

**BURNT STORE ISLES
CANAL ADVISORY COMMITTEE
MEETING
OCTOBER 13, 2009**

MEMBERS PRESENT: Gary Brewster, Chairman
Joseph Gil, Leslie Totten,
Frank Wiechec, Charles Zajicek

OTHERS PRESENT: Randy Brodersen, Canal Maintenance Supervisor
Rick Keeney, Public Works Director
Bill Dixon

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting – Tuesday, November 10, 2009 - 1:30 p.m.

APPROVAL OF MINUTES

- A. Regular Meeting – August 11, 2009
 - Mr. Brewster noted a correction to page 2.
 - Mr. Wiechec MOVED, Mr. Gil SECONDED approval of the August 11, 2009 minutes as amended. 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, announced five permits had been issued in September 2009, three for boatlifts and two for replacement pilings.
- B. Budget Utilization Report
 - Mr. Brodersen referred to the August and September 2009 Budget Utilization Reports, as delineated in the agenda material, stating the reports were as up to date as possible but were not finalized due to invoices still being applied to the fiscal year ending September 30, 2009. He noted the footage of seawall cap replacement was correct. He pointed out the difference between seawall recap from 2008 to 2009 was only approximately 100 feet, but seawall replacement had jumped from 474 feet to 750 feet.
 - Mr. Brewster questioned the September 2009 report on mangrove trimming, stating same reflected an expenditure of \$40,870 being spent but 0 hours of work completed.
 - Mr. Brodersen agreed, stating the mistake was on his part in that the report should have reflected close to 350 hours.
 - Mr. Totten requested clarification of the amended budget, asking if the document was amended to reflect spending forward of the reserve.

- Mr. Brodersen replied affirmatively.
- Mr. Brewster commended staff on their efficiency in percentage of work completed and cost control.
- Mr. Wiechec questioned the integrity of seawalls where davits presently remained.
- Mr. Brodersen replied the older davit pads were four to five feet deep and did have a tendency to put extra pressure on aging seawalls, adding the weight of the newer designed davit pads were distributed more evenly. He mentioned he did not recall seeing any seawall failures where new davit pads existed.
- Mr. Wiechec asked if new davits were still being used.
- Mr. Brodersen responded he was not aware of any new installations.
- Mr. Wiechec asked what happened to the old davit pads once a seawall failure occurred.
- Mr. Brodersen replied everything would be removed, stating the homeowner would decide whether or not to reinstall the davit.
- Mr. Gil questioned if consideration should be given to disallowing the use or installation of davits except in certain perimeter canal locations where space was an issue.
- Mr. Brodersen agreed it would be worth considering.
- Mr. Brewster then stated at the August 2009 meeting, the Committee agreed they should support any application for TIGER Grant funds. He reported he had signed a letter of support on behalf of the Committee, providing copies of same to members and staff.

CURRENT BUSINESS

- A Fishing Distance from Boat Lock – Update
- Mr. Rick Keeney, Public Works Director, displayed an overhead of the boat lock location, advising although the written opinion of City Attorney David Levin stated fishing within the boat lock could be prohibited by the City, further clarification was needed to determine the exact location over which the City had jurisdiction. He stated the City Attorney’s opinion went on to advise that although a sign was not required to prohibit fishing within the boat lock area, any sign within 50 feet of mean high water needed a permit issued through the Fish & Wildlife Commission (FWC). He added a City ordinance would also be required for any new regulations. He reiterated the need for clarification through the City Attorney as to how many feet from the boat lock fishing could be limited.
 - Mr. Totten asked if he was clarifying the word “area” as noted in the City Attorney’s opinion.

- Mr. Keeney agreed, stating the City Attorney's opinion used two different wordings.
- Mr. Brewster questioned the exact terminology used in the City Attorney's opinion regarding the boat lock area or waterway.
- Mr. Keeney read the City Attorney's description into the record.
- Mr. Wiechec stated most of the fishing was being done outside the boat lock area.
- Mr. Keeney agreed.
- Discussion ensued regarding safety when fishing in and around the boat lock area.
- Mr. Keeney went on to read from the City Attorney's opinion as follows: "It is further my understanding from review of public records that the subject water body is owned by the Burnt Store Isles Canal Maintenance Assessment District. It should be noted that canals within the Burnt Store Isles Canal Maintenance Assessment District are not generally owned by the District." He stated he believed the City Attorney was referring to the boat lock area being within the City's jurisdiction.
- Mr. Totten asked if the City Attorney was referring to the 266 feet depicted in the overhead display.
- Mr. Keeney concurred, stating he was still seeking permission to limit fishing within a certain distance of the lock.
- Mr. Gill clarified the area on the creek side of the waterway was the County's responsibility.
- Mr. Keeney again asked the Board to delay making any recommendation until he obtained further clarification from the City Attorney.
- Mr. Totten asked if there was still a sign in place.
- Mr. Keeney stated he believed so; however, it was not backed up by an ordinance and was therefore unenforceable. He continued the City had since removed several signs in recent years and had created ordinances to address others.
- Mr. Totten suggested recommending an ordinance limiting fishing in the 266 feet of waterway.
- Mr. Keeney said he would support such a recommendation; however, he suggested the Committee wait one more month for clarification as stated above.
- Mr. Gil requested clarification regarding the point from which the 100 feet from the boat lock was measured.
- Mr. Keeney requested the Committee specify the exact area on the overhead to allow him to better relay their concerns to the City Attorney.
- Mr. Gill opined from a safety perspective, clear line of sight was important in defining the distance or area, stating the curve approaching the boat lock was blind from both directions.

- Mr. Brewster voiced concern with boats anchoring in the waterway outside the boat lock, stating although the City could pass an ordinance prohibiting anchoring, State law would prohibit enforcement.
 - Mr. Totten again asked for clarification on enforcement inside the boat lock and the City Attorney's definition of the area considered inside same.
 - Mr. Keeney replied enforcement inside the boat lock was clearly allowable, adding he intended to have the City Attorney very clearly define that area.
 - Mr. Wiechec commented on the importance of the mirrors at the boat lock.
- B. Alligator Creek & "S" Curve Dredging - Update
- Mr. Brodersen announced the application was with the Charlotte County Procurement Department.

NEW BUSINESS

- A. Discussion with Punta Gorda Isles Canal Advisory Committee (PGI CAC) Chairman, Bill Dixon regarding Canal Maintenance Assessment Fee Methodologies & Research/Fact Finding Committee
- Mr. Bill Dixon announced the PGI CAC was still working on the future failure rate of seawalls, expressing hope an answer could be found. He then reviewed various pieces of information relative to the PGI Canal Maintenance Assessment District (CMAD) as follows: PGI consisted of approximately 5,000 feet of seawall; approximately \$9 million received from the Federal Emergency Management Agency (FEMA) over several years for disaster related recovery; \$4.8 million in FEMA funds allowed for 28,415 feet of seawall to be replaced; estimate of a total of 34,000 feet of seawall replaced with canal maintenance assessment funds over 50 years; 400,000 feet of PGI's seawalls were 40 years old. He commented on this last fact, reminding members of the importance of the above mentioned future failure rate. He then stated PGI had single family homes constructed on property which was zoned multi-family, some of which were assessed much less than others because of the nature of the method of billing multi-family properties. He clarified he did not wish to become involved in the division of billing within condominium associations. He commented there had been much discussion relative to the fairness of various types of assessment methodologies. He recalled former City Councilmember Dave Phelen had worked diligently toward a methodology based on linear feet but had concluded same could not be done.
 - Mr. Gil mentioned he had served on a committee with Mr. Phelen whose focus was what he felt was the inequity of multi-family lot assessments.
 - Mr. Totten added that was his recollection as well.

- Mr. Dixon noted there had been much discussion in the past that changing to a per linear foot methodology was cost prohibitive. He then displayed a chart depicting a portion of PGI, as delineated in the agenda material, stating less than 10% of the lots within same were corner lots with very little canal frontage; however, those property owners would still be required to pay an assessment, albeit same would be less with an assessment based on linear feet.
- Mr. Gil pointed out a resident with a 65 foot seawall, for example, purchased their property for less than someone with a more lengthy seawall.
- Mr. Dixon agreed, adding that individual also paid less property taxes.
- Mr. Gil reminded everyone of the mixture of costs paid out of the annual assessment fee, i.e., seawalls, seawall caps, dredging, mangrove trimming, sign maintenance, etc.
- Mr. Brewster commented he felt the portion of the budget being used for seawall replacement would continue to increase, adding seawall failures were occurring at an increased rate, particularly the oldest seawalls.
- Discussion then ensued with regard to past studies of and comparisons between the current per lot means of assessment and a methodology based on linear feet.
- Mr. Dixon summarized he hoped to be able to provide a recommendation to City Council by the first part of 2010. He explained budget preparations started very early in the fiscal year.
- Mr. Ashworth clarified a change in methodology would have a significant effect only on those with very little or very great seawall frontages. He questioned the basis for making a change when only a small percentage of the community would benefit from same.
- Mr. Brewster stated he felt the public should be given full opportunity to comment on this issue, acknowledging there was little attendance at Committee meetings.
- Mr. Totten countered he did not believe a consensus could be reached, adding he also did not feel a benefit would be realized by changing the method of assessment.
- Mr. Wiechec pointed out the annual assessment fee was minor in comparison to the actual cost of replacing a seawall.
- Mr. Gil suggested members be prepared to arrive at a draft recommendation at their November 2009 meeting and have a final recommendation ready for City Council at their December 2009 meeting.
- Consensus of the Committee was agreement with same.
- Mr. Keeney thanked Mr. Dixon for his attendance and participation. He mentioned the Geographic Information System (GIS) project was ongoing, inviting members to meet with staff regarding same at any time.

MEMBER COMMENTS

- Mr. Brewster commented he attended the City's recent Sunshine Law presentation, suggesting members obtain copies of the video through the City Attorney's office.

ADJOURNMENT

- Meeting Adjourned: 2:46 p.m.

Gary Brewster, Chairman

Perri Turner, Recording Secretary