

The monthly board meeting of the Board of Commissioners, WEST COAST INLAND NAVIGATION DISTRICT, was held September 24, 1979, in the Lee County Courthouse, Fort Myers, Florida.

Present were: Larry Rhodes, Chairman, Sarasota County
Arnold F. Schade, Vice Chairman, Charlotte County
R. Douglas Taylor, Secretary, Lee County

Charles E. Furbee, Executive Director
Philip E. Perrey, WCIND Associate Counsel

Absent were: L. H. Fortson, Jr., Treasurer, Manatee County
Dewey A. Dye, Jr., WCIND Counsel

Guest: Attorney Tom R. Moore, General Partner,
Crystal Beach Conservation & Development
Associates, Clearwater, Florida

ADMINISTRATION

The meeting convened at 10:55 a.m.

Minutes of August 27, 1979 special board meeting were approved as presented.

Treasurer's Report, August 31, 1979, was approved as presented. Vouchers No. 1728 through 1751 were approved for payment.

Audit request for the fiscal year, 1978-79, was presented by the Director for the services of Whitcomb & Christopher, CPA's in Bradenton to commence October 10. Commr. Taylor moved that the firm, Whitcomb & Christopher, CPA's, be employed again this year for the WCIND audit; the motion was seconded and was carried. Chapter 79-183, Laws of Florida, was noted for "Local Government Financial Emergency and Accountability Act" re the increased responsibilities to the State Government, effective October 1.

ACTIVITIES REPORT

Sarasota County

Appraisals Two appraisals were ordered by the Director and submitted to the Board as follows: (1) parcel located on Venice Ave. East and Florida Street in Venice which is comprised of 1.42 acres and which had been appraised in 1978 at \$170,000 with today's updated appraisal of \$183,000. Parcel (2) is located south of the Venice Ave. Bridge and known as WCIND Manasota Key Lot-Parcel No. 9. The Director reported the (1) parcel on Venice Avenue East and Florida Street is attractive to several potential buyers. He recommended that the Board authorize this one for public bid - along with the last Manasota Key lot No. 9, now appraised at \$103,000. The Director suggested that the Board place a restriction to be included in the invitation to bid for Manasota Key lot No. 9, i.e. that no previous successful bidder on Manasota Key lots be accepted and he outlined a sale history of one buyer there. The Board, at the August 27, 1979 special board meeting, directed Counsel Dye to advertise for public bids according to previous procedures.

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Venice, IWW Dock Litigation Since the August 30 hearing re the Fisherman's Wharf owners' suit, and the dismissal with prejudice, (Bamco, Inc. vs. Captain Stewart/WCIND), the Director stated that Bamco, Inc. was reported as applying to either lease or purchase a portion of State R/W between its property and the present U.S. Hwy. No. 41. The WCIND position of responsibility for maintenance of this stretch of the IWW and necessary ingress and egress was outlined in WCIND letter of September 19 to Mr. Steve Moran in Bartow, Department of Transportation.

Charlotte County

Stump Pass Project The Director reviewed the WCIND applications, for permit from DNR and DER re the application for \$300,000 for project funds, and the time it has taken since the State Cabinet approved the document on August 7. The Corps of Engineers will not issue its permit until the DER has written its Notice of Intent. Commr. Schade reported that Charlotte County has its bids for October 17, with a charge to bidders of \$50.00 for specifications and a period of 45 days for these bids. He stated that he expects the State funds for Stump Pass to be expedited.

Pinellas County

Crystal Beach Property Sale: CB Cons. & Dev. Associates, Buyer. The Pinellas County hearing, September 18, 1979, turned down the rezoning request; the Application for Re-zoning was denied. It was noted that support for the request for re-zoning was shown by several Commissioners there as well as the Audubon Society for the site plan which includes 47-1/2 acres for a seaside sanctuary; and the Audubon Society representative stated that as represented there, it was the best proposal known to him in the State of Florida for years.

Attorney Moore reported that Commr. Rainey, Pinellas County, moved that Pinellas County re-zone all submerged lands; the County Attorney advised this action can not be done without a notice for a hearing. Attorney Moore stated that it would be helpful if WCIND moves quickly with the CBC&D Associates and he submitted to WCIND an Addendum, a draft of which had been discussed with Mr. Perrey, WCIND Counsel, in preparation re today's board meeting. The Duenas' lawsuit (CB area property owners) was noted here since it was ruled at a hearing that the County had not properly presented the case to Court.

The ADDENDUM was submitted to the Board along with a presentation of "Cash Flow Schedule to WCIND" under the PURCHASE AGREEMENT WITHOUT AMENDMENT. Mr. Moore outlined steps from initial Option Money 6/11/79 \$10,000, through Earnest Money Deposit 8/30/79 \$15,000, to today 9/24 for, return and second deposit of same Earnest Money, along with the executed ADDENDUM if made today by WCIND for extension of time to January 1, 1980, to exercise the Option to Purchase. Per ADDENDUM: WCIND agrees forthwith to institute litigation in its name, challenging the A-1 and A-E downzoning actions of Pinellas County earlier and the denial of WCIND's application for RPD zoning on September 18, 1979.

The ASSOCIATES have the right to select counsel for the zoning litigation and agree to pay the costs of the zoning litigation including attorneys' fees of counsel selected by ASSOCIATES. Also, ASSOCIATES agree to hold WCIND harmless as to costs of litigation and attorneys' fees that might be assessed by the Court against WCIND. Counsel, selected by ASSOCIATES, shall have full power and authority to settle the contemplated zoning litigation, with the consequences to WCIND of such settlement determined in accordance with the Purchase Agreement and ADDENDUM. In the event that the final unappealed or unreviewable judgment orders a rezoning by Pinellas County which results in a rezoning by the County that permits in excess of 125 units for the subject realty, WCIND shall be entitled to an additional sum (to be added to the principal as of the date of such upzoning) in the amount of \$1,000.00 per unit of allowable density in excess of 125 units. It is additionally agreed to go forward at this time with preparation of an A-E plat at ASSOCIATES' cost, accompanied by a lot release schedule (for 2-acre parcels) determined in accordance with paragraph 17 of the Purchase Agreement.

Attorney Moore stated that WCIND should join ASSOCIATES as plaintiff in the litigation as needed now rather than wait for Pinellas County to go ahead on its other plans of rezoning.

WCIND Associate Counsel, Mr. Perrey, stated that this ADDENDUM as presented today converts the Agreement's Earnest Money Deposit back to an Option contract; also, the interest rate on the \$75,000 (see Closing 12/15/79, \$75,000) is the same as in the Purchase Agreement.

The Director reviewed to the Board his letter to Pinellas County Atty., re the County's share of \$17,200 still owing for the C.B. property costs; also the taxes due WCIND for tax period ending September, 1979.

Chairman Rhodes questioned Attorney Moore, re the WCIND joining as plaintiff, will WCIND have a better chance in a lawsuit? He replied that it would have a better chance since the WCIND has been so involved all the while. It is a challenge to the "A-1" zoning.

Chairman Rhodes referred the Board and Attorneys to the WCIND decision re its purchase in 1976 of the Crystal Beach property and noted for the Board's information that he had been the only negative vote at that time; that he had objected to this WCIND purchase. He asked Mr. Moore re the WCIND posture for a lawsuit and contesting the Pinellas County decision.

Attorney Moore reported that following the lawsuit, "no later than February 1, 1982, since closing will be taking place before litigation is solved; there will be no cost to the WCIND for this litigation."

Commr. Taylor stated his approval that WCIND be a part of this lawsuit.

Commr. Schade stated approval and added that he would be in favor to file a separate suit for the money Pinellas County owes WCIND. He moved to accept the CBC&D Associates (ASSOCIATES) ADDENDUM TO PURCHASE AGREEMENT presented today, September 24, 1979 to the WCIND by Attorney Tom R. Moore, a General Partner of Crystal Beach Cons. & Dev. Assoc., also, to file a separate lawsuit against Pinellas County for its share due for the purchase price of the Crystal Beach property plus the taxes

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still owed to WCIND; this motion was seconded and carried unanimously.

Commr. Taylor was advised by Mr. Perrey that the time period for taxes and property purchase share is 30 days; that the Board is protected with the same position in the existing Agreement for an ultimate sale.

WCIND Associate Counsel, Mr. Perrey, suggested to the Board that WCIND authorize Attorney Tom R. Moore to intervene as WCIND/DUENAS vs the Pinellas County; motion was made by Commr. Taylor that the Board do so; the motion was seconded and carried. Johnson & Blakely will represent the WCIND in joining in the lawsuit re the rezoning.

WCIND Counsel will represent WCIND for the suit re Pinellas County's share of Crystal Beach property costs, also the taxes due WCIND.

The ACTIVITIES REPORT was accepted as presented.

NEW BUSINESS

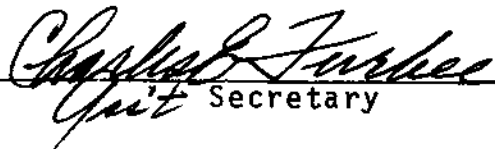
Pinellas County

The Director reported that the County Department of Environmental Management, Lot Clearing Division, has billed WCIND for Crystal Beach property services (\$19.00/mowing, and \$70.00/administrative fee for each lot. No action was determined today.

NEXT BOARD MEETING

The Board concurred that the next meeting date for October meeting will be Monday, October 15, to be held in Sarasota Courthouse.

The meeting adjourned at 12:20 p.m.


Secretary


Chairman