

**PUNTA GORDA ISLES  
CANAL ADVISORY COMMITTEE  
MEETING  
AUGUST 16, 2010**

**MEMBERS PRESENT:** Bill Dixon, Chairman  
Nancy Dauster, Bill Folchi, Thomas McAlear,  
David McBride, Charles Thomas, James Thompson

**OTHERS PRESENT:** Randy Brodersen, Canal Maintenance Supervisor; Steve Padgett, Senior Project Manager; Sharon Knippenberg, Controller; Mark Gering, City Engineer; Dave Drury, Finance Director; John Kennedy, Marine Patrol Officer; Tom Lewis, Police Captain; Tracy Quintana, Executive Assistant; Councilmember Elect Rachel Keesling; John Dauster, Ron Parr, Heinz Schmidt, Christel Schmidt, John Romano, Ron Gensemer, Dottie Mattoon

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting - Monday, September 20, 2010 - 1:30 p.m.

**Note: Approval of Minutes & Monthly Reports were heard following CCSP-02-10.**

**APPROVAL OF MINUTES**

- A. Regular Meeting of July 19, 2010
  - Ms. Dauster MOVED, Mr. McAlear SECONDED approval of the July 19, 2010 minutes.  
MOTION CARRIED UNANIMOUSLY.

**CANAL MAINTENANCE MONTHLY REPORTS**

- A. Permits Authorized by City Staff for Installation of Docks, Lifts, Outpilings, etc.
  - Mr. Randy Brodersen, Canal Maintenance Supervisor, reported nine permits were issued in July 2010.
- B. Budget Utilization Report
- C. Seawall & Seawall Cap Replacement Status Report
  - Mr. Brodersen confirmed members had been provided with the subject reports in their agenda packets, offering to answer any questions regarding same.
  - Ms. Dauster asked if there had been any seawall failures during the recent heavy rains.
  - Mr. Brodersen replied there were none.

**Note: Mr. Dixon left the meeting at 2:45 p.m.**

- Mr. Thompson observed the current fiscal year would end in approximately six weeks, questioning staff's projections with regard to actual versus budget.

- Mr. Brodersen replied reserves would be tapped, confirming a budget transfer was done on August 13, 2010. He advised crews were working diligently, adding a number of seawalls were scheduled to be replaced.
- Mr. Thompson confirmed the larger crews would continue even after the start of the new fiscal year.

**Note: Mr. Dixon returned to the meeting at 2:47 p.m.**

- Mr. John Dauster commented on the recent seawall engineering study which recommended certain changes in construction, asking if same had been implemented.
- Mr. Brodersen replied affirmatively.
- Mr. Dauster asked if budgetary line items would change as a result.
- Mr. Brodersen replied only slightly.
- Mr. McBride stated he had not observed rounded edges on newly poured seawall slabs, asking if that practice would continue.
- Mr. Brodersen replied crews had been advised to maintain same.
- Mr. Thompson recalled a suggestion to alter the concrete mixture batching process.
- Mr. Brodersen replied staff had not implemented that suggestion as it was cost prohibitive and of very little benefit.

**Note: CCSP-02-10 was heard following the first portion of Item A, Current Business.**

#### PETITIONS FOR SPECIAL PERMITS

- Mr. Dixon reviewed the six criteria which must be considered for issuance of a special permit. He then outlined quasi-judicial procedures and rules regarding ex-parte communications.
  - Recording Secretary Kelly swore in all participants.
- A. CCSP-02-10: Petition for special permit under the provisions of Section 6-6(j) of the Punta Gorda Code of Ordinances to install an 8-post boat lift with 2 pilings outside the 45 degree area per Subsection 6-6(c)(4) at Lot 43, Block 12, Section 4, a/k/a 69 Sabal Drive, Punta Gorda, FL 33950. Owner/Petitioner: William H. Brady.
- Mr. Steve Padgett, Senior Project Manager, displayed an overhead depicting the subject property, as denoted within the agenda material, stating same had approximately 80 feet of seawall and a canal width of approximately 100 feet. He explained this petition was being presented to the Committee due to the request to place two pilings and a portion of the boat lift outside of the forty-five degree area, concluding staff did not recommend favorable consideration because of same.
  - Mr. Ron Parr, applicant's representative, commented on the 45 degree rule, stating the community was seeing more and more vessels which did not fit the original intent of the baseline for same. He maintained the 45 degree rule was adopted predominantly

for end lots which were subject to corner crowding; however, he stated the rule was being viewed more like a law rather than a code, adding this was a riparian right issue. He drew members' attention to the overhead, pointing out where the applicant, Mr. William Brady, intended to berth his boat without a lift. He clarified Mr. Brady would prefer to use a boat lift; however, if same was not allowed, the boat would be tied to the mooring piling, referring to same on the overhead. He explained Mr. Brady's boat, a 34 foot power catamaran, would be located further away from the adjacent property than if the proposed boat lift was permitted. He mentioned the applicant had gone to great lengths in an attempt to keep the boat as far away from his neighbor's property as possible; however, fewer options were available if the boat was kept in the water. He acknowledged the foundation for establishment of the 45 degree area; however, non-traditional ties for irregular boat sizes were becoming necessary in many cases. He suggested the Committee may wish to discuss the 45 degree rule as a separate issue.

- Mr. Thompson asked if Mr. Brady's catamaran was currently in the water at the subject location.
- Mr. Parr replied it was not.
- Mr. Thompson commented on a letter from Mr. Brady, as delineated in the agenda material, stating his main concern seemed to focus on view.
- Mr. Parr explained Mr. Brady was an elderly gentlemen who had resided in less strict counties and/or municipalities. He requested CCSP-02-10 be considered on the facts presented in his earlier testimony, not Mr. Brady's statements regarding his view.
- Mr. Heinz Schmidt, 73 Sabal Drive, complimented Mr. Parr on his presentation; however, he believed issues related to the 45 degree rule should be presented to City Council. He pointed out the 45 degree rule had worked very well for many years, having been established to prohibit infringement upon adjacent properties. He expressed opposition to CCSP-02-10 due to the negative effect on the adjacent property.
- Mr. Thompson clarified Mr. Schmidt resided next door to Mr. Brady.
- Mr. Thomas asked how this proposal would infringe on Mr. Schmidt's property.
- Mr. Schmidt replied it would not but rather would have a negative impact with regard to the property on the opposite side in that it would hinder navigation to their dock.
- Mr. Thomas disagreed.
- Mr. Schmidt acknowledged it was possible for neighbors to work out solutions to these types of situations.
- Mr. Dixon countered the 45 degree rule was in place to avoid these situations.

- Ms. Christel Schmidt, 73 Sabal Drive, opined approval of CCSP-02-10 would set a precedent, which in turn would diminish property values. She maintained none of the applicant's neighbors were in favor of the proposed set-up.
- Mr. Dixon confirmed the City Clerk's Office had noticed surrounding property owners as required by law.
- Ms. Schmidt responded she had received notice and then had submitted a letter of opposition, confirming same had been included in the agenda material. She then mentioned the "existing" dock at the applicant's property had only recently been built.
- Mr. John Romano, 51 Sabal Drive, spoke in opposition to CCSP-02-10 due to the infringement on the adjacent property. He stated he believed existing rules were sufficiently broad and should not be compromised. He reported Mr. James Reutlinger and Ms. Yvonne Reutlinger had expressed their opposition to the request as well.
- Mr. Ron Gensemer asked why the boat was proposed to be located so far to one side.
- Mr. Parr replied most boat lifts were installed on the "non-view" or "wing" side of a property. He reminded members each individual homeowner enjoyed riparian rights to the water, noting Mr. Brady was sensitive to his neighbors rights as well. He commented on the six criteria delineated with the agenda material, stating he did not see where this application violated any of same nor was it precedent setting.
- Mr. Romano commented a boat lift was fixed while the vessel itself was not. He expressed hope any problems could be worked out between neighbors.
- Mr. Dottie Mattoon stated she resided on Sancho Panza Court in PGI but was speaking for Ms. Jane Tubay, 65 Sabal Drive. She submitted a letter of opposition from Ms. Tubay into the record.
- Mr. Dixon interjected Ms. Tubay's letter constituted hearsay.
- Ms. Mattoon continued Ms. Tubay felt approval of CCSP-02-10 would negatively affect her property value as well as inhibit the sale of same.
- Mr. Dixon noted Ms. Tubay's letter included a request for a continuance of the September 2010 public hearing before City Council to sometime after October 6, 2010, asking how same should be addressed.
- Recording Secretary Kelly advised that request should be submitted to City Council. She pointed out Ms. Tubay's letter was addressed to "City of Punta Gorda Permit/Variance Department/Committees," expressing uncertainty with regard to where the letter had been received.
- Mr. Mark Gering, City Engineer, interjected he understood a letter had no bearing in a public hearing.

- Mr. Dixon responded in quasi-judicial matters, written communications were permissible but may not form the basis of any decision. He then called three times for anyone to speak on CCSP-02-10.
- Ms. Dauster MOVED, Mr. McAlear SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. McAlear commented it seemed this location would allow the applicant to moor his boat without the need for a special permit. He disclosed he had personally viewed the site from the water. He opined approval of CCSP-02-10 would violate criteria (e) in that it would interfere with or be detrimental to the quiet and peaceful use of the adjacent property, noting he defined “view” as falling under “peaceful use of the land.”
- Ms. Dauster commented the lift would remain in place in the event Mr. Brady sold the property, stating a future owner could possibly moor a 50 foot boat, for example, which would heavily impact navigation and interfere with adjacent properties.
- Mr. Padgett displayed a photograph of the subject property, noting same was taken this date.
- Mr. McBride clarified the existing docks were installed approximately six weeks earlier by Mr. Parr, questioning the relationship between the proposed boat lift and those docks.
- Mr. Parr replied the original proposal was for a 40 foot dock; however, based on the boat lift’s size, he would have insufficient dockage remaining. He noted the application had been amended to two, twenty foot docks.
- Mr. Folchi MOVED, Mr. McAlear SECONDED to recommend denial of CCSP-02-10.
- Ms. Dauster MOVED, Mr. Thompson SECONDED to AMEND the motion to recommend denial of CCSP-02-10 based on failure to comply with criteria “c” and “d” as outlined in the agenda material.
- Mr. McBride suggested omitting reasons from the motion itself but rather have each member delineate the basis for their vote.
- Mr. Dixon called for a vote on the amendment.
- VOTING AYE: Dauster, Thompson.
- VOTING NAY: Folchi, McAlear, McBride, Thomas, Dixon.
- MOTION TO AMEND FAILED.
- Mr. Dixon then called for a vote on the original motion.
- VOTING AYE: Dauster, Folchi, McAlear, McBride, Thompson, Dixon.
- VOTING NAY: Thomas.
- MOTION CARRIED.
- Mr. McBride stated he had voted to deny based on non-compliance with criteria “e”.

- Mr. Folchi stated he had voted to deny based on non-compliance with criteria “c”, “d” and “e”.
- Mr. Dixon stated he had voted to deny based on non-compliance with criteria “e”.
- Mr. Thompson stated he had voted to deny based on non-compliance with criteria “c”, “d” and “e”.
- Mr. McAlear stated he had voted to deny based on non-compliance with criteria e”.
- Ms. Dauster stated she had voted for denial based on non-compliance with criteria “c” and “d”.

### CURRENT BUSINESS

#### A. Condominium Assessment Methodology

**Note: The first portion of the following discussion was held after Item C.**

- Ms. Sharon Knippenberg, Controller, reminded members they had requested a report on the history of the billing methodology. She explained the original ordinance, adopted approximately 25 years earlier, established billing based on zoned, original, platted lots, whether multi- or single-family. She noted developers of multi-family property determined which units would be assessed at the time of sale; however, she clarified developers did not determine the amount of that assessment. She reminded members of the assessment methodology applied to multi-family property, specifically, linear feet of seawall times 120 feet of depth to arrive at a dollar amount. She pointed out the State had more authority than any municipality, adding in 2003, the State ruled against community billing assessments. She submitted copies of the applicable State Statutes into the record, noting this type of community billing had been utilized for community golf courses, swimming pools and other common areas; however, the State required those community accounts to be dissolved. She clarified billing was changed at that time by taking the amount of lots and dividing same as there was no developer involvement at that point.
- Mr. Dixon stated condominium organizations previously received one bill which was divided among the number of units, asking if those developments were now receiving a number of bills depending upon the number of units.
- Ms. Knippenberg replied affirmatively.
- Mr. Dixon asked if all waterfront lots which were zoned multi-family were billed individually.
- Ms. Knippenberg replied they were not. She explained billing would be based on the method originally requested by the developer. She clarified the specific number of

billings per multi-family units could be determined only by reviewing the original developer's request.

- Mr. Dixon clarified there could be residents who did not receive a bill for the annual assessment fee.
- Ms. Knippenberg agreed, reiterating a fair amount of research via the Geographic Information System (GIS) program would be required as she only had a list of those units being billed as opposed to those which were not.
- Mr. Dixon acknowledged the Finance Department was heavily involved in budget preparations at this time; however, he indicated the Committee would most likely be asking for that information in the future.
- Ms. Knippenberg responded staff had anticipated that request. She mentioned the proposed budget was completed on August 13, 2010, and was available on the City's website.
- Mr. Dixon thanked Ms. Knippenberg, stating he was much clearer on this issue.
- Ms. Knippenberg mentioned there may be entire developments which had never opted to be included in the Canal Maintenance Assessment District (CMAD), clarifying their seawalls were not protected. She stated Mr. Brodersen had asked her to identify any such seawalls.

**Note: The following discussion was heard following the Monthly Reports.**

- Mr. McAlear commented on Ms. Knippenberg's announcement that some condominium residents were not paying an annual fee, stating he was not troubled by same if they were not using the water. He expressed uncertainty as to how the Committee could become involved in same in any event; however, he opined the assessment methodology should continue to be studied. He reminded members he was aware of at least one condominium resident who had access to a boat slip and was paying only \$90 annually.
- Mr. Dixon asked if members generally felt condominiums should be charged more. He inquired as to the purpose of these discussions.
- Mr. McAlear replied he believed assessments should be more equitable for all residents.
- Mr. Dixon asked if the Committee wished to add payers to the existing assessment rolls to increase revenue or simply adjust the methodology on a revenue neutral basis.
- Mr. McAlear replied he did not feel remaining revenue neutral should be their goal.
- Mr. Dixon mentioned former Mayor Steve Fabian and Councilmember Larry Friedman were in favor of generating more revenue from condominium owners.

- Mr. Thomas requested an opportunity to review hard data relative to condominium assessments.
  - Mr. Folchi agreed a remuneration of all residents who did not pay a \$500 annual fee was necessary.
  - Mr. Dixon noted he had provided members with as much data base information as was currently available, adding he had also submitted same to the City Clerk's Office for their records.
  - Mr. McBride pointed out Charlotte County's records represented the only up to date information, expressing concern certain resident's deeds may prohibit additional assessment collection.
  - Mr. McAlear countered the Committee was not yet trying to change the methodology but rather was still collecting data.
  - Mr. Thomas suggested taking one condominium complex as an example and determining whether same was operating under the newer rules.
  - Mr. Dixon confirmed Mr. Thomas would gather that information, suggesting he contact Mr. Dave Drury, Finance Director, and Ms. Knippenberg for direction.
  - Discussion ensued with regard to the numerous styles of condominiums in PGI and the number of units which did or did not have water/boat slip access.
  - Mr. Thomas concluded he would provide an analysis of Banyan Point Condominiums at the Committee's next meeting.
  - Mr. Thompson then commented on the issue of single family homes on land which was zoned multi-family.
  - Mr. Dixon responded that issue had already been addressed by City Council per the Committee's recommendation. He then urged members to consider whether they wished any changes to be revenue neutral or not, confirming same would be discussed at their next meeting.
  - Mr. McBride stated he did not wish to see any one resident's assessment increase based solely on what type of unit they owned; however, he agreed the Committee should be seeking equity for residents while maintaining sufficient revenues to accomplish the work needing to be done on an ongoing basis.
  - Mr. McAlear agreed; however, he felt additional revenue was needed, and more seawalls should be repaired and/or replaced.
- B. Update on Seawall GIS and Charlotte County GIS Programs
- Mr. Brodersen reported coverage of 22 miles, providing a detailed description of the area covered.

- Mr. Dixon commented favorably on the significant mileage which had been covered over the past month.
- Mr. Brodersen then announced receipt of a laser finder and data collector, stating staff was familiarizing themselves with operation of the equipment. He continued the laptop and software were due sometime during the current week, adding staff was in communication with Charlotte County for training assistance. He advised a significant amount of cracked seawall had been observed, stating staff hoped to devise a method of prioritization for same.
- Mr. Dixon questioned the status of actually entering data into Charlotte County's GIS program.
- Mr. Brodersen replied staff was currently entering data into the laptop.
- Mr. Dixon asked if new seawalls would be segregated from the older seawalls.
- Mr. Brodersen replied affirmatively.

**Note: Item C was heard following Call to Order/Announcements.**

- C. "No Anchoring" Signage - Police Captain Tom Lewis
- Mr. John Kennedy, Marine Patrol Officer, announced efforts over the past six months had been concentrated on complaints relative to the entrance into PGI adjacent to Ponce de Leon Park, adding same was commonly referred to as the "S" turn. He reported several crashes as well as near misses over the past few years in that area, primarily due to anchoring within same. He announced he and Police Captain Tom Lewis had reviewed City ordinances along with the existing "No Anchoring or Mooring" signage. He displayed an aerial view of the area, pointing out the sign location; however, unfortunately the verbiage was illegible from the water. He suggested placing a larger, three foot by five foot sign which simply stated "No Anchoring or Mooring per City Code Section 6-22" on both sides of the channel. He explained one sign would face Ponce de Leon Park, adding the other sign would face toward the house/first channel depicted on the overhead. He opined these locations should provide clear visibility to all boaters traveling through the area. He announced this ordinance was currently being enforced through fines of \$100 and \$200 for first and second offenses, respectively.
  - Mr. McAlear suggested verbiage such as "No Mooring within 500 Feet of Sign" to more clearly delineate the area.
  - Mr. Kennedy replied he had attempted to keep things as simple as possible, adding additional verbiage would result in reduced letter size; however, he would definitely give Mr. McAlear's suggestion consideration.

- Ms. Dauster commented she was delighted with this action, stating she believed same would be beneficial to public safety.
- Mr. Kennedy stated this intersection fell within one of the most heavily traveled channels, adding signage may prove beneficial in Bass Inlet as well.
- Mr. Thompson questioned the amount of time this rule had been in effect, further asking if Mr. Kennedy believed same was effective. He inquired as to the number of citations which had been issued.
- Mr. Kennedy replied the ordinance was adopted in 2003; however, he explained past administrations had a more liberal view relative to the water, i.e., education first. He reported no tickets had yet been issued and five reported incidents had been recorded.
- Mr. Thompson clarified warnings had been issued.
- Mr. Dixon thanked Messrs. Kennedy and Lewis, reporting 39 warnings and 157 hours of water coverage in July 2010. He commended staff on their efforts.

**Note: New Business was heard following Item C, Current Business.**

**NEW BUSINESS**

**A. Waterfront Property Owner's Manual**

- Mr. Brodersen drew members' attention to the Waterfront Property Owner's Manual, as delineated within the agenda material, stating Ms. Tracy Quintana, Executive Assistant, had expended a significant amount of time compiling same.
- Ms. Quintana mentioned City Council had suggested staff develop this type of document after seeing something similar for Marco Island. She noted the Manual would be available on the City's website contingent upon City Council approval, adding she hoped to make it available at City facilities, boating clubs, civic associations, etc., in both PGI and BSI.
- Mr. McAlear suggested making the Manual available to realtors.
- Mr. Dixon pointed out a small error on page 8.
- Mr. McAlear MOVED, Ms. Dauster SECONDED to commend staff for producing an outstanding Manual and to strongly recommend City Council support of same. MOTION CARRIED UNANIMOUSLY.
- Ms. Quintana then reminded members the City was seeking input for the 2011 Strategic Plan, confirming an excerpt of their discussion from the previous meeting had been forwarded to the City Manager.

**B. Canal Maintenance Overhead**

- Mr. Dixon displayed a pie chart, as delineated in the agenda material, noting same was based on the 2009/2010 PGI budget of \$2,517,000. He explained overhead constituted only 12% while the remainder of the budget represented direct expenses.

- Mr. Thompson requested clarification of “seawall stabilization.”
- Mr. Brodersen replied riprap.

**MEMBER COMMENTS**

- Mr. Dixon reminded members recommendations for the Strategic Plan, as discussed earlier, may be submitted individually as well.
- Mr. McAlear noted the earlier report on man hours on the water was applicable only to the Marine Officer and did not include volunteer services. He offered to report those hours to the Committee monthly.

**CITIZEN COMMENTS**

- Mr. Brodersen asked members to advise him of any problem areas where mangroves required trimming, stating same would commence shortly.
- Discussion ensued with regard to an area commonly referred to as “crash corner.”

**ADJOURNMENT**

- Meeting Adjourned: 3:55 p.m.

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Bill Dixon, Chairman

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Mary Kelly, Recording Secretary