

WEST COAST INLAND NAVIGATION DISTRICT
BOARD MEETING
MINUTES OF MARCH 21, 1997
SOUTH COUNTY ADMINISTRATION CENTER, VENICE, FLORIDA

MINUTES OF MARCH 21, 1997

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 1:30 p.m. Mr. Listowski called the roll. All commissioners were present. Commissioner Judah moved and Commissioner O'Neil seconded to approve the Minutes of January 17, 1997, the invoices paid for January and February, 1997, and the Treasurer's Reports for December, 1996 and January, 1997. Motion passed unanimously.

PUBLIC COMMENT - No one present for public comment to the District.

DEPARTMENT OF ENVIRONMENTAL PROTECTION COMMENTS - Mr. Listowski reports difficulty getting assignment from Tallahassee, but in dealing comprehensively with DEP in the Tampa regional office work has been getting done. Mr. Listowski asked for Board direction to formally address Secretary Wetherell about an assignment of a staff person as the District does a lot of work with DEP. Commissioner McClash suggested sending a letter to DEP asking for an assignment of a staff person to the District. If there is no response to the letter by the next Board meeting it was suggested that some of the legislators be contacted.

U.S. ARMY CORPS OF ENGINEERS' COMMENTS - Mr. Listowski reported on a boat tour with Ms. Pat Hanson of the ACOE Operation and Maintenance Division and other ACOE officials to view the condition of the berm through the Venice area and the opportunity to discuss some of the agenda items, i.e., Matanzas Pass, Longboat Pass Dredging, Venice Berm, and Snake Island Shoreline Restoration. Mr. Listowski said it was his understanding that reimbursement from the ACOE on Matanzas Pass (Fort Myers Beach) emergency dredge funding was not going to happen. He asked Ms. Hanson to address the Board on this and other agenda items.

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Ms. Hanson began by summarizing the chain of events that happened . Initially when Lee County became concerned about beach erosion problems the Corps was not in a position to dredge because they did not have disposal areas for all of the material. Ft. Myers decided to go ahead and dredge. At that time the District offered a grant of money to do the dredging and questioned whether reimbursement was possible from the Corps.

Normally reimbursement is not done under O & M, and no historic issue of that sort was found. Congressman Goss did try to help get reimbursement. The right language had to be in the reimbursement bill. Attorneys from the office of Congressman Goss and attorneys from the Corps in Washington, D.C. worked together to draft language that was suitable. The request went into the House Bill. Unfortunately, when it came time to reconcile the House and Senate Bill and come up with a compromise bill, a dollar amount of \$375,000 went into it but the right language did not carry over. The Washington office informed the Corps in Jacksonville that it did not have the authority to reimburse. Congressman Goss' office checked into the decision but could not get it changed. At Congressman Goss' suggestion, the money was recommended to be used for maintenance dredging in Charlotte Harbor.

Congressman Goss will probably be following up this year for appropriations. Ms. Hanson advises that the important thing is that the correct language gets carried over to the final bill and if that happens then the Corps would be able to reimburse. Ms. Hanson says that Congressman Goss was comfortable that their district office had done everything they could in trying to support his effort, but the Corps can only work within its rules and regulations. She pointed out that whatever amount is put into the House Bill is not automatically guaranteed to carry through all the way. The final amount is determined by compromise.

Mr. Listowski interjected by asking Ms. Hanson to expand on the Corps' scheduling of routine maintenance on the Matanzas Pass channel. In earlier discussions it was determined that there was not any project on the books for 1998/99 to finish the job. In other words, what the District was able to do in an emergency context is to open up the federal channel so that commercial interests could use it and it was safer, etc. But it is a bigger project than that.

Ms. Hanson stated that there are additional cuts that need to be dredged. The problem is that the material in those cuts is not beach quality and a disposal area is needed before water quality is determined. She can't design until she gets water quality in order to know what their design parameters are. Lee County must first find a disposal area that is environmentally acceptable or the Corps cannot go forward.

Mr. Listowski stated that in order to gain some kind of credit for the emergency dredging, even though reimbursement may not be forthcoming in a timely manner, he requests that Lee County advise the Board of what the long-term plan is for supplying the Corps with a spoil area so that we are not caught in the same situation again in the future with having to apply emergency funds to open up the channel again.

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Commissioner McClash directed that staff bring back to next meeting the availability of spoil areas throughout the District. This needs to be addressed from a District standpoint because all counties face this ongoing problem, and we need to know where available sites are, either District lands, county-owned lands, state lands, or even private owners that would be willing to accept spoil material. We need to map out where the spoil sites are and proactively work on obtaining other spoil sites so that whenever dredging is done we know ahead of time rather than having to find a site after the fact.

Mr. Listowski said that in this particular application he did know of some private interests that might be willing to come forward with some property. A meeting is needed to determine what the criteria is for the size of the parcel and what the volumetric measure is of the material to be moved, and the District is in a position to assist the county in developing a scenario for that.

Commissioner McClash asked Ms. Hanson if the monies would have been available to do the maintenance at Matanzas Pass if WCIND had not dredged it. Ms. Hanson replied that if the Corps had gotten a disposal area for all of the material then the funds could have been programmed. Commissioner McClash said he meant for what we had already done, would the monies have been available? Ms. Hanson said probably not as they would need to get all of the cuts open and all of the cuts are not open. It is normally the sponsor's responsibility to come up with the disposal option. It is a partnership between the Corps and the sponsor.

Commissioner McClash stated that a way had been found at the District level to at least accommodate commercial traffic using the beach for the spoil material. The Corps would have had that option to possibly do the project in phases and if this situation occurs again we need an answer from the Corps whether they would be willing to do projects in phases.

Ms. Hanson said if the Corps had had solid assurances that a disposal area was going to come online shortly so that they knew within one or two years they would be able to dredge the other cuts, she is sure they would have gone ahead and dredged the beach quality material first and plan to do the other cuts in a couple of years. If they don't have solid assurance that there is another disposal area; for instance, they have located one and now have to build dikes, that assures that they are going forward on it, but they are going to have difficulty justifying funding for part of a project if they don't see that they can get all of the viable parts of the project done.

Commissioner McClash said he guessed he was under the impression that there wasn't any funding available at the time - that the program wasn't available. Ms. Hanson said she didn't have the program but once that becomes available she has to do several things, such as get the water quality application completed and into the state and then get water quality back. Then she has to design the project. If she were told officially by a county today that they had an area and

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that they would have legal rights to it within a couple of months, so we definitely know there is a disposal site, she would put that money into the 1999 budget. If it looks like that funding will be available for that project in 1999, they would look for ways to fund the water quality and the design in 1998.

Commissioner McClash said that he was thinking more of the probability of storms in this area and if Matanzas Pass closes in again after a hurricane threatens the area, we would not have time to wait until 1999 to reopen that Pass. What type of relief would be provided? What type of reimbursement would be available?

Ms. Hanson said that under O & M there are no provisions to reimburse for an emergency unless you get something specific, like a congressman coming forth and successfully legislating to reimburse.

Commissioner McClash asked if the bottom line is that the Corps is not prepared to go in and open up commercial channels after storm events. Ms. Hanson said they are when there is a water quality in place so they can go to work right away, then design can be done quickly and get out there.

Mr. Listowski said that he thought there needed to be a consortium of thought on this matter and asked the Board's direction in getting the District, the Town of Ft. Myers Beach and Lee County together in an effort to keep this project on the front burner of all political entities and the Corps of Engineers because it is one of our most important assets in the District as far as a commercial port.

Commissioner McClash suggested more work be done with the congressmen and senators to draft language so that it is more responsive. We need to know if there is money available if a federal emergency is declared. Ms. Hanson said it still all depends on funds available. If there is a major storm and there are several places that are in a bad situation and the Corps has water quality on all of them, they will have to be prioritized because they are limited in their funding.

Ms. Hanson said there is not enough funding to do all the needed work on the east coast.

Commissioner O'Neil said that we are going to have to get more involved politically with Washington if we want to get things done.

Ms. Hanson reported the funding budget package for 1999 includes dredging the vicinity of Venice Inlet and the Intracoastal with disposal on Snake Island, working on the bulkhead on the North Jetty in Venice, the problem areas of the Venice Berm, and shoaling in Pinellas County. She explained that putting a project into a package doesn't necessarily mean it gets funded but the language will be there describing what the work is so if the project is not funded and a

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congressman wants to know what is going on in his district and what needs to be done, he can see that and take whatever action he feels is appropriate.

Mr. Listowski stated that the District has functioned for many years as the local sponsor for Longboat Pass dredging when, in fact, the county is the local sponsor. He asked Counsel Perrey to address this issue to the Board. A lot of title search work and obtaining easements is involved in this project and usually takes 6 to 9 months. Lands have to be certified for availability for the Corps to do the dredging. Counsel Perrey has done this 2 or 3 times in the last 20 years. He has been under the impression over the last 20 years that the Corps district office considers WCIND to be the local sponsor for Longboat Pass.

Ms. Hanson says that it is her understanding that WCIND was the point of contact on real estate because of a request by the local sponsor, which is the county. Corps records show the county to be the local sponsor. She has dealt with the county as sponsor regarding water quality issues.

Mr. Listowski suggested, for record keeping purposes, a letter from the county could be forthcoming thanking WCIND for their assistance in this matter, but that they are the local sponsor.

Mr. Listowski asked Ms. Hanson to comment on the suitability of Snake Island as a spoil area. Ms. Hanson says that the state is not interested in placing material on the beach at Snake Island. The only reason they are willing to go along with placing it at all is because of the archaeological sites. As far as an upland site, the Corps normally likes at least 15 acres to dike. If it is a necessity - a very minimum of 5 acres. Snake Island is not even an acre in size. It deals with having enough retention time. The reason for minimum disposal area sizes is if you are placing material that is not beach quality, that means it's silty, and you have to have a long enough area for that water to flow over to allow the particles to drop out before it gets to the outfall and leaves the disposal area. For the Corps use, Snake Island is not viable as an upland site.

Mr. Listowski suggested that the next step might be to see if the Corps would release that site so that it could be disposed of. Ms. Hanson did not see a problem with the Corps releasing it. Chairman McClash asked Mr. Listowski to bring the matter back at the next meeting. Mr. Listowski said that possibly the money that was to be spent on restoration of Snake Island could be diverted to another worthwhile District project. Or, the District could ask for Section 1135 funding to determine why Rattlesnake Island was cut in two to begin with and does Snake Island serve some kind of a hydrological function for the inlet. Mr. Listowski was directed to bring back some options for a later meeting.

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Ms. Hanson said the contractor is beginning to work on dredging Longboat Pass and should be finished by mid-May. New Pass will be done right afterward. The cut will be made more to the southwest.

Ms. Hanson has brought up the matter of a dredging project in Pinellas County and would WCIND like to be the local sponsor. Maybe we can get into some sort of creative arrangement with Pinellas where they would pay us to intercede as the local sponsor. Being a local sponsor means spending time, money, and resources, but, specifically, providing a disposal site. However, this has not come up because there hasn't been any dredging there in many years. We still have a few disposal sites in Pinellas.

Ms. Hanson introduced John Beers to the Board as the Corps' new disposal area manager. The Corps is doing less and less of the minor maintenance work, and it is interested in having WCIND take over the mowing of the Venice berms. We have already set a precedent for assisting the Corps in mowing to the tune of \$5,000 in the last fiscal year. It's more than just mowing though - exotic removal, fertilization, and spraying would be done. Mr. Listowski said we could do it in a cost-effective way. Commissioner McClash hoped Mr. Listowski could provide some financial guidelines for doing so.

Ms. Hanson said a new colonel would be coming on board this summer, and she thought a scheduled waterway trip in October would be a good idea. She will try to get one set up.

OLD BUSINESS

1. Harbor Lights Update - Staff met with representatives from Harbor Lights twice since our last meeting. They disagree with some elements of our recent appraisal. Mr. Roger Hetteema was in attendance at the meeting and was asked to explain the methodology of his appraisal. He said there are active encroachments on this property. If the license agreement was not renewed, what is the impact on the mobile home park and its residents, and what is the fair rate of compensation for them to pay to continue using the property? That is the way he looked at this situation. One way to treat an easement is the benefit it yields for the use of the easement. This can be looked at in two ways: what would it cost to move the offending units and the rental value of the property. Those two values came surprising close. Mr. Hetteema stands by his original appraisal which would amount to \$658 per lot per year. The commissioners want the issue resolved at the next Board Meeting; it must not drag on indefinitely. Commissioner Judah moved and Commissioner Cummings seconded to defer a final decision until the May 23rd meeting. Motion passed unanimously.

2. Blue Seas License Agreement Update - At the January meeting Mr. Bowers was given a two month extension until May 20, thus providing him with the time to disassemble his operation.

Mr. Bowers has met with staff several times and related his strong desire to sell the business. However, he has retained legal counsel to determine the potential for Blue Seas to continue operating with a new bid for use of our property. Commissioner Judah moved and Commissioner O'Neil seconded to accept the recommendation of staff, which is to provide official dockage to the City of Venice Police Marine Unit and other state/local enforcement agencies after May 20, 1997. Motion passed unanimously.

3. Suncoast Foundation Project Update - Counsel Perrey has reviewed property files and correspondence with the Corps. There appears to be no objection to "passive use" of District property for parks and recreation activities. Commissioner Judah moved and Commissioner Cummings seconded to accept the staff recommendation of defining project features and developing appropriate agreements with the Suncoast Foundation and Sarasota County. Counsel Perrey said he had a strong preference that the District should enter into an agreement with Sarasota County and the county could then make an agreement with the foundation, rather than the District dealing directly with a charity. The Board agreed to make this a part of the previous motion. Motion passed unanimously.

4. Shakett Creek Improvements - Sarasota County has requested that staff provide project management services to implement improvements to Shakett Creek for navigation purposes. Estimated expenditures are \$133,000 which will come from the county's CIP project list. Commissioner Judah questioned whether staff was ready and able to take on future project management chores for other counties. Mr. Listowski hoped this project would serve as a prototype for Sarasota County staff so they can continue on their own. We are also moving forward on a similar project on Phillippi Creek. Sooner or later we will have to turn things over to Sarasota County staff.

Commissioner O'Neil said the county was without a county administrator now, but he said that Natural Resources Department will be taking over these projects in the future. Right now they have a staff that is so environmentally burrowed in and adamantly opposed to dredging that they have sloughed these projects off on WCIND. Commissioner O'Neil said this would not continue. Commissioner Judah moved and Commissioner Cummings seconded to approve the expenditure of \$133,000 for Shakett Creek improvements. Motion passed unanimously.

5. Venice Marine Park/Boat Ramp Project - Contract document development is underway, and we have met with the state on the habitat restoration feature. We need to continue our discussions with Seminole Gulf Railroad about an agreement for us to have proper access to the site.

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6. Stump Pass Condition Survey - Humiston-Moore was awarded a contract to determine the present condition including a five-year comparison analysis from the last survey. A report to the Charlotte County Commission will be made in early April probably. Mr. Listowski just learned about a state program called the Long Range Beach Erosion Control Budget Plan and quickly made inquiries about participating. Lee County has already submitted proposed projects which could be funded. Taxes from cruise ships leaving from Florida ports will be consolidated into a funding source for beach restoration, inlet management planning, etc. Mr. Listowski talked to a Mr. Paden Woodruff who said WCIND should get a letter to him to get us started on the way to participating on issues such as Stump Pass, Big Sarasota Pass, and others.

Staff recommends authorization to contact the Beaches and Coastal Systems Division of D.E.P. to recommend projects, and if need be, to hire a consultant to put together the application. The estimate of possible available funds is \$35 million per year. Mr. Listowski was asked to check with the other three counties to see if they know about the program. Commissioner Cummings moved and Commissioner Judah seconded to pursue this program. Motion passed unanimously.

Board members will be receiving a copy of the Stump Pass study when completed. There are also some ongoing independent efforts in this area. The same consultant is completing a report for the residents of Palm Island. Commissioner Cummings spoke to the urgent nature of the deteriorating conditions in the pass.

NEW BUSINESS

1. Property Issues Report - a. Blackburn Lawsuit -Mr. Perrey reports that we have been sued by Mr. Blackburn who owns property along Blackburn Point Road. He pointed out Mr. Blackburn's property and our right-of-way on maps and added the historical perspective through the years. Mr. Perrey does not understand why this lawsuit to quiet title has been filed. He has filed a motion to dismiss the complaint with prejudice. The law is pretty clear that the State of Florida gained title to submerged lands when it became a state in 1845. Mr. Blackburn's predecessor in title got a homestead certificate from the United States in 1890.

1b. Wharf Restaurant - Mr. Perrey explained that Fisherman's Wharf Restaurant in Venice has had agreements over the years with WCIND. They have been very slow to pay their annual license fee. We had petitioned the bankruptcy court two years ago to get two year's worth of rent. We are owed two year's back payments now, for 1996 and 1997. Mr. Perrey has written a letter that says make your payments current in 10 days or we will make an appropriate legal response. We should be prepared to take the next step. Commissioner Judah moved and Commissioner Cummings seconded to give Mr. Perrey authority to take that next step. Motion approved unanimously.

2. Phillippi Creek Improvements - Staff has retained the services of Ed Barber and Associates, environmental consultants, to provide a dredging feasibility report for this area in Sarasota

County. Mr. Listowski said he might call upon Commissioner Cummings to assist in structuring a project which will draw upon Dr. Antonini's studies regarding the constriction in Gottfried Creek which affects boaters in Sarasota County. The only benefit to Charlotte County would be in terms of the function of the creek, not in terms of navigation. Mr. Listowski said that perhaps Sarasota County could contribute funding to solve this problem, and Commissioner O'Neil said "certainly". Staff recommends a request to Sarasota County to release the appropriate amount of funding to remove the construction at Gottfried Creek in Charlotte County for the benefit of Sarasota County residents. Mr. Listowski was asked to bring a cost estimate back to the Board at its next meeting. Commissioner Cummings was willing to share a portion of the expense if there is a clear benefit to Charlotte County. Commissioner O'Neil moved to do a feasibility report on Gottfried Creek not to exceed \$10,000, which will come out of Sarasota County's budget. Commissioner Cummings seconded. Motion passed unanimously

3. Report on Marina-Net Collegium - Mr. Listowski spoke at a conference in Dallas attended by representatives of the marina industry and water management people from around the country. He came away with the impression that Florida is leading the nation in its pro-active approach to waterway management.

4. Staff Committee Participation - Mr. Listowski said he attends many meetings of the Regional Harbor Board, the Charlotte Harbor N.E.P., Agency on Bay Management for Estero Bay, etc. Commissioner Cummings moved and Commissioner O'Neil seconded to appoint Commissioner Ray Judah to the Estero Bay Agency on Bay Management as an alternate to Mr. Listowski with full voting duties in representing WCIND. Motion passed unanimously.

5. Retroactive Project Extensions/Amendments to Project Scope - Commissioner O'Neil moved and Commissioner Judah seconded to approve all extensions and amendments submitted by Manatee, Sarasota, and Charlotte Counties (CIP-2, S-51, CIP-17, CIP-18, CIP-19, and C-47). Motion passed unanimously.

6. Contingency Reserve Funding Requests - Lee County, Fishing Industry - Lee County is requesting \$10,000 from reserves to do an economic benefits study of the commercial fishing industry. Due to a tremendous increase in the fishing harvest, there is inadequate holding dock space. Mr. Listowski is recommending a broad base type study that will document the extent of our multi-billion dollar recreational boating industry, a multi-million dollar recreational fishing industry, and a struggling port at Fort Myers Beach. Staff recommends Board approval contingent on a formal request by Lee County and administration of the project from District office.

The newly-incorporated town of Fort Myers Beach has no funds allocated from the Lee County Sheriff's Marine Patrol for enforcement of municipal laws. The town requests a \$6,000

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supplement from WCIND reserves to beef-up enforcement for the remainder of the fiscal year, with emphasis on spring break activities and spring/summer recreational boating rentals. This will not be a recurring request. Commissioner Judah moved and Commissioner Cummings seconded to approve these two reserve funding requests. Motion approved unanimously.

NEXT MEETING DATE AND TIME: Friday, May 23, 1997 at 10:30 a.m. in Venice, Fl. There may be some conflicts. Mr. Listowski will consult with the Board members.

ADJOURNMENT: 2:55 P.M.

Joe McClash, Chairman

Jack O'Neil, Secretary