

**WEST COAST INLAND NAVIGATION DISTRICT
APPROVED MINUTES OF SEPTEMBER 9, 2016 BOARD MEETING
CITY OF VENICE, COUNCIL CHAMBERS
VENICE, FLORIDA**

Commissioners Present

John Chappie, Vice Chair
Charles Hines, Treasurer
Larry Kiker, Secretary

Staff Present

Justin D. McBride
Philip E. Perrey, Legal Counsel

Vice Chair, John Chappie opened the meeting at 4:05 P.M., with the Pledge of Allegiance.

AGENDA CHANGES – None

PUBLIC COMMENT: - Mr. Amos commented on Lee County’s funding requests, CNIF, and approval dates of funding requests. Mr. Amos also commented on the budget, reserves, and the increase in the millage rate.

U. S. ARMY CORPS OF ENGINEERS COMMENTS –

CONSENT AGENDA –

Commissioner Hines asked to have his comments in the August 26, 2016 minutes revised to reflect that Sarasota County “requested” to have the ACOE do an environmental impact study

**Commissioner Hines motioned to approve the Consent Agenda with the above revision.
Commissioner Chappie seconded the motion.
Motion approved unanimously.**

Commissioner Deutsch joined the meeting at 4:10 P.M.

ADMINISTRATIVE AGENDA –

Mr. McBride presented the Board with the FY16/17 Tentative Budget, prepared as directed, at the proposed millage rate of .0394.

OLD BUSINESS – None

WCIND COUNSEL’S REPORT – Counsel Perrey read into the record the following statement concerning an email concerning Mr. Leo Amos.

The requirement in Rule 66A-2.004, F.A.C. that a county approve each application by official resolution submitted with the application has been administered by WCIND staff to allow a county to submit the official resolution after the May 31st filing deadline. In the view of

WCIND's staff, the purpose of requiring a county to approve each application by official resolution is achieved even if the resolution is not received simultaneously with the application.

WCIND is vested with the authority to interpret and apply its rules for the WWDP. Mr. Amos does not accord any deference to WCIND's construction of its rules. His interpretation is not based on the purpose and intent of the rule. His position is to apply the rules in a strict manner, that could lead to unreasonable, unfair and unintended results in particular instances.

When a Court reviews the validity of an agency's construction of its own rules, the Court relies on the text of the rule, the agency's intent, the purpose of the rule, the procedural history of the rule and the principles of statutory interpretation. It is something of a grab bag approach. But there are two key principles:

1. Interpret the rule text in light of the purpose and intent of the rule; and
2. The courts require agencies to demonstrate a rational connection between the rule, and the goals of the authorizing statute.

Gentlemen, I am uniquely qualified to speak about the text of the rule, the agency's intent, the purpose of the rule, and the procedural history of the rule. Why? – Because I drafted the rules when they were first adopted. To the best of my knowledge, at no time was Mr. Amos involved in the rulemaking proceedings when the rules were first adopted.

If this dispute winds up going to court, the court will ask two questions: (1) whether the agency's interpretation of the rule is permitted by its text and (2) whether the agency's interpretation of the rule is consistent with the stated purpose of the rule. This approach grants the agency a considerable amount of interpretive space. And unlike Mr. Amos, the courts will accord some deference to agency's construction of a rule that the agency is charged with implementing.

EXECUTIVE DIRECTOR'S REPORT – Mr. McBride stated that USCG had reported that a number of aids to navigation were knocked out in the District; and that the federal aids will be repaired next week.

- Matanzas Pass – dredging is complete, and permanent aids will be going in next week.
- New Pass – dredging should be completed in 10 days, and permanent aids will go in within a month.
- Letter of appreciation from the City of Venice regarding Anita's Sandcastle.
- Coquina Boat Ramp – sent in a revised mitigation plan.
- Palma Sola – working with county staff.
- Charlotte County - Trestle – Bid package being assembled.

- Charlotte Harbor Environmental Center – providing technical assistance.
- Lee County – Big Carlos – putting together plans and specs.
- Sarasota – Challenger ball field is moving forward.
- Sarasota - Cherokee Park – working on warranty issues.
- Regional – Transition from Wells Fargo Bank to Capital Bank is 99% complete, awaiting final statement.
- Federal government reform regarding money market investments, we will not be impacted because our investments are held in government securities.
- Engaging with the FWC Endangered Species Deputy Director on some questions about the critical wildlife areas.
- Working with the University of Florida on a GIS project that will consolidate a lot of data, from WCIND, State, and Federal.
- Boat Tour October 25th – 27th.
- Updating the investment policy.

COMMISSIONERS' ITEMS – None

PUBLIC COMMENT: Mr. Leo Amos addressed the comments Counsel Perrey discussed.

NEXT MEETING DATE AND TIME: Regular Meeting Friday, November 18, 2016 at 10:00 A.M, Venice City Hall, Council Chambers, 401 W. Venice Avenue, Venice FL.

Meeting adjourned 4:31 P.M.

Stephen R. Deutsch, Chair

John Chappie, Secretary