

**PUNTA GORDA ISLES
CANAL ADVISORY COMMITTEE
MEETING
OCTOBER 17, 2011**

MEMBERS PRESENT: Bill Dixon, Chairman
Nancy Dauster, Thomas McAlear, David McBride,
Charles Thomas, James Thompson

OTHERS PRESENT: Randy Brodersen, Canal Maintenance Supervisor
John Kennedy, Marine Officer
John Dauster, Joyce Thompson

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. November 21, 2011

Note: Approval of Minutes and Reports were heard following Unfinished Business.

APPROVAL OF MINUTES

- A. Meeting of September 19, 2011
 - Ms. Dauster MOVED, Mr. McAlear SECONDED approval of the September 19, 2011 minutes. MOTION CARRIED UNANIMOUSLY.

REPORTS

- A. Permits Authorized by City Staff – September 2011
 - Mr. Randy Brodersen, Canal Maintenance Supervisor, announced 12 permits had been issued in September 2011, noting same were depicted in the agenda material.
- B. Budget Utilization Report – September 2011
 - Mr. Brodersen drew members' attention to the Budget Utilization Reports, as delineated in the agenda material, noting he had provided the September 30, 2011, as well as the October 1, 2011 Reports. He reminded members the Fiscal Year ended on September 30, 2011; however, there may be outstanding invoices which would be submitted in October 2011. He pointed out the October 1, 2011 Report provided estimates of scheduled work and budgeted expenses.
 - Mr. Thompson asked if mangrove trimming was a separate line item.
 - Mr. Brodersen replied affirmatively, stating \$6,000 was budgeted for same.
 - Mr. McAlear then stated he understood a trailer was pulled out of a canal, asking who assumed the expense for same.
 - Mr. Brodersen replied either the Canal Maintenance Division or the Police Department.
 - Mr. McAlear questioned whether anything was found off of Coldeway Drive.

- Mr. Brodersen replied nothing other than old, abandoned sewer lines.
 - Ms. Dauster commented favorably on the amount of work completed in FY 2010/2011.
 - Mr. McBride questioned the status of dredging in Ponce de Leon Inlet, advising two sailboats had run aground recently.
 - Mr. Brodersen replied the high spot was in the same location as in the past, confirming dredging was scheduled.
 - Ms. Dauster noted \$9,612 had been budgeted for Inlet Dredging in FY 2010/2011; however, \$106,000 was budgeted in FY 2011/2012.
 - Mr. Brodersen explained funds had been transferred from Inlet Dredging to Seawall Replacement, thus the basis for the much lower figure the previous year. He advised over 8,000 feet of seawall was completed in FY 2010/2011.
 - Mr. Dixon asked if the City was reactive or proactive with regard to dredging.
 - Mr. Brodersen replied it varied, acknowledging much dredging took place after receiving reports of high spots, for example.
- C. Mangrove Trimming
- Mr. Brodersen reported trimming adjacent to Ponce de Leon Inlet was complete, adding a number of mangroves had been removed in the area of Surfbird Court.
 - Mr. Dixon asked if the Ponce de Leon Inlet trimming had been done to 200 feet back.
 - Mr. Brodersen replied trimming was done going back approximately 175 feet, explaining same was the point which the contractor had determined to be safe. He mentioned exotics had been removed as well.
 - Mr. McAlear commented visibility was greatly improved as a result of the trimming.
- D. Seawall and Cap Replacement Status Report – September 2011
- Mr. Brodersen drew members’ attention to the Seawall and Seawall Cap Replacement Report, as delineated in the agenda material, noting same was an ongoing report. He advised nothing would be added to the Report until after the next assessment with the exception of a seawall which failed or was in imminent danger of falling. He expressed hope the assessment could be done in November 2011.
 - Mr. Dixon confirmed staff would input Geographic Information System (GIS) information as work proceeded.
- E. Patrol Update – Bill Dixon
- Mr. Dixon reported the Police Department put in 140 hours on the water, issued 19 warnings, had 8 incidents and conducted 26 inspections in September 2001. He advised the VIPs put in 94 hours on the water and covered 187 miles.

Note: Unfinished Business was heard following Call to Order/Announcements.

UNFINISHED BUSINESS

A. Anchoring of Vessels

- Mr. Dixon displayed a copy of Florida Statute (FS) 327.44, Interference with Navigation, as delineated in the agenda material, pointing out the first words within same read “No person shall anchor, ...”. He then displayed a verbatim transcript of City Attorney David Levin’s comments regarding “No Anchoring,” as delineated in the agenda material, in which City Attorney Levin stated the City did not have the authority under State law to cite someone for anchoring under a local ordinance. He noted approximately half of the City’s marine enforcement was comprised of Volunteers in Policing (VIPs), who were trained to enforce City Codes but were not sworn law enforcement officers. He maintained the City Code must be amended in order to allow VIPs to continue enforcing same.
- Marine Officer John Kennedy stated on February 7, 2011, he had been advised all anchoring ordinances were under review, adding he understood VIPs were currently not authorized to write any anchoring violations. He clarified sworn law enforcement officers, such as himself, were currently enforcing under FS 327.44. He suggested any questions or concerns be directed to either the City Attorney or City Council.
- Mr. Dixon clarified VIPs were not able to enforce State Statutes.
- Mr. McBride interjected the City Attorney had also stated the City did have the authority to cite someone for creating a hazard to navigation, including anchoring in an area which impeded same.
- Mr. Dixon expressed concern regarding whether or not “the City” included the VIPs.
- Officer Kennedy stated a few months earlier he had received a draft, proposed ordinance, adding his main focus point was Section 6-22, Interference with navigation prohibited; exception. He reminded members signs were placed at the entrance to Ponce de Leon Inlet; however, he had yet to hear a definitive answer as to whether citations were being written under Section 6-22 of the City Code or State Statute.
- Mr. McBride confirmed members had received an executed copy of the above mentioned ordinance in their agenda packets, specifically #1690-11, adopted by City Council on September 21, 2011.
- Officer Kennedy stated he had not received same.
- Mr. McAlear expressed disappointment at what he felt was the City Attorney’s “knee jerk” reaction to no anchoring without considering the reasons for anchoring. He explained the controversy was to eliminate long term, live aboard anchoring in the interest of public safety. He mentioned power lines ran under water in the Intracoastal

Waterway (ICW), adding signage was in place to advise the public accordingly. He questioned the City Attorney's decision to mention the ICW in Ordinance #1690-11.

- Ms. Dauster asked if Officer Kennedy could still enforce the law if a boater was interfering with navigation by anchoring.
- Officer Kennedy replied affirmatively.
- Mr. McAlear noted VIPs would enforce "No Anchoring" even though City ordinance had removed the authority to write citations for same. He clarified VIPs could cite unsafe or reckless boating.
- Officer Kennedy commented Section 6-22, as written in Ordinance #1690-11, was unclear; however, it did prohibit interference with navigation. He opined clarification from City Council was needed, suggesting the Committee draft a letter to the City Manager.
- Ms. Dauster asked if police officers on road patrol could still write marine related citations.
- Officer Kennedy replied he wished to first obtain clarification of same, noting road patrol police officers were not trained as marine officers.
- Discussion then ensued with regard to the timeline related to adoption of FS 327.44 and its associated pilot program.
- Mr. John Dauster commented the State Statute had been quoted almost verbatim in the previous ordinance but not in the current ordinance, suggesting the Committee question the basis for same in the above mentioned letter.
- Mr. McBride countered State Statute was not quoted exactly in the previous ordinance.
- Mr. Dauster acknowledged only a portion of the State Statute had been quoted.
- Mr. McBride recommended City Code be amended so as to explicitly provide VIPs with the ability to take enforcement action in situations where a hazard to navigation existed. He opined the State would not allow any local entity to adopt an ordinance which prohibited anchoring, except as same related to live aboards, until the above mentioned pilot program was concluded.
- Officer Kennedy noted as the City's only marine officer, he relied heavily on the City's VIPs.
- Mr. Dixon concluded he would draft a letter to City Council outlining members' concerns, as discussed this date, confirming same would be reviewed at the Committee's November 21, 2011 meeting.

Note: Committee/Board Comments were heard following Citizens Comments.

COMMITTEE/BOARD COMMENTS

- Mr. McAlear commented on his suggestion put forth at the Committee's previous meeting with regard to wrapping colored, reflective tape around the City's day markers, reporting he was awaiting a response from an individual in Lee County.
- Discussion ensued with regard to the navigational difficulties encountered in Ponce de Leon Inlet after dark.

Note: Citizens Comments were heard following Reports.

CITIZENS COMMENTS

- Ms. Joyce Thompson asked why the Police Department was unable to deputize the VIPs, which in turn would allow them to issue citations.
- Mr. McAlear explained there were liability concerns, adding VIPs were not trained to perform the duties of a sworn law enforcement officer.

ADJOURNMENT

- Meeting Adjourned: 2:23 p.m.

Bill Dixon, Chairman

Mary Kelly, Recording Secretary