach Fire Department.

District 6 Happenings: City Council Member Dianna Puccetti discussed the recent announcement by the General Land Office to cancel the massive \$40 million sand nourishment and dune construction project from the end of the Seawall to 13 Mile Road due to the Texas Supreme Court decision not to claim private property if the beach migrates onto it after a storm event. The natural occurring erosion will still prevail in claiming a private property but a storm event does not. The concern the GLO had was that Federal dollars would then be placed on private property and this is not allowed. The City and WGIPOA are working with the GLO to hopefully come up with a satisfactory resolution to proceed with the project. This will be discussed in more detail at the end of the GISP presentation today.

Stewart Road widening is coming up and it will include a bike path. Dianna suggested the public come before City Council to stress the importance of a bike lane for the project and what you want to see for the project from 75th Street to Dead Man's Curve. The road widening is part of a previously approved bond issue and depending on the funds, a possible realignment of Dead Man's Curve could result.

There is a Downtown Revitalization Plan being considered by the City. It is being presented by the Historic Downtown Strand Partnership.

Dianna is worried about the upcoming 82nd Legislative Session where the State is now projecting an excess of a \$25 billion deficit.

Galveston Island State Park (GISP): Trey Goodman, Superintendent, presented what has occurred at the Park since Hurricane Ike devastated all the facilities, what repairs have taken place, and what is planned for the future – "The Bridge to Recovery".

There are 94 State Parks in the Texas Parks & Wildlife system covering 64,000 acres, which is less than 1% of all the Texas state. There were 7.4 million visitors to the Parks in 2009.

What makes GISP special? Diversity with over 2000 acres going from the beach to bay side with camping sites, kayaking, swimming, fishing, and birding. There are several archaeological spots and at one time it was a cattle ranch. The Park was acquired in the 1970's by the Texas Parks & Wildlife Department

In 2004 all the State Parks generated sales of \$793 million and had an economic impact on 11,928 jobs (full time equivalent).

GISP economic impact in 2002 was \$6.1 million and full time equivalent jobs of 109. The Park made \$80,000 then. In 2008 with the effects of Ike, the Park had \$1.3 million in revenue. Ike destroyed all the campsites on the beach – they were able to save 36 and the beach lost 8 feet of shoreline. In 2009 the GISP revenue was \$100,000 and so far year to date 2010 it is \$500,000. Ike had a severe economic impact on the Park. Invaluable losses resulted with wildlife, dune protection, lost recreational values of families coming to the Park, loss of habitat like national indigenous trees.

To restore the Park after Ike, Friends of Galveston Island State Park (FOGISP), volunteers, schools and TPWD mobilized. By cleaning up the bayside, FOGISP helped to get the Park opened in 6 months after Ike. Then the beach was tackled and people from outside the State helped with plantings, etc. FOGISP helped restore and repair the Nature Center. FOGISP held a 5K run in early 2009 to bring attention to the public that the Park was back. Master Naturalists are also doing lots of work for GISP as well as Artist Boat with kayak activities. TPWD is also teaching children how to fish.

The bayside is recovering fast now and kayaking is back as well as fishing. Beachside still needs work. 36 campsites have been restored out of more than 100 and the dunes are finally coming back and covered with vegetation. The family recreation is finally coming back to the beach.

The State Legislature supports the Park systems. The sporting goods tax raises funds for the Parks. GISP received new equipment – tractors and a truck. FOGISP purchased equipment for the Park as well.

The Park has a new land acquisition – the old amphitheater site was transferred back to the Park in a land swap with other property. The amphitheater will be demolished in a year and this will enable GISP an opportunity to put different elements at this area. The TPWD is conducting a Park Master Plan effort to build new facilities and a whole new park design study will be underway. The public is invited to participate and to give input at TAMUG on 12/7 at 6:00 PM.

Trey closed in advising the group the way to help GISP is to be an active supporter.

Texas Supreme Court Decision - Open Beaches Act: An open discussion resulted with the Texas Supreme Court decision. Jerry Mohn advised the Fifth Circuit had the case of Carol Severance verses Jerry Patterson lawsuit that was filed by the Pacific Legal Foundation and needed clarification on three items in

which they asked the Texas Supreme Court for a decision. Two of the questions dealt with the rolling easement under the Open Beaches Act and one dealt with the US Constitution and property rights. There were 9 judges – 6 in favor of their findings, two dissenting and one with no decision. Basically, the Texas Supreme Court advised that a perpetual rolling easement no longer existed. With an "evulsive" (storm) event, the State could not claim private property if the beach comes onto their property. The State can claim property under the Open Beaches Act with a naturally eroding beach. The law basically becomes effective immediately and is applicable only for West Galveston Island; however, once the decision was made, it will be eventually applicable to the entire Texas coast. The GLO plans to appeal but the chances are very slim with any success.

In addition, property rights are also protected now. Previously, Texas law was based on Spanish Law, which predated the US Constitution and property rights are not protected under the Open Beaches Act with a storm event. However, the Texas Supreme Court basically advised since Texas became a part of the U.S., they had to abide by U.S. laws, which protects property rights.

The GLO advised the sand nourishment project could proceed with all beach front property owners signing a perpetual rolling easement. The WGIPOA objected to this type of easement and recommended a static type of easement would be preferable. The GLO prefers the type of easement to be what was law prior to the Texas Supreme Court decision where regardless of any storm event, etc, the State could claim private property if the public beach migrated onto it. If the beach front property owners signed the proposed GLO easement, the rest of the properties west of 13 mile road would be subject to the new Texas Supreme Court ruling. The WGIPOA prefers a static easement where private property would be lost with a naturally occurring eroding beach but not with a storm event. Our concern is that we would like to have what the Texas Supreme Court advised with an evulsive event and we basically wanted to have the same requirements as all other coastal communities.

The GLO is disagreeing with this option – they claim if the perpetual rolling easement was good before the Texas Supreme Court decision, it should be applicable now and this is the basis of their proposed easement. They advised the GLO will require a perpetual rolling easement in any future project funded by the State under CEPPRA or any Federal agency that provides funds for the public. Funds cannot be used for private property and this is what the GLO indicates occurred with the Texas Supreme Court ruling and the reasons to stop the project.

The WGIPOA are in negotiations with the GLO. The City is in support of the sand nourishment project and will assist the west end with beach front property owner's names, etc. The GLO has allowed the WGIPOA 30 days to collect all the easements.

People in the audience asked how to help and we encouraged everyone to write to the Commissioner to accept a static easement. The WGIPOA addressed City Council for support as well as having support from the west end.

Meeting ended 11:15 AM
