

WEST COAST INLAND NAVIGATION DISTRICT
BOARD MEETING
MINUTES OF JANUARY 23, 1998
SOUTH COUNTY ADMINISTRATION CENTER, VENICE, FLORIDA

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COMMISSIONERS PRESENT:

Joe McClash, Chairman
Adam Cummings, Vice-Chairman
Jack O'Neil, Secretary
Ray Judah, Treasurer

STAFF PRESENT:

Charles W. Listowski, Executive Director
Philip E. Perrey, Counsel

ADMINISTRATION:

Chairman McClash called the meeting to order at 10:30 a.m. Mr. Listowski called the roll. All counties were represented. Commissioner Judah moved and Commissioner Cummings seconded to approve the Minutes of November 14, 1997. Motion passed unanimously. Commissioner Judah moved and Commissioner Cummings seconded to approve the invoices paid for November and December, 1997. Motion passed unanimously. Commissioner Judah moved and Commissioner Cummings seconded to approve the treasurer's reports for October and November, 1997. Motion passed unanimously.

Mr. Listowski asked to have the audit report by Mr. Ed Leonard moved to after the A.C.O.E. report.

PUBLIC COMMENT:

Mr. Will White spoke about funding problems in general and how to get funds on a continuing basis. Mr. Walter Stilley spoke about the immediacy of funding the printing of an informational wallet brochure for boaters visiting our anchorages, such as in the City of Sanibel. Mr. Listowski spoke about our collaborative efforts with the Regional Harbor Board which has not yet studied or recommended this project. Mr. Listowski reminded everyone that WCIND's funding is through the reimbursement process. All counties and entities have to spend money first in order to get reimbursed. We do not hand out money that can be drawn upon. Chairman McClash suggested that the gentlemen work with Mr. Listowski and try to come back with a more tailored proposal by working with the Regional Harbor Board and the Southwest Florida Regional Planning Council. This should be a budgeted item through normal channels. Mr. Listowski was asked to report at the next Board Meeting. Mr. Listowski offered to intercede with officials from the City of Sanibel. Chairman McClash gave Mr. Listowski discretionary authority to reimburse any governmental entity for the printing of wallet brochures up to \$1,000 with BAIL picking up

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any costs over \$1,000. Mr. Listowski is supposed to find out what the status is of agreements between Manatee County and Charlotte County and BAIL/Regional Planning Council.

Mr. Thomas B. Alling spoke about Curry Creek which he says has had problems for at least eight years. A small sand bar in the area has now grown to over 25 yards wide and 50 yards long. This is a serious problem all the way to the Myakka River. The area will be prone to flooding. Mr. Listowski said that WCIND is concerned with navigation, but he has not heard that word in connection with Mr. Alling's remarks. He hopes that, ultimately, there will be a marriage between stormwater issues and navigation issues. This is a restoration project - more stormwater than navigation. Commissioner O'Neil said they are coming close to holding a public meeting with the concerned people along Curry Creek about getting something done in that basin. He promised to call Mr. Alling on February 3 after a high-level stormwater/navigation meeting in Sarasota County on February 2nd.

DEPARTMENT OF ENVIRONMENTAL PROTECTION: Mr. Listowski will comment later.

U. S. ARMY CORPS OF ENGINEERS: Mr. Don Fore and Ms. Sharon Conklin from the Jacksonville office were present. Mr. Listowski and Counsel Perrey met with the Corps in Jacksonville on December 3, 1997 and came back with a feeling that we can have a closer working relationship with the Corps. Mr. Fore is our new project manager from the Corps. His research has shown that the average funding for the gulf coast for the last six years is about \$142,000, very much smaller than that received by FIND on the east coast. He knows there are some problem areas and has been studying maps and surveys. He would like to schedule a waterway trip with division chiefs, perhaps in June.

We need to initiate a long-term plan based on surveys, problem areas, disposal areas, permits available, permits needed, dredging needs, and the dollars available. Mr. Listowski said the Corps would assist WCIND in the development of a long range dredge material management plan. Also, he has been in meetings with the Corps where there has been talk of new technology which would require less spoil area space. Mr. Listowski also asked about the reimbursement for dredging Matanzas Pass. The Corps has drafted a Memorandum of Agreement which will work its way up through division to headquarters in the next week. It's possible that Lee County will have a check for \$375,000 within a month. The funds are available and are in the district. Chairman McClash spoke for the Board when he said that in cases of true emergencies, WCIND would like to know that reimbursement money will be more forthcoming than in the past, specifically, in the case of Matanzas Pass. Mr. Fore was not at all hopeful or encouraging that the process could be speeded up because of budget cuts at the Corps and environmental concerns. FIND has already in this year written a check to the Corps for \$3.1 million for projects in their district that are the responsibility of the Corps. FIND does not expect to be reimbursed; they just want the projects done.

Mr. Listowski understands that the budget will be released by Washington this February for the Boca Grande project and possibly some lobbying could come from the WCIND Board to the Secretary of the Army that we would like to see this happen. The project will be for about \$36 million, of which \$24 million will be in contracts. Mr. Listowski spoke about the commercial

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interests centered in Matanzas Pass which have been well documented. This is probably our most diverse commercial area in the district, and it needs to have the constant special attention of the federal government in maintaining the viability of the channel. Commissioner O'Neil said that the government should recognize the economic impact on a community of the recreational boating interests. Mr. Listowski was directed to send a letter to the Corps regarding recreational and commercial boating interests.

Ms. Sharon Conklin, a real estate attorney for the Corps, was introduced by Mr. Listowski. We have been involved in some recent property disputes, and she was asked to give an analysis of our properties. We have had a strained understanding of what the properties mean to the District and the Corps. Some of the properties seem to be dispensable to the Corps if it doesn't want them. Chairman McClash said we need to make sure the public is aware of the conditions of the Intracoastal Waterway as well as our inlets, and he is not sure of the proper medium for doing this. For instance, the Coast Guard's "Notice to Mariners" is very difficult to decipher. He would like the Executive Director to work on this problem and bring some ideas to the next meeting. He suggested we use our web page on the internet to post timely information about passes. Mr. Fore said he would speak to Richard Bonner and the colonel at the Corps. We have to be very careful regarding our liability for giving out information about conditions of the passes. Mr. Listowski said the Coast Guard is the key to this problem. It is the agency that is supposed to be liable, but there are other agencies allied to geographical areas that are being sued. Commissioner Cummings said we need to do a better job of seeing that the Coast Guard has the latest information. He would feel more comfortable working with the official agency rather than just doing it on our own.

The Board wished to return to discussing property issues, and Counsel Perrey was asked to update the **Blackburn Litigation** issue. We were one month away from trial, but the day before this Board Meeting a motion was filed to abate the action until Sarasota County was made a party. The county also filed a petition to intervene which was granted. The mediation conference is scheduled, and the trial is postponed. We have asked the Corps to tell us whether or not it has an interest in the property within the right of way. Ms. Conklin confirmed that the Corps does claim any property submerged or upland within the right of way. She explained that the U. S. Attorney's office does the actual legal work for the Corps and there has been a big communications gap on this case. She will work closely with Mr. Perrey also. The Corps does claim everything that they have an easement deed to along the Intracoastal Waterway. Any easement, uplands, submerged lands, or navigable waters the Corps will claim an interest in and intends to defend an interest in.

Mr. Listowski said that with the Corps' help we can get through all our property issues, such as Snake Island, Fisherman's Wharf, and Harbor Lights. Mr. Perrey is to be commended for his diligence in researching these matters and keeping the Corps informed. Ms. Conklin said that the Corps is finalizing a new encroachment policy which will be distributed shortly. It wants to be very consistent in enforcing encroachments. The government's policy is to not allow any permanent structure to be built on any easement property. If there is an existing encroachment, the Corps can look at that particular structure on an individual basis, but the Corps wants to clear off the waterway.

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Mr. Listowski specifically asked Ms. Conklin to comment on **Harbor Lights** in Venice. In the light of political realities, it's probably not going to happen that you can remove all encroachments. She emphasized that the policy must be fair and consistent. She stated that the Corps does not want to release its easement on the Harbor Lights property. She feels it would be best to give the property owners a "consent to easement" which would allow them to exist, but if any of the trailers were to be destroyed by storm, fire, or natural disasters, they would not be replaced. No new structures would be allowed.

Commissioner McClash asked if the Corps would allow the District to act as project manager for small beach renourishment projects. This might allow us to save money and to expedite the project. The question was asked if the District would be allowed to contract for the work, and Mr. Fore said that FIND does it all the time. The Chairman told Mr. Listowski to look at the possibilities and bring back to the Board some options.

The Corps representatives were heartily thanked for their attendance and ideas. The Board looks forward to working with them.

Annual Audit Report by Mr. Ed Leonard - We received the highest level of opinion that a CPA firm can give for an audit. Our balance sheet lists assets of \$4,459,968 and the same figure for liabilities and fund equity. The auditor verified that all assets and liabilities have been verified and are correctly stated. No material adjustments were necessary to the balance sheet. Total revenues were \$1.2 million, and we spent \$1.3 million. We spent \$58,958 more than we received, but there was a positive budget variance of \$1.9 million because there were many county projects that have not been completed. The District's investments comply with state law. Taxes collected were under budget, but steps have been taken with the staff to structure projected revenues more in line with actual taxes. Not all taxes levied will be collected within one year. Investment earnings were under budget due to more funds being on hand when the budget was prepared and lower interest rates during the past year. There were no instances of noncompliance or material weaknesses involving internal control over financial reporting. Mr. Leonard said our audit was the only government audit his firm did this year that did not have any negative comments. The staff is to be commended.

Mr. Leonard also audited four projects, one from each county, making sure the District's records were in agreement with the county's records, that the purchases were in fact made and paid for, and that the projects were for the intended purposes. All results were positive.

OLD BUSINESS - Blackburn case was already discussed.

1. **Legal Fees for District Activities** - We have reached the point in our budget year where we have spent over 50% of the allotted funding for legal fees. However, if we can put the Blackburn issue behind us, this may not be the case for the remainder of the year. Counsel Perrey said that he will not be spending much more time on legislative issues since Terry Lewis will be handling that project in Tallahassee. Now that Sarasota County has become involved in the Blackburn case and the Corps is getting some attention from the U. S. Attorney's office, we might not have

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to carry the ball in that case. Permitting for Shakett Creek and other projects has required a lot of effort, and this has not been easy, but he is sensitive to our budget limits. Mr. Listowski was asked to provide a summary of our project management costs as they relate to projects and counties. Chairman McClash complimented the Executive Director on the fine audit report.

2. Shakett Creek - We received a letter from Dr. Garrity of the D.E.P. to Commissioner O'Neil which applauded the approach WCIND and Dr. Antonini are taking. However, it stated that we need to be in agreement on the interpretation of: a) what are the public safety navigational criteria for a project to be a candidate and b) how do we weigh this criteria against our desire to protect the natural resources. We feel like we are turning the corner with DEP, thanks largely to the efforts of Commissioner O'Neil. A review of the chronology of this project shows that we started this process on November 21, 1996 with a pre-application meeting, and since that meeting we've had six other meetings. We should get an answer by 90 days from December 17, 1997.

3. Wharf Restaurant - We have no current agreement with the property owner as the past agreement expired on December 31, 1997, and we have issued a caution to the owner to remove any encroachment features on the property. This property is adjacent to the Venice regional marine law enforcement dock, and the owner of The Wharf is going to public meetings speaking against the law enforcement facility. Counsel Perrey thought we should finalize the law enforcement facility. Commissioner Judah moved to sever the relationship with the property owner. Commissioner Cummings seconded. Counsel Perrey stated that the property in question is kind of a "legal no man's land", similar in some ways to Mr. Blackburn's lawsuit property. It is probably upland created by unpermitted fill in the past. Ownership is a difficult legal question. Perhaps we should not spend a lot of time and money on it. He suggested bringing a recommendation to the Board at the next meeting after more study. Should we require the owner to remove dock support structures from property we not be able to prove is ours? Commissioner O'Neil suggested meeting with opposing counsel and tabling the issue to the next meeting. Commissioner Judah withdraw his motion to sever the relationship. Counsel Perrey will report at the next meeting.

NEW BUSINESS

1. Election of District Officers - Commissioner Judah suggested staying with the present slate. Everyone was in agreement.

2. Stump Pass Request for Funding - Staff recommends a three-part funding request from Charlotte County as it relates to existing available funding. It was projected that Charlotte County will be assessing \$185,000 for the next three years, which would give them \$555,000 plus the balance available from the new navigation fund created this fiscal year. They will be very close to having the necessary funds, but it may be necessary to go into the fourth year to complete the payback. Mr. Listowski cautioned that all available funding would be spent on this project. Commissioner Cummings said that other possible sources of funding were being investigated for their regular projects as well as for any possible overruns on Stump Pass. Mr. Listowski will be meeting soon with county officials to prioritize all future projects. He is doing the same thing with Manatee County. Regarding the inlet management study, the state will come

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up with \$75,000, and we will have to come up with \$75,000. Commissioner McClash wondered about losing interest on our invested money, but we do not as yet know what the reimbursement schedule will be. Mr. Listowski will be available for lobbying efforts to secure additional funding. Commissioner Cummings moved and Commissioner Judah seconded to: increase finding for CIP-23 to \$130,410 for the Coastal Engineering, Inc. study, approve \$644,840 for interim dredging of Stump Pass to be paid back within three years, and approve match funding from District reserves for an inlet management study. Motion approved unanimously.

3. Redfish Pass Inlet Management Study - There have been a series of recent meetings on Redfish Pass and Blind Pass in Lee County. There is so much data on Redfish Pass that no funding from the District will be needed for inlet management studies. Blind Pass is important because if it closes, there will be negative impacts on Roosevelt Channel, one of the anchorages that we talk about all the time and other areas. We might want to offer collaboration on an inlet management study to address certain features of Blind Pass, a process that might cost us a few thousand dollars. Mr. Listowski is to bring back a proposal at the next meeting.

4. AmeriCorp's Program - We have an interesting opportunity from the federal government to get manpower at \$10 per hour via a contract with the state for federal funds associated with the AmeriCorps program. Commissioner Judah moved and Commissioner Cummings seconded to proceed with developing a contract with the state to utilize the AmeriCorps workers to remove exotic vegetation from our lands. Motion approved unanimously.

5. Report on Legislative Delegation Meetings - Commissioner Judah reported that there are some substantive issues being added to our codification bill which is causing consternation among some of our legislators. Counsel Perrey said that we have written advice from the House committee that Rep. Gay chairs that a codification ordinance can have substantive new material in it. We are not doing anything inappropriate. The substantive changes in the codification bill were reviewed by Terry Lewis at our last meeting. An example is clarifying our District's boundaries to include four counties not the original six counties.

6. Manatee County Request for Additional Funds for M-80 - Commissioner Judah moved and Commissioner Cummings seconded to approve. Motion approved unanimously.

7. Anchorage Placemat Project - Dr. Antonini reported that in his partnership agreement with N.O.A.A. of which Florida Sea Grant is a member agency, he has been working with the coastal services center. In December Mr. Listowski participated in a meeting in which the marine chart division of N.O.A.A. joined the partnership in redesigning the coastal chart using as a prototype chart 11425, which is the coastal chart covering Tampa Bay to Charlotte Harbor. He hopes to put a new face on the chart by utilizing the latest technology as a photo base upon which the chart information would be displayed. He would be utilizing the inventory data from the Sarasota County waterway management project and Manatee County also. This would be a real example of how a local institution with local funding can partner with a federal and state agency in producing a valuable project. Another element of this project would be a consumer product survey that Sea Grant would undertake to see how N.O.A.A. can modernize the type of products it supplies to recreational boaters. Dr. Antonini said he now has 10 locations where he has

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detailed photo maps. This is information that is coming out of two projects - the waterway management project and the anchorage management project with the D.E.P. The cost is approximately \$9,000 for 80,000 prints of 8 sites. Commissioner Judah moved and Commissioner Cummings seconded to approve this expenditure. The private sector will be encouraged to help fund this project on a continuing basis. Motion approved unanimously.

8. Phillippi Creek - Mr. Listowski distributed the environmental feasibility report. This is the grounds for a future permit application coming soon. This is a very big project which will have to be done in phases.

NEXT MEETING DATE AND TIME: March 27, 1998 at 10:30 a.m. in south Venice.