

The October meeting of the Commissioners, of the WEST COAST INLAND NAVIGATION DISTRICT, was held October 14, 1968, in the Civil Defense Auditorium, Bradenton, Florida.

Present:

- Ellsworth G. Simmons, Chairman, Hillsborough County
- A. L. Anderson, Vice Chairman, Pinellas County
- Mrs. Dorothy R. Flowers, Secretary, Charlotte County
- Kenneth D. Dierks, Treasurer, Manatee County
- Kenneth W. Daniels, Lee County
- Robert M. Wright, Sarasota County

Harlan T. Johnson, Executive Director
Dewey A. Dye, Jr., General Counsel

ADMINISTRATION

The Chairman called the meeting to order at 10:30 a.m. Minutes of the September 16 meeting were approved as presented. The Treasurer's Report was read and approved. Vouchers #5569 through 5605 were approved for payment.

PROGRESS REPORT

Construction

Canal Bank Treatment - Venice Area - Contractor began placing rock on September 28. Equipment with a longer reach will be required to complete the job satisfactorily. It has been ordered.

Bridges

SCL Bridge at Placida - The Director reported that the J. E. Greiner Company was notified on October 7 that the Corps of Engineers canceled their requirements for dredging at the SCL Bridge. J. E. Greiner Company wrote in reply, letter of October 10, that they will undertake no further work on this project until advised to do so by WCIND.

S/A's - Pinellas County - Purchase price of \$103,005.00, the appraised value, was approved by Mr. Kane for S/A P-33. Contract has been sent to owners for approval.

-2-

S/A's - Sarasota County - Easements for MPL's S-6A, 13, 13A, 25, 26, 37-1 and 42 were obtained from Sarasota County. Easement for TSA-27 was forwarded to the Corps of Engineers. Contract for purchase of MPL S-9 was signed by Mr. George Brown.

S/A's Charlotte County - The Corps of Engineers stated that proposed revisions to the S/A's C-23, 26, 28, 29A and 31 were unacceptable due to objections by the U.S. Fish & Wildlife Agency; the CE has removed requirements for these but has established a requirement for additional upland property adjacent to C-29A. A plat of the desired area, about 3 acres, was displayed. This would make about a six-acre spoil area. At the request of Commissioner Flowers, the rejection of the submerged property and the requirement for upland property were reviewed. The Chairman asked what the property would cost. The Director replied that no appraisal had been made but the cost should be in the \$10,000.00 range. Mr. Dye concurred.

Motion was duly made and carried that the required upland property adjacent to C-29A be obtained at appraised value and a spoil area easement be conveyed as a Corps of Engineers requirement.

Rohmann Claim - The Director reported that rock had been placed around the Rohmann and Newton properties. Only a small portion of the required fill had been placed because the boom would not reach. An extension has been ordered. WCIND may be able to get the required fill during the next operation. An excess tonnage of rock had been placed in the area but it had settled until part is below water at high tide. The Director reported on problems in contracting but stated that only a few hundred dollars should be involved.

Dredging at Midnight Pass and "The Bulkhead" - The Corps of Engineers readvertised for bids omitting the provision for removing rock. This does not change the CE policy regarding rock removal; it will be accomplished by other means. The WCIND may have a requirement to clean up long after work is finished. Bids were opened on 11 October; the Trans State Dredging Company, Ft. Pierce, Florida, was the low bidder at \$54,000.00. Contract will be awarded this week, starting within 40 days, completion to be in 130 days. Contractor is required to complete the Midnight Pass area first.

-3-

Motion was duly made and carried that the Progress Report be accepted as presented.

NEW BUSINESS

The Chairman inquired whether or not anyone wished to appear before the Board. Mr. W. A. Muirhead, of Sarasota County, stated that he was there in connection with the spoil area policy agenda item.

Spoil Area Procurement Policy - The Director reported that he had forwarded to all the WCIND Commissioners a memorandum regarding the development of the WCIND Spoil Area Procurement Policy, including recommendations. Extensive negotiations had been conducted with the people of Sarasota County--the Commissioners as well as representatives of the Casey Key Association. The Director stated that he saw no need to read the entire memorandum as long as the members agreed with the results.

The Director read from the report, as follows: "I recommend that WCIND adhere to the policy stated on May 13, 1968, in which WCIND states it will accept the terminable easements, approve the proposed easements Terminable One Year's Notice, Revised 9-13-68, Maintenance. (This is the easement which Mr. Dye drew up in accordance with agreements with the people in Sarasota County.) You will then allow the staff until February 1, 1969, to negotiate these easements with owners suggested by the Casey Key Protective Association, and if this fails permanent easements should then be obtained. This is my recommendation to the Board."

The Chairman stated that he had had no opportunity to follow this matter, and asked the Director if this would be a departure from what the WCIND did do? Are we talking about spoil areas or easements?

The Director replied that this involves pipeline easements entirely; it is a complete change in policy for the Corps of Engineers to accept terminable easements for maintenance spoil areas. Before this they have never accepted anything except permanent easements. This is a WCIND accommodation to the CE change in policy and to the desires of the local people.

-4-

The Chairman asked if the Corps of Engineers changed its policy after the WCIND had requested them to change it. The Director replied that the change in policy was asked for by people from Casey Key at a conference with the Corps of Engineers representatives which he attended. The WCIND did not make a specific request, but the WCIND did acquiesce.

In response to a question from the Chairman regarding the number of easements involved, the Director replied that there is a total of 7 at maximum spacing. Two have been obtained from Sarasota County, one of which needs an end piece of private property. Six and possibly one or two more are still required, since easements are often not available exactly where desired.

Commissioner Wright commented that when one is canceled the WCIND would be required to supply a replacement easement. This would, in effect, perpetuate the WCIND. He expressed his understanding that the WCIND is to continue only as long as necessary, then disband.

The Chairman questioned whether or not it was a good policy to put forth the time and effort required to prepare and secure easements only to have an instrument that could be canceled within one year's time. Sarasota County and the other Counties are going to continue to develop, and WCIND hopes that the waterway will contribute to it advantageously. If these easements are secured permanently, then people can plan for the future without detriment to the area and without additional cost to the taxpayer. The Chairman stated that WCIND has never been arbitrary, and he hoped this Board never reaches the point of being arbitrary, except in trying to do the Board's job in the most economical manner.

Mr. W. A. Muirhead, Sarasota County, offered the information that the proposed temporary easements provide for successors and assigns to WCIND to carry on. It appeared to him that if the people volunteered to give easements, it would be more economical. He stated that people on the Key have provided free easements; there is an erosion problem and people will always want material from the channel. He also asked if the Corps of Engineers has agreed to cooperate, why should the WCIND intercede?

The Chairman replied that he did not care to debate the matter. This is a matter of policy which has to be the responsibility of the

-5-

West Coast Inland Navigation District. This Board is responsible for spending taxpayers' money to provide these facilities. The Board has to act in accordance with its best judgment based on the information available to it. Casey Key is one area only, and the WCIND has responsibility for setting policy covering about 153 miles of waterway.

Mr. Muirhead then said that Mr. Simmons was interjecting what he thought was right, rather than going along with the Corps of Engineers. The Chairman replied that our contract required the WCIND to furnish any spoil area that the Corps of Engineers may ask for at any time. WCIND is not being relieved of one iota of responsibility by this change in the Corps of Engineers policy.

Commissioner Daniels asserted his belief that the Corps of Engineers would go along with WCIND if the WCIND didn't get any easements at this time. When easements are needed the WCIND has the responsibility to acquire them. If these easements will be used within a reasonable time temporary easements might solve the problem. But it might be 5 or 10 years until they are used, and it appears to be a waste of money to secure temporary easements. He pointed out the difference between easements obtained from public agencies and private individuals.

The Chairman reminded the members that the Board's last decision was that WCIND will concentrate its efforts in other areas and leave this in abeyance for the time being. The Director reported that the people on the Key will be coming back for the winter and will be asking questions as to what the WCIND plans to do; if the answer is nothing, that is all right but it should be done this winter or next.

Commissioner Wright expressed his belief that the Board had indicated to the Director, the meeting before the last, that they were inclined to go along with the terminable easements, and this information was transmitted to the people on the Key. He stated that the Board should clear the Director from any responsibility for the West Coast Inland Navigation District's change in policy. The Chairman agreed that the Board had made a change in policy, and said that nothing should reflect in any way, shape or form upon the Director, for he opposed the change in policy.

Commissioner Flowers asked if Sarasota County is the only one where WCIND is using this cancelable easement. When this was con-

-6-

firmly, she stated her belief that the Right-of-Way Agent should get only permanent easements.

Commissioner Anderson asked if there was a definite request for easements in this area from the Corps of Engineers.

The Director answered in the affirmative: the Corps of Engineers has provided charts with spoil areas marked thereon. There is no requirement to get a specific piece of property or to get anything now, but the WCIND must get something to take spoil from each general area marked on the Chart at some time.

Commissioner Anderson stated that he had read the Director's brief on the subject more than once and wished to compliment the Director on his brief. He said that it is pretty hard for one to be convinced against his will or better judgment, but I am willing to go along with the Director. If the Board wishes to do otherwise, that is also all right.

Commissioner Wright asked if the question is not settled, how is the Director going to answer the questions? Chairman Simmons expressed his belief that the Board, after careful review, had reversed its policy of accepting temporary easements and had said that it would accept only those of a permanent nature for maintenance spoil areas.

Commissioner Wright replied that he understood that the decision had been postponed until the present meeting.

Commissioner Anderson moved that the Board go on record as favoring permanent easements where obtainable. In the event that they are not obtainable the Director should so report to the Board.

Commissioner Daniels emphasized that anything other than a permanent easement must be brought before the Board and then seconded the motion.

Commissioner Dierks questioned the need for a decision at this moment. He suggested that the decision be delayed one month for further study. The Director replied that there was no requirement for easements in the area in question at the moment; the decision could be deferred as long as the Board wished. Commissioner Dierks suggested that the matter be studied further in order to arrive at a better answer.

-7-

Chairman Simmons stated his belief that the motion before the Board was to set forth as a policy that only permanent easements would be procured for maintenance spoil areas; however, if the Director wished to present any other type of easement the Board could act on it based on its merits. This policy was not restricted to any one County, but was District-wide. Commissioners Daniels and Anderson emphasized that this policy should be District-wide.

The Director read pertinent parts of the present policy, Spoil Area Procurement Policy of May 13, 1968, which stated that WCIND would accept easements cancelable on one year's notice. This policy is a District-wide policy.

Motion was duly carried that Commissioner Anderson's statement of Board policy be adopted.

Sale of right-of-way parcel north of Venice Ave. Bridge, W. side-
A chart of the area was displayed. The Director suggested that the WCIND sell the right-of-way property to the adjoining owner, Mr. H.L. Tomlinson, who wishes to build a marina on his property but has no access to the waterway. Since Mr. Tomlinson is the only one who can use this piece of property, the WCIND should sell it for the appraised value; Mr. Tomlinson should pay for the appraisal.

To the north of this location is the ramp where the Corps of Engineers presently is loading stone. This is also WCIND property. When the CE is finished, the City of Venice wishes to make the ramp into a public access to the waterway, using the land north of the ramp for parking of automobiles and boats. The Director suggested that WCIND negotiate with the City of Venice for transfer of the fee for anything the City of Venice had to offer. He stated his belief that there might be some old tax assessments of questionable validity outstanding. Mr. Dye concurred in these recommendations.

The Chairman stated that he would like to see the District, if possible, make that property a public facility under the name of the District. If the WCIND could transfer the maintenance to the City of Venice, he would be happy to do so. WCIND should not be in the business of operating the facility. So long as the deed says what it can be used for, not a penny need be secured for it. He then asked the Attorney if the WCIND could deed it for recreational purposes, with a reverter.

The Attorney replied in the affirmative. Mr. Dye stated that it would not be deeded, it would be dedicated to the City of Venice for public purpose.

-8-

The Chairman asked if the City of Venice law requires that it hold fee to property on which money is expended, could WCIND deed it to them for a specific purpose with a reverter? Does WCIND have that authority?

Mr. Dye gave his opinion that WCIND does have the authority as long as the property is used for public purposes.

The Chairman, Commissioner Flowers, and Commissioner Daniels discussed the need for and the desirability of public recreation facilities. The Chairman recommended that the entire area be made available as a public recreation facility if desired by a public agency.

Commissioner Anderson moved that the WCIND dedicate this entire area for public use as a recreational area and make it available to the City of Venice. If the City of Venice does not wish to operate the entire area as a public recreation facility they should submit a request for that portion of the tract in which they would be interested. The City of Venice should confirm acceptance of the proposal or offer an alternate.

Motion was duly seconded and carried. The Director was instructed to prepare a letter for signature by the Chairman.

Sale of Spoil S3-4 - The Director reported that Mr. Morrison holds a contract for use of this area until November 13, 1969. Since this material was usable for soil cement, he bid 38 cents per yard. Immediately after the contract was let, the City of Sarasota rejected some of this material for soil cement, and it is no longer accepted for that purpose. Currently, it is suitable for general fill only, worth 10-15 cents per yard, not 38 cents. He has removed no material and intends to remove none under his two-year contract. Another contractor in the area wishes 50,000 yards of this material; he has offered between \$5,000 - \$10,000.00.

The Director stated that the contract is cancelable within one year with WCIND returning the \$500. After one year, it is cancelable for any reason, with 90 days notice, and WCIND retains the \$500.00. If Mr. Morrison were notified today of cancellation, it would be canceled 90 days from date and he would get no return of his deposit. However, his bid was made in good faith and he should not be unduly penalized. Mr. Morrison has agreed to readvertising for bids if the return of his deposit is assured.

-9-

The Chairman asked if the WCIND should not cancel the contract as a first step. The Attorney replied that WCIND could take both actions at the same time, but WCIND must take definite action to cancel the contract. The Chairman then expressed a desire to recover something on WCIND contract expenses.

Commissioner Anderson asked the Board to consider negotiating for release of contract and immediately readvertise. Mr. Dye suggested that WCIND offer Mr. Morrison \$250 for immediate cancellation; or if after November 13, 1968, WCIND cancel the contract with no return of his deposit.

Motion was duly made and carried that the Director be authorized to offer Mr. Morrison the sum of \$250 for immediate cancellation of his contract; should he refuse, WCIND will cancel after November 13, with no return. After cancellation, the Director is authorized to advertise for bids and offer the fill to the highest bidder.

Disclaimer MPL S-35 - Mr. Dye reported that several years ago WCIND sold a piece of surplus property in the City of Venice beach area, reserving a permanent easement for a maintenance pipeline across the lot. Prior to the sale WCIND had conveyed the easement to the Corps of Engineers. The owner, who purchased from WCIND, requested that WCIND give a disclaimer which would clarify the fact that WCIND is not reserving any rights to WCIND other than those conveyed to the U.S.

Motion was duly made and carried that this matter be referred to the Attorney and the Director with authority from the Board to make such arrangement as is agreeable to the Corps of Engineers.

Letter of No Objections, Roach Property, Pinellas County - The Director displayed a chart of the area and stated that this matter was deferred from the last Board meeting until information was received from the Corps of Engineers that widening of the waterway would not involve this area. This statement has now been received. Pinellas County has already approved.

Motion was duly made and carried that WCIND approve a WCIND No Objections Letter to the proposal by Mr. Roach.

Meeting, FWA, Sarasota, November 14-17, 1968- Motion was duly made and carried that members of the Board and staff may attend at District expense.

-10-

November Meeting, WCIND - Mr. Dye stated that the Executive Director, Florida Waterways Association, called and asked if the WCIND Board would hold its regular monthly meeting at the Convention. FIND, Cross Florida Barge Canal, and other Districts were holding their regular meetings in conjunction with the FWA meeting. Members agreed that the WCIND Board meeting be held in Sarasota on the morning of Thursday, November 14, 1968.

Executive Director's Salary - Commissioner Anderson recommended that the Director's salary be raised from \$8,400 per year to \$9,000, effective October 1, 1968.

Motion was duly made and carried that an increase of \$600 per year be granted as of October 1, 1968.

Right-of-Way Agent - Commissioner Daniels suggested that the Board instruct the R/W Agent, Mr. Van Norman, to work under the Attorney's office on right-of-way matters and that he should come under the Executive Director in matters of administration. The Director concurred.

The Chairman expressed his belief that this should be considered carefully since it had been tried before and might be adding to the amount of time which the Attorneys would need to take in directing these activities. Commissioner Daniels stated that he did not think it would add to the work required of the Attorneys. The Director said that this was the way matters actually worked at the present time.

Motion was duly made and carried that R/W Agent, Mr. Van Norman, work out of the Attorney's office for R/W acquisition and under the Executive Director in matters of administration.

Mr. W. A. Muirhead again contended that the Board should decide on temporary easements, and stated that the people will not give permanent easements.

Commissioner Wright replied that permanent easements would be much more expensive in the future.

Mr. Muirhead answered that the voluntary easements, prepared by Mr. Dye's office, could have been obtained and would have existed ad infinitum.

Commissioner Wright questioned the expense of temporary easements and asked Mr. Muirhead what he believed WCIND should do when

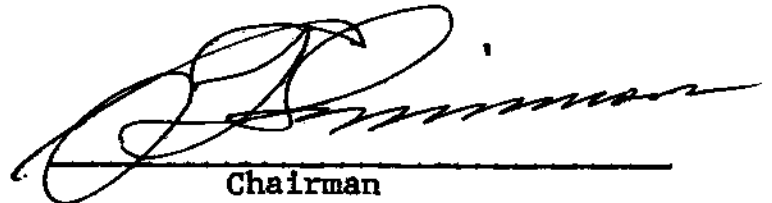
-11-

these easements were canceled. Mr. Muirhead replied that WCIND had the right to negotiate.

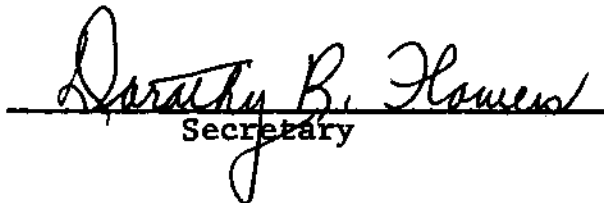
Commissioner Daniels discussed the fact that this is a unique case: The Corps of Engineers has not agreed to this practice in any other area. WCIND, or its successor agency, is responsible for the purchasing of required easements now or ten years from now. The Corps of Engineers will never have this responsibility.

Mr. Muirhead then attacked the raise given the Executive Director and proposed that the WCIND be abolished.

The meeting adjourned at 11:40 a.m.



Chairman



Secretary

PROGRESS REPORT

September 12 - October 8, 1968

CONSTRUCTION

Canal Bank Treatment - Venice Area - Contractor began placing rock on September 28. Equipment with a longer reach will be required to complete job satisfactorily. It has been ordered.

BRIDGES

SCL Bridge at Placida - The Corps of Engineers, by letter SAJBP of 23 September 1968, canceled their requirement for dredging at the SCL Bridge.

LANDS

S/A's - Pinellas County - A survey of S/A P-33 was received from George F. Young, Inc., which indicates that the S/A contains 22.89 acres of upland property and 4.06 acres of submerged property. Mr. Jack Van Norman met with Mr. George Kane on October 1. Mr. Kane approved purchase price of \$103,005.00. Sales contract has been sent to other owners.

S/A's - Sarasota County - S/A S-30 (Bird Island) - Appraisal was received. S/A S-25, 26 (Caspersen Easements) - Easements expiring December 29, 1987, were obtained from Sarasota County. S/A S-6A, S-13, S-13A, S-35, S-37-1, S-42 - Permanent easements were obtained from Sarasota County.

TSA S-27 (Midnight Pass) - Extension of easement to April 30 was obtained. Certificate forwarded to Corps of Engineers and accepted.

MPL S-9 - Contract for purchase of area was signed by Mr. George Brown.

S/A's - Charlotte County - Letter received from Corps of Engineers stated that proposed revision to S/A's C-23, 26, 28, 29A and 31 were unacceptable due to objection by U.S. Fish and Wildlife Agency. Corps of Engineers has removed requirement for these additional submerged parcels but has requested additional upland property adjacent to C-29A.

-2-

MPL C-16A - Conveyed to Corps of Engineers with title insurance.

MPL C-17A - Perpetual easement received from Charlotte County for street Right-of-way.

MSA C-25 - Corps of Engineers deed received. Description is incorrect. Title insurance received.

Right of Way, Lee County - A corrected insurance policy was obtained and forwarded to the Corps of Engineers.

ADMINISTRATION

Fiscal - Certificates of deposit for \$50,000 were renewed for six months at 5 per cent in the Manatee National and the Manasota Bank.

Shore and Beach Preservation - The Director attended a conference between Sarasota County Commissioners and representatives of the CE and Board of Conservation on October 3, 1968. The meeting primarily concerned erosion on the North Shore of Siesta Key at Big Pass. This is primarily a local problem; however, it was stated that the Board of Conservation desired to have regional organizations, similar to WCIND or FIND, assume some functions concerning shore and beach preservation. The Director pointed out that the WCIND had been instrumental in placing over one million yards of material on the beaches of Sarasota County, but beach nourishment is not a function of WCIND. WCIND can contribute only where waterway dredging is involved.

Rohmann Claim - Rock was placed around Rohmann and Newton properties by Corps of Engineers contractor. Mr. Rohmann stated that he was pleased with work done. Contractor spent two hours partially filling behind rock at expense of WCIND but could not complete due to lack of reach. A boom extension is on order. The WCIND contract is oral. Proposal requested has never been presented.

Restrictive Ordinances, Casey's Pass Rehabilitation - The City of Venice rejected the request by the Corps of Engineers to waive the restrictions regarding hours of work and wheel loading.

Dredging Midnight Pass - Information was received that the Corps of Engineers could obtain no bidders for the proposed dredging contract as long as there was a provision therein requiring the contractor

-3-

to remove rock from the beach. Accordingly, the Corps of Engineers readvertised for bids omitting the provision for removing rock. This does not change the Corps of Engineers policy regarding rock removal. This will be done, if required, by a separate contract, by amendment to the current contract or by some other means. WCIND advised interested parties of change.

LITIGATION

Bernhard vs. WCIND - Preparation and taking of deposition from Mr. Art Bell in Sarasota on September 19; the pre-trial conference was held before Judge Silvertooth in Sarasota on October 8.

WCIND vs. Currin, et al - Drafting and research, and preparing condemnation suit (S/A S-37).