

EXECUTIVE SUMMARY

Recommendation to adopt a resolution that returns and affirms the Pelican Bay Services Division's authority for Clam Bay

OBJECTIVE: To adopt a resolution that returns and affirms the Pelican Bay Services Division's authority for Clam Bay.

CONSIDERATIONS: During the regular meeting of the Pelican Bay Services Division Board of December 1, 2010, a review of the recent history surrounding Clam Bay was held with Commissioner Hiller. The goal of the discussion was to determine if a resolution of several policy matters between the community and county are attainable.

In 2008, as the result of a disagreement over the closeout of the 1998 Clam Bay Restoration and Management Plan Joint Coastal Permit, the former County Manager proposed a change in responsibility for several Clam Bay matters. Ordinance 2008-48 was adopted without amending the Pelican Bay Services Division Ordinance 2006-05 to create the Clam Bay Advisory Committee to review issues affecting the entire Clam Bay estuary system, including the direction, management, health and long-term viability of the entire estuary and to make recommendations directly to the Coastal Advisory Committee. This changed the primary management responsibility of Clam Bay, which had previously been under the Pelican Bay Services Division since 1990 (Ordinance 1990-111 as amended).

Over the twenty years following the creation of the Pelican Bay Services Division MSTBU, numerous improvements at Clam Pass were undertaken that included:

- The restoration of 568 acres of mangrove forest damaged by stormwater runoff
- Implementation of a ten year water quality monitoring program
- Development of a passive canoe/kayak trail marker system
- Successful dredging of the Clam Pass inlet on two occasions

In 2008, countywide beach re-nourishment and inlet management responsibilities were assigned to the new Coastal Zone Management (CZM) department. The Pelican Bay Services Division desires to reaffirm its role for the remaining activities, i.e., mangrove maintenance, water quality monitoring, and recreational canoe/kayak trails responsibility, and have CZM continue its role for inlet and beach re-nourishment activities.

Approval of this request would result in the elimination of several conflicts between the community and Collier County. In addition, this would complete the closing of the 1998 Clam Bay Restoration and Management Plan Joint Coastal Permit. Secondly, the matter of the navigational markers currently under appeal by direction of the former Commission would end and the county would avoid the future expense and responsibility associated with navigational markers that are considered by many to be unnecessary and dangerous.

Finally, in review of the Pelican Bay Services Division Ordinance 2002-27, and Ordinance 2006-05 as amended, it appears that the intent of the Board of County Commissioners was to allow the

Pelican Bay Services Division Board to serve in an administrative, not advisory role. This would more closely resemble the CRA and Airport Authority organizations that ultimately report to the County Commission for budget appropriation but otherwise address their needs.

Attached are copies of the Pelican Bay Services Division Ordinances and correspondence in support of the conclusions and requests mentioned above.

FISCAL IMPACT: The current appeal of the navigational marker issue pending before the Division of Administrative Hearings is estimated to cost \$ _____. Other costs involved with current mangrove maintenance and operations are included in the Services Division's FY 2011 budget. Costs associated with the inlet management plan and navigational markers for Clam Bay to date are \$ _____ and are not required by the Florida Department of Environmental Protection or U.S. Coast Guard.

GROWTH MANAGEMENT IMPACT: This recommendation is consistent with the County's Growth Management Plan.

LEGAL CONSIDERATIONS: This item has been reviewed by the County Attorney's Office and is legally sufficient for Board approval.

RECOMMENDATION: That the Collier County Board of County Commissioners affirm the operating and administrative role of the Pelican Bay Services Division.

Prepared by: Neil Dorrill, Pelican Bay Services Division Administrator

Attachments: 1. Collier County Ordinance 1990-111
2. Collier County Ordinance 2002-27
3. Collier County Ordinance 2006-05
4. Collier County Ordinance 2008-48
5. Proposed Resolution 2011-_____

RESOLUTION NO. 2011 - _____

**A RESOLUTION THAT RETURNS AND AFFIRMS THE
PELICAN BAY SERVICES DIVISION'S AUTHORITY FOR
CLAM BAY**

WHEREAS, during the regular meeting of the Pelican Bay Services Division Board of December 1, 2010, review of the recent history surrounding Clam Bay was held with Commissioner Hiller; and

WHEREAS, the goal of the discussion was to determine if a resolution of several policy matters between the community and county are attainable; and

WHEREAS, in 2008, as the result of a disagreement over the closeout of the 1998 Clam Bay Restoration and Management Plan Joint Coastal Permit, the former County Manager proposed a change in responsibility for several Clam Bay matters; and

WHEREAS, Ordinance 2008-48 was adopted without amending the Pelican Bay Services Division Ordinance 2006-05 to create the Clam Bay Advisory Committee to review issues affecting the entire Clam Bay estuary system, including the direction, management, health and long-term viability of the entire estuary and to make recommendations directly to the Coastal Advisory Committee; and

WHEREAS, this changed the primary management responsibility of Clam Bay, which had previously been under the Pelican Bay Services Division since 1990 (Ordinance 1990-111 as amended); and

WHEREAS, over the twenty years following the creation of the Pelican Bay Services Division MSTBU, numerous improvements at Clam Pass were undertaken that included:

- The restoration of 568 acres of mangrove forest damaged by stormwater runoff
- Implementation of a ten year water quality monitoring program
- Development of a passive canoe/kayak trail marker system
- Successful dredging of the Clam Pass inlet on two occasions; and

WHEREAS, in 2008, countywide beach re-nourishment and inlet management responsibilities were assigned to the new Coastal Zone Management (CZM) department; and

WHEREAS, the Pelican Bay Services Division desires to reaffirm its role for the remaining activities, i.e., mangrove maintenance, water quality monitoring, and recreational canoe/kayak trails responsibility, and have CZM continue its role for inlet and beach re-nourishment activities; and

WHEREAS, approval of this request would result in the elimination of several conflicts between the community and Collier County; and

WHEREAS, approval of this request would allow the 1998 Clam Bay Restoration and Management Plan Joint Coastal Permit to be closed; and

WHEREAS, approval of this request would allow the matter of the navigational markers currently under appeal by direction of the former Commission to end and the county would avoid the future expense and responsibility associated with navigational markers that many consider to be unnecessary and dangerous; and

WHEREAS, in review of the Pelican Bay Services Division Ordinance 2002-27, and Ordinance 2006-05 as amended, it appears that the intent of the Board of County Commissioners was to allow the Pelican Bay Services Division Board to serve in an administrative, not advisory role that would more closely resemble the CRA and Airport Authority organizations that ultimately report to the County Commission for budget appropriation but otherwise address their needs; and

WHEREAS, the Pelican Bay Services Division desires to serve in an administrative, not advisory role.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that:

1. The Pelican Bay Services Division reaffirms its role to serve in an administrative, not advisory capacity.
2. The Pelican Bay Services Division reaffirms its authoritative role for mangrove maintenance, water quality monitoring, and recreational canoe/kayak trails responsibility in the Clam Bay Estuary, and have CZM continue its role for inlet and beach re-nourishment activities.

THIS RESOLUTION ADOPTED this 5th day of January, 2011, after motion, second and favorable vote. (____ - ____)

Keith J. Dallas, Chairman
Pelican Bay Services Division Board

W. Neil Dorrill, Administrator
Pelican Bay Services Division

Approved as to form
and legal sufficiency:

Jeffrey A. Klatzkow, County Attorney