

WEST COAST INLAND NAVIGATION BOARD MEETING
FRIDAY, JANUARY 27, 1995 AT 10:30 A.M.
SARASOTA COUNTY SOUTH COUNTY ADMINISTRATION CENTER
4000 SOUTH TAMiami TRAIL, ROOM 228
VENICE, FLORIDA

A G E N D A

ADMINISTRATION

1. Call to Order and Roll Call
2. Approval of the Minutes of October 28, 1994
3. Approval of Bills to be Paid for October, November, and December 1994
4. Approval of Treasurer's Reports for October, November and December, 1994 and discussion of Annual Audit Report by Mr. Ed Leonard
5. Approval of Deletions or Additions to Agenda

U.S. ARMY CORPS OF ENGINEERS' COMMENTS

DEPARTMENT OF ENVIRONMENTAL PROTECTION'S COMMENTS

OLD BUSINESS

1. Update on Longboat Key Dredge Project - Counsel Perrey
2. Update on Venice Marine Park
3. Update on D.E.P. Permit for District-wide Maintenance Dredging Projects
4. Update on Hillsborough/Pinellas Counties, re: District - Counsel Perrey
5. Update on Collier County Involvement in the District
6. B.A.I.L.

NEW BUSINESS

1. Election of Officers
2. WCIND staff and legal counsel-operational matters. Phil Perrey Rating Letter.
3. Mini-workshop on Legal/Operational issues for Commissioners - Counsel Perrey
4. Venice Gondolier Lease Renewal
5. Doren Request for Approval of Construction of a Retaining Wall on WCIND Maintenance Easement
6. Project Extensions and Discussion of Rule - Charlotte and Manatee Counties

NEXT MEETING TIME: Friday, March 24, 1995 at 10:30 a.m. in Venice

ADJOURNMENT

WEST COAST INLAND NAVIGATION DISTRICT

BOARD MEETING

FRIDAY, JANUARY 27, 1995

SARASOTA COUNTY SOUTH COUNTY ADMINISTRATION CENTER

MINUTES OF JANUARY 27, 1995

A regular meeting of the West Coast Inland Navigation District was held on Friday, January 27, 1995, at 10:30 a.m. at the Sarasota County South County Administration Center, 4000 South Tamiami Trail, Room 228, Venice, Florida.

COMMISSIONERS PRESENT: Ray Judah, Chairman
Joe McClash, Vice Chairman
Jack O'Neil, Secretary
Adam Cummings, Treasurer

STAFF PRESENT: Charles W. Listowski, Executive Director
Connie McLenna, Administrative Assistant
Philip E. Perrey, Counsel

ADMINISTRATION:

Mr. Listowski called the roll and noted that representatives of the C.O.E. and D.E.P. were present in the audience. Chairman Judah welcomed the new commissioners to the Board. Commissioner McClash moved to approve the minutes of October 28, 1994. Commissioner O'Neil seconded. Motion passed unanimously. Commissioner McClash moved to approve the bills to be paid for October, November, and December, 1994. Commissioner O'Neil seconded. Motion passed unanimously. Commissioner McClash moved to approve the Treasurer's Reports for October, November, and December, 1994. Commissioner O'Neil seconded. Motion passed unanimously. Mr. Ed Leonard was invited to speak about the Annual Audit Report. He commented on the very favorable financial position of the District, pointing out that the District had \$5.2 million in assets in the General Fund and only \$223,398 in total liabilities. \$3.3 million is reserved for encumbrances for projects not yet completed. There is no long-term debt. Actual revenues were very close to budgeted revenues. Expenditures were well under budget. The District's surplus funds are all invested in approved types of investments. The auditor's report on internal control structure, report on compliance, and its management letter were all favorable, with the exception of two minor items noted on page 19. Steps have already been taken to insure future compliance. Commissioner McClash moved to accept the Audit Report. Commissioner O'Neil seconded. Motion approved unanimously.

Approval of Deletions or Additions to Agenda: Under New Business, No. 7 will be a request from the Southwest Florida Regional Planning Council for our Board to provide a letter of support to the Charlotte Harbor National Estuary Program. Other items may be taken up out of normal parliamentary order.

U.S. ARMY CORPS OF ENGINEERS' COMMENTS: Mr. Dan Beasley was asked to speak, but, first, Mr. Listowski summarized discussions held with the Corps since the last Board Meeting. Construction bidding documents are being finalized for the Venice berm maintenance project. We have also had discussions about stabilizing Snake Island and dredging the associated waterway. We have had a recent letter from the COE regarding Hillsborough and Pinellas Counties and also from the Corps on the need for easements at Longboat Pass.

Mr. Dan Beasley spoke briefly about shoaling in the Venice Inlet and the necessity of having local support. Regarding the Venice berm, vegetation clearing will start about March 15th, and mowing will be delayed to April. The Corps is working with DEP to get certificates of water quality before dredging Longboat and Johns Passes. Commissioner McClash asked about the depth of the dredging in Longboat Pass since it has to be dredged frequently. When asked about the dredging schedule, Mr. Beasley said the order would be: New Pass, Longboat Pass, and then John's Pass, hopefully starting in September, or October. Big Pass in Sarasota County is not a federally-maintained pass and cannot be dredged by the COE.

DEPARTMENT OF ENVIRONMENTAL PROTECTION'S COMMENTS: Mr. Listowski said he had discussions with DEP regarding district-wide permitting for dredging projects. Mr. Jeremy Craft spoke to the Board. He was accompanied by Ms. Janet Louellen. To summarize the District's ties with DEP, Mr. Craft said the legislature required that the navigation districts operate under the supervision and control of the Division of Resource Management in the old DNR. He was the director of that division for the eight years prior to the merger of DNR and DER. The new legislation omits the reference to the division and just says Department of Environmental Protection in general. There has been no discussion about who would be the liaison person, but Mr. Craft has continued to function in that capacity. Mr. Craft is with the Division of Environmental Resource Permitting as Director, and Janet Louellen is the Assistant Director. This is a newly-created division made up of the parts of four other divisions.

It has given the division the opportunity to combine processes dealing with dredging, fill permitting, ownership of submerged lands, sovereignty land issues, permitting for inlet management and beach projects, etc. Processes will be combined and streamlined. Action should be swifter. They have had discussions on district-wide permitting for maintenance dredging. There is a statutory exemption that allows maintenance dredging of dead-end canals, but there are considerable restrictions on that exemption which make it less valuable to the average homeowner. The commissioners wished to clarify that WCIND would not be involved in providing funding for dredging dead-end canals in residential areas but would be involved in securing the permitting and developing management plans. Mr. Craft said one major issue they're going to run into on canals is potential retrofit on storm water. The issue of inlet management planning process is new to Mr. Craft and Ms. Louellen, but they are working on it. They have a draft rule given to Mr. Craft

very recently on how inlet management plans are adopted, and he will study it. He alluded to past controversies between DEP and WCIND on this issue. When Mr. Listowski asked about an inlet management plan for Big Sarasota Pass, Mr. Craft said that would be premature, but he agreed to explore the issue. The pilot project for anchoring sites is controversial. Also, the Port Council came to DEP with the idea of looking at a cooperative venture. They want to be able to adopt plans for the future of the ports: dredging, spoil areas, etc. DEP is intrigued with the idea of being able to explore a planning process with them. The Port Council is also exploring ways of tying their relationship with inlets and the Intracoastal Waterway. Mr. Craft was thanked for his attendance and update.

NEW BUSINESS:

Mini-Workshop on Legal/Operational Issues. Counsel Perrey presented the commissioners with a compilation of the basic organic law under which WCIND functions. Under the first tab is a composite of all the different special acts that have been passed (the enabling legislation). Included in this presentation was what WCIND may do, how it is composed, powers of the Board, and administrative functions. The second tab refers to general law provisions. Under the third tab is a copy of the 90-264 legislation which repeals the existence of FIND effective October 1, 1995. Before that could happen, though, there would be a sundown review. The next section repeals the existence of WCIND as of October 1, 2000. Again, there would be a sunset review, and the life of WCIND could be extended. Mr. Perrey recommended that we not try to piggy-back ourselves on the back of FIND when it comes to their sunset review. The next tab refers to WCIND's own chapter in the Florida Administrative Code (62). This is what governs the grant program.

Election of Officers. The following officers were nominated, accepted, and elected unanimously for a term of one year: Commissioner Ray Judah - Chairman, Commissioner Joe McClash - Vice Chairman, Commissioner Jack O'Neil - Secretary, and Commissioner Adam Cummings - Treasurer. A motion was made and seconded to rehire WCIND staff. Counsel Perrey explained that this yearly act had evolved out of custom and was not based on statutory law. Motion withdrawn. Mr. Listowski read a letter from a national rating firm for lawyers which commended Mr. Perrey for receiving the highest possible rating. Commissioner O'Neil moved to approve a resolution rehiring Philip E. Perrey as WCIND counsel for another year. Commissioner McClash seconded. Motion approved unanimously. Commissioner McClash moved to give Mr. Listowski authority to negotiate a new lease agreement for a four-wheel drive vehicle in the neighborhood of \$350 per month. Commissioner Cummings seconded. Motion passed unanimously.

OLD BUSINESS:

Update on Longboat Key Dredge Project. The Corps has made a final choice as far as the spoil area goes. Both Anna Maria Island and Longboat Key did beach renourishment projects last year, and the easements for those projects are still valid and are in effect. They can be assigned to WCIND, and we do not have to do any more work to get the easements to do the Longboat Pass dredge project. Counsel Perrey is checking that out. The Corps wants to know if we can secure the easements by February 28, 1995. They may not be readily available. Mr. Beasley indicated there was some flexibility regarding that date. Counsel Perrey will continue to work on securing the easements.

B.A.I.L. The Southwest Florida Regional Planning Council came to the Board on October 28, 1994 to request an extension for a project (CAP-5) originally referred to as the Anchorage Assessment project. This was tied in with work done by B.A.I.L. The extension request by SWFRPC has to do with their need for matching funds from the District to match requirements by the Coastal Zone Management Program whereby they will try to touch on some of the issues in CAP-5 but extend it to include issues relative to marina sightings. Mr. Listowski recommended extending the project to September 30, 1995 and incorporate its changing scope. Motion by Commissioner McClash to extend the project. Second by Commissioner O'Neil. Motion passed unanimously.

The issue of Mr. Stilley's compensation has been resolved between Mr. Stilley (representing B.A.I.L.) and the SWFRPC.

Management of Matanzas Harbor. Mr. Listowski said we need to keep ourselves abreast of all developing cooperative initiatives. Commissioner Judah said they have a real problem in Lee County in Estero Bay/Matanzas Pass with regard to live aboards and dumping, etc. Various attempts to work with the state appear to have stalled. Ms. Louellen from DEP commented that many of the issues appear to be legal in nature. It seems to her that if you have a plan for managing the water activities in the harbor and its sovereign submerged lands owned by the State of Florida, there is certainly the ability for the State to enter into a management agreement with the County for the County to manage these operations over the sovereign submerged lands.

Commissioner Cummings said the state has recently passed some anti-pollution/dumping laws which levy substantial fines for non-compliance. The overboard discharge has to be closed off and tied with wire or some type of band. Counsel Perrey was asked to get a copy of this law.

Commissioner Judah asked Bob Jensen, in the audience, to comment. Mr. Jensen was State Harbor Master for the State of Connecticut for five years. The DEP developed a system for harbor management plans which allowed a local group to be appointed by the commissioners. This was an advisory group which would work from a model plan and develop a municipal harbor plan for that municipality. That plan went to the state DEP for approval and then came back to the local level

where the voters of that municipality voted to approve it. If approved, Harbor Management Commission members were appointed or elected. The focal point was the Harbor Master. He became the enforcement officer on the water. Commissioner Cummings agreed that the Harbor Master route appeared to be the way to go.

OLD BUSINESS:

Update on Venice Marine Park. Mr. Listowski said the project has benefited from our agreement with T. L. James Company, who did the first phase of the Venice Beach renourishment project. They did site work and grading. Permitting is imminent within the next 60 days. He hopes to finish the project by August or September.

Update on Hillsborough/Pinellas Counties. We approached the Tampa Port Authority through their attorney and have not achieved any results. Mr. Perrey said Mr. Listowski and he could attempt to make an appointment with the Director of the Port Authority as the next step. One way to solve the problem would be to find someone to become the local sponsor in the two counties which have withdrawn from WCIND.

Commissioner O'Neil moved that we write a letter to our congressional delegation to relieve WCIND from the responsibility of being the local sponsor for Hillsborough and Pinellas Counties. Commissioner McClash seconded. Motion passed unanimously. Mr. Listowski asked for clarification of the motion just passed. It was the consensus of the Board that he continue to pursue a parallel track, i.e. contacting local interests.

Update on Collier County Involvement in the District. Mr. Listowski has sent to Chairman Judah a letter outlining the steps that will need to be taken for Collier County to join WCIND. Mr. Judah will pass the information along to Collier County. The county would need to pass a referendum and commit to imposing ad valorem taxes.

NEW BUSINESS:

Venice Gondolier Lease Renewal. The newspaper has property on the Venice berm that was used at one time for parking. They do not use that property for parking any more. In order to maintain our legal liability and the fact that the paper might use the property intermittently, Mr. Listowski recommends a three year lease at \$100 plus sales tax per year. Commissioner Cummings moved to approve the proposed lease. Commissioner McClash seconded. Motion passed unanimously.

Doren Request for Approval of Construction of a Retaining Wall on WCIND Maintenance Easement. We have a request from Bennett Marine Construction relative to Mr. Doren and his proposed retaining wall which is within our easement on Manasota Key. Mr. Listowski recommended approval of this project in consideration of all local approvals but with the contingency

that if the C.O.E. needs the property for maintenance activity, Mr. Doren will have to remove his wall. Commissioner Cummings moved to approve the request. Commissioner McClash seconded. Motion passed unanimously.

Project Extensions and Discussion of Rule - Charlotte and Manatee Counties. In October, 1994 we were presented with a list of projects from a couple of counties that were "imminent and ready for construction", to be completed by December 31, 1994. This did not happen with all the projects. The Manatee County project is called Greer Island Dredging. It has been on our books for several years, but more importantly, we probably made a mistake in October 1994 by extending the project to the end of the year. State law requires that projects not be funded past three years.

Counsel Perrey was asked to explain the rules governing the time frame of projects. One rule says, "At a minimum, such rules shall prohibit the encumbrance of funds for a project beyond three years following approval of the project". That seems pretty clear. Commissioner Judah asked if the project funds could be redirected to Manatee County's CIP allocation. Mr. Listowski said yes, but there are still problems. Costs have risen dramatically on this project, and the county is asking for additional funding. The area to be dredged is basically a private neighborhood cove system adjacent to Longboat Pass. Mr. Listowski questioned whether this project was for the public benefit and how the project would be maintained. He declined to make a recommendation.

Counsel Perrey explained that the county could reapply after waiting one fiscal year. For example, they could not reapply for FY94/95 but could reapply for FY95/96. If, however, the county chooses to use CIP funding, they would not be hindered by the three-year rule.

Mr. Len Smalley from the Town of Longboat Key spoke about the nature of the emergency request for additional funding. All the necessary permits have been secured. They are not doing this project for the few people who live within the lagoon, but for the navigation of the public to that lagoon which serves a county park. Water quality has declined in the lagoon, which is in danger of being closed. Mr. Listowski wondered if we would be asked on a regular, routine basis to supply funds for this particular area.

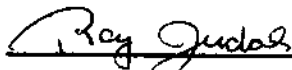
Commissioner Judah asked for Mr. Smalley to submit a written proposal justifying the request for additional funding, and staff would report back at the next Board Meeting. Commissioner McClash moved to redirect the original funds for M16/M37 and C25 (Sunrise Waterway Dredging) to the CIP reserve account. New applications must be submitted. Commissioner O'Neil seconded. Motion passed unanimously.

Resolution of Support. Commissioner Cummings moved to provide a resolution of support to the SWFRPC for the Charlotte Harbor National Estuary Program. Commissioner O'Neil seconded. Motion passed unanimously.

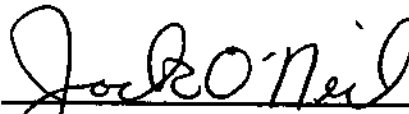
MINUTES OF JANUARY 27, 1995
Page 7.

NEXT MEETING TIME: Friday, March 24, 1995 at 10:30 in Venice, FL.

ADJOURNMENT: 12:57 P.M.



Ray Judah, Chairman



Jack O'Neil, Secretary