

**PUNTA GORDA ISLES
CANAL ADVISORY COMMITTEE
MEETING
NOVEMBER 21, 2011**

MEMBERS PRESENT: Bill Dixon, Chairman
John Dauster, Nancy Dauster, Fred Hannon,
Thomas McAlear, David McBride, James Thompson

OTHERS PRESENT: Rick Keeney, Public Works Director
Herman Novak

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. December 19, 2011

APPROVAL OF MINUTES

- A. Meeting of October 17, 2011
 - Ms. Dauster MOVED, Mr. McAlear SECONDED approval of the October 17, 2011 minutes. MOTION CARRIED UNANIMOUSLY.

REPORTS

- A. Permits Authorized by City Staff – October 2011
 - Mr. Rick Keeney, Public Works Director, announced eight permits were issued in October 2011, noting same were detailed in the agenda material.
- B. Budget Utilization Report – October 2011
 - Mr. Keeney displayed the Budget Utilization Report, as delineated within the agenda material, pointing out percentages were fairly close, most likely due to the reporting period being the first of the new fiscal year. He mentioned expenditures were slightly behind actual work performed due to the lag between billing and payment. He advised dredging was ongoing in Ponce de Leon Inlet.
 - Mr. Dixon commented favorably on same as he had received a number of complaints relative to shallowness.
 - Mr. Dauster asked if paying hourly for inlet dredging was cost efficient.
 - Mr. Keeney replied affirmatively.
 - Mr. Thompson asked where the dredged material was taken.
 - Mr. Keeney replied the permit provided for a site in the area of Colony Point Drive.
 - Ms. Dauster commented favorably on the efficiency of the dredging operation.
 - Mr. McBride asked if a particular project had caused the significant increase in seawall stabilization figures so early in the fiscal year.

- Mr. Keeney expressed uncertainty regarding same, confirming he would have Mr. Randy Brodersen, Canal Maintenance Supervisor, report back to the Committee at their next meeting.
- Mr. McAlear recalled during budget preparations, the Committee had recommended \$30,000 be set aside for a consultant; however, he did not see where same was depicted in the Budget Utilization Report, asking if perhaps those funds were part of Seawall Replacement.
- Mr. Keeney explained consultant funds were not designated on the Budget Utilization Report, offering to include same on future reports if the Committee desired.
- Mr. Dixon clarified the entire budget was comprised of numerous line items, the majority of which were not detailed in the Budget Utilization Report.
- Mr. McBride interjected a specific line item for expenses related to a consultant was included in the material presented to the Committee during budget preparations.
- Mr. McAlear expressed concern with regard to that line item becoming "lost."
- Mr. Keeney confirmed funds were in place.
- Mr. Herman Novak questioned the depth to which dredging was being done in Ponce de Leon Inlet, stating he understood same to be six feet below mean low tide.
- Mr. Keeney agreed, adding he believed dredging was allowed to eight feet in the "S" curve.
- Mr. Hannon commented he understood measurements were to below mean sea level.
- Mr. Keeney responded he would have Mr. Brodersen clarify same at the Committee's next meeting.
- Mr. McAlear asked if dredging would extend into the mangroves.
- Mr. Keeney replied in the negative, stating dredging was restricted to the channel.
- Mr. McAlear stated volunteers were asked to sound the channel from the docks extending out, thus providing some insight as to the high spots; however, volunteers were not asked to conduct any sounding further back in the mangroves. He explained several low spots existed, particularly east of Marker 9.
- Mr. Keeney reiterated he understood dredging was done in the channel only; however, he would have Mr. Brodersen report back to the Committee.
- C. Seawall and Seawall Cap Replacement Status Report – October 2011
 - No discussion.
- D. Mangrove Trimming
 - Mr. Dixon stated he understood this agenda item was to have been deleted from the Committee's agendas due to completion of the recent mangrove trimming project.

- Mr. McAlear commented he had observed what appeared to be large logs laying in the subject area, expressing uncertainty with regarding to whether or not material remained which had not yet been removed.
- Mr. Dauster stated he did not believe all the brush which had been cut had been run through the wood chipper but rather had simply been hauled back into a low area. He clarified a great deal of dead vegetation remained lying on the ground.
- Mr. Dixon opined removal of a significant amount of exotics had revealed much which had previously been obscured.
- Mr. Dauster questioned the trimming schedule, if any, for the subject location.
- Mr. Keeney replied annual trimming was typically done following the initial project.
- Mr. Dixon recalled discussion of trimming every six months.
- Mr. McBride recalled mention of spraying for weeds and exotics.
- Mr. McAlear spoke in favor of semi-annual trimming.
- Mr. Keeney summarized he would have Mr. Brodersen address the Committee's questions and concerns at their next meeting.

E. Patrol Update

- Mr. Dixon announced he had not received a monthly report from the Police Department; however, he reported the Volunteers in Policing (VIPs) had spent 188 hours on the water. He requested clarification of the VIPs' activities in that they were not able to enforce anchoring restrictions.
- Mr. McAlear responded VIPs primarily enforced excessive wake, stating the presence of VIPs slowed traffic.
- Mr. McBride clarified VIPs remained able to write citations for violation of 14 out of 15 City Code sections.
- Mr. McAlear agreed, stating many City Codes were unenforceable by the VIPs as they could not identify the violator's property from the water; however, he advised the VIPs were working with the Code Compliance Division in an attempt to rectify same.

UNFINISHED BUSINESS

A. Anchoring of Vessels

- Mr. Dixon announced at the previous Committee meeting, members had asked him to draft a letter to City Council outlining their concerns regarding this issue, noting his drafted was delineated in the agenda material. He continued Messrs. McAlear and McBride had also proposed draft correspondence, also depicted in the agenda material.
- Mr. Thompson opined the latter two letters were essentially refinements of Mr. Dixon's correspondence.

- Mr. Dixon stated in 2009, the State changed its anchoring laws and greatly inhibited the rights of municipalities to restrict anchoring. He continued in October 2011, City Council adopted Ordinance #1690-11 which removed the ability of VIPs to restrict anchoring, particularly in Ponce de Leon Inlet. He opined the City Council should direct the City Attorney to correct this mistake.
- Mr. McBride expressed agreement with Mr. Dixon on a conceptual basis; however, he did not believe the City Attorney had erred but rather had taken the necessary action in order to be in compliance with State law. He clarified this action had resulted in unintended consequences, at both State and City levels, adding he believed the Committee should recommend City Council amend Ordinance #1690-11 to allow enforcement in those areas experiencing obvious hazards to navigation as a result of anchoring.
- Mr. Dixon expressed frustration in that a member of this Committee had urged City Council not to adopt Ordinance #1690-11 for the stated reasons; however, City Council had done so regardless. He asked how members wished to proceed with regard to the proposed correspondence.
- Mr. Hannon opined Mr. McBride's letter seemed to be a summary of all the areas of concern.
- Mr. McAlear responded he had no objection to same.
- Mr. Dauster interjected more than one City Councilmember had stated the City Attorney had advised Ordinance #1690-11 must remain in effect in order for the City to be in compliance with State Statute. He clarified City Council was aware of the issue of unintended consequences; thus, he believed the roadblock was the City Attorney as opposed to City Council.
- Mr. McAlear asserted the City Attorney had referred to all restrictions of the Intracoastal Waterway (ICW); however, Punta Gorda was 19 miles from same.
- Mr. McBride explained his letter proposed recommendations under the hazard to navigation aspect as opposed to anchoring as he did not believe the changes desired by the Committee could be accomplished from the aspect of the latter.
- Mr. Thompson commented Council should be made aware of the safety issue as well.
- Mr. Dauster asked who actually owned the bottom of the canal system.
- Mr. McAlear replied he believed the State.
- Mr. Dixon countered he was uncertain in that the canals were not considered State waters.
- Mr. Keeney read into the record electronic mail from the City Attorney regarding Florida Statute (F.S.) 327.02(40) which defined the phrase "waters of the State" to

include all inland lakes, rivers and canals under the jurisdiction of this State. He explained the City Attorney had pointed out the City's canals were located within the territorial limits of the State of Florida and were therefore under the jurisdiction of the State of Florida. He continued the City Attorney had opined boats anchored within the City's canal system posed an interference with navigation, and the City had the legal authority to abate such interference; however, the City did not have the authority to prohibit the anchoring of vessels.

- Mr. McAlear agreed; however, such verbiage did not grant VIPs the authority to cite vessels for violation of State Statute, adding VIPs provided almost half of the enforcement activity in the City waterways.
- Ms. Dauster opined Mr. McBride's letter addressed same.
- Mr. Dixon asked if the Committee wished to include areas other than Ponce de Leon Inlet where anchoring posed navigational hazards, i.e., bridges, junction of rim canal, etc., as delineated in Mr. McBride's letter.
- Mr. McAlear replied affirmatively.
- Mr. Thompson recommended the final paragraph be relocated so as to open the letter.
- Consensus of the Committee was agreement with same.
- Discussion ensued with regard to the procedure by which the Committee's recommendation would be presented to City Council.
- Ms. Dauster MOVED, Mr. McAlear SECONDED to issue the letter drafted by Mr. McBride to City Council, as amended, to expressed the Committee's unanimous recommendation. MOTION CARRIED UNANIMOUSLY.
- Ms. Dauster asked when the Committee's recommendation would be reviewed by City Council.
- Mr. Keeney replied he could determine same upon receipt of a final version of the Committee's letter/recommendation, concluding it would be either December 7 or 14, 2011.

COMMITTEE/BOARD COMMENTS

- Ms. Dauster welcomed the Committee's two new members.
- Mr. McAlear announced he had confirmed no authorization was needed from the United States Coast Guard (USCG) to place red and green reflective tape on the City's day marker pilings, as had been discussed at the Committee's two previous meetings; thus, he recommended proceeding with same for safety reasons.
- Consensus was to have staff and or VIPs place new reflective tape on the appropriate markers.
- Mr. Keeney stated he would speak with the Police Chief with regard to same.

- Mr. McAlear then stated the area just past Ponce de Leon Park was difficult to navigate at night due to almost non-existent visibility, suggesting Markers #9 and #10 be lighted. He reported lights were \$326 each and were solar powered and completely self contained, adding they were placed directly on top of the markers. He explained the lights must be permitted by the USCG, the process for which could entail years; however, he had been advised if the lights were put in place and the "as built" sent to the USCG, the permitting time would be greatly reduced.
- Mr. Keeney responded he was not comfortable proceeding without proper permitting, adding he would have Mr. Brodersen review and respond to same.
- Consensus of the Committee was to recommend staff research the possibility of lighting the subject markers.
- Mr. Thompson opined the system of the City advisory boards and committee's reviewing and making recommendations failed, explaining three advisory boards recommended denial of a recent variance application; however, City Council then approved the application.
- Mr. Dixon commented the Committee worked to provide City Council with the best recommendations possible; however, the final decision for such applications fell to Councilmembers. He then stated he understood the City may be taking responsibility for the Boat Club's boat basin and seawalls.
- Mr. Keeney responded an application had been submitted to the Department of Environmental Protection (DEP) to dredge the boat basin. He mentioned the Charlotte Regatta may provide the City with floating docks following completion of a large event in January 2012.
- Mr. Dixon asked if the Boat Club would be required to raise the condition of their seawalls to City standards.
- Mr. Keeney replied negotiations were ongoing at this time; however, he indicated those seawalls would not become a part of the Canal Maintenance Assessment Direct (CMAD).
- Mr. Dauster asked who owned the seawalls at the Boat Club.
- Mr. Keeney reiterated negotiations between the City and the Boat Club were ongoing at this time.
- Discussion ensued with regard to the Boat Club's lease negotiations with the City.
- Mr. Dixon then announced he would resign from the Committee following the December 2011 meeting. He reminded members the annual election of officers would be held in February 2012.

CITIZENS COMMENTS

- Mr. Novak commented approximately 60% of the boats were speeding through the rim canal near Colony Point Drive and causing huge wakes. He asked if VIPs had the authority to issue citations for speeding.
- Mr. McAlear replied affirmatively, acknowledging many times VIPs and/or the Marine Officer were not in the area to observe violators.
- Ms. Dauster recommended Mr. Novak obtain the registration number of such violators and advise Marine Officer John Kennedy of same. She explained Officer Kennedy would then follow up with a warning to the boater.
- Mr. McAlear noted VIPs were sometimes directed to monitor specific areas based on multiple complaints; thus, he urged citizens to advise the Police Department of all violations.
- Mr. McBride added documentation of the times of violations would be helpful.
- Mr. Hannon suggested photographs would also be of help.
- Mr. Novak then stated he had designed battery powered motion sensors which extended into the canal, the receiver for same being located in his home. He explained the receiver would be alerted when anyone traveled through his canal, adding at night, his dock and flood lights would also be activated. He offered to show the system to any interested parties.

ADJOURNMENT

- Meeting Adjourned: 2:58 p.m.

Bill Dixon, Chairman

Mary Kelly, Recording Secretary