

**BURNT STORE ISLES
CANAL ADVISORY COMMITTEE
MEETING
FEBRUARY 9, 2021**

MEMBERS PRESENT: Mike McIntosh, Chairman
Norman Ashworth, Rick Daugherty,
Sean Harrigan, Charles Longenbarger

OTHERS PRESENT: Cathy Miller, Canal Maintenance Supervisor
Gary Disher, Mapping, Permitting and Compliance Manager
Bob Nikula, Public Works Project Manager
Rich Bevak, John South, Mike Parr, Brian Bender,
Christopher Pena

CALL TO ORDER/ANNOUNCEMENTS

- Mr. McIntosh called the meeting to order at 1:30 p.m., followed by the Pledge of Allegiance.
- A. Roll Call
- B. Next Scheduled Meeting
 - 1. March 9, 2021
- Mr. Longenbarger indicated he would not be present at the March 9, 2021, meeting.
- Ms. Cathy Miller, Canal Maintenance Supervisor, verified no special permits were scheduled for the March 9, 2021, meeting, indicating the next meeting could be April 13, 2021, if members desired.
- Mr. McIntosh stated members would decide same during this meeting.

NOTE: Item A – Staff Comments heard prior to Citizen Comments on Agenda Items Only.

CITIZEN COMMENTS ON AGENDA ITEMS ONLY

- Mr. Rich Bevak, 617 Macedonia Drive, inquired whether members reviewed the information distributed to them regarding the pilings at Mosquito Ditch (Mayor's Cut).
- Mr. McIntosh replied affirmatively, verifying members had no further questions regarding same.

APPROVAL OF MINUTES

- A. November 10, 2020
- Mr. Harrigan MOVED, Mr. Daugherty SECONDED approval of the November 10, 2020, minutes. MOTION CARRIED UNANIMOUSLY.

REPORTS

- A. Finance Reports – November and December and January
- Ms. Miller verified there were no questions regarding the November 2020, December 2020 and January 2021 reports denoted in the agenda material.

- B. Budget Utilization Report – November and December and January
 - Ms. Miller confirmed there were no questions regarding the November 2020, December 2020 and January 2021 reports.
- C. Seawall Replacement Status Reports – November and December and January
 - Ms. Miller verified there were no questions regarding the November 2020, December 2020 and January 2021 reports, explaining a project was not considered complete until the sod was installed.
- D. Permits Authorized by City Staff – November and December and January
 - Ms. Miller verified there were no questions regarding permits authorized by staff.
- E. BSI Capital Improvement Status Report – Update
 - Mr. Gary Disher, Mapping, Permitting and Compliance Manager, stated information relating to the Seawall Alternative Materials Study (Study) would be discussed later this meeting. He then reported the National Marine Fisheries Service sent a biological opinion to the Army Corps of Engineers (ACE) for the Burnt Store Isles (BSI) Inlet Widening Project, adding staff had not yet received the information from the ACE.
- F. Master Permit Agreement Status Report – Update
 - Mr. Disher drew attention to the Master Permit Agreement (Agreement) Status Report denoted in the agenda material, explaining staff developed same to track the Agreement with Hans Wilson & Associates. He stated the Agreement Status Report would encompass the BSI and Punta Gorda Isles Canal Maintenance Districts (District), concluding same would allow members to monitor the permitting process moving forward.
 - Mr. McIntosh inquired if he could meet with Mr. Disher the following week to develop a presentation for residents on the seawall alternatives.
 - Mr. Disher reiterated discussions on the Study would occur later this date.

PUBLIC HEARINGS

- Recording Secretary Pues swore in all participants.
- A. Special Permit – CCSP-02-2021 - Petition for Special Permit under the provisions of Chapter 6, Section 2-1(e) of the Punta Gorda Code to install a boat lift with three (3) boat lift pilings and a portion of a two (2) foot wide aluminum walkway outside the structure limitation lines which is prohibited by Section 2-1(c)(5), Punta Gorda Code, at Lot 1, Block 235, Section 15, aka 3358 Tripoli Boulevard, Punta Gorda, Florida 33950
Owner/Petitioner: Sandra and Christopher Betz
Charlotte County Parcel: 412319427003
 - Mr. John South, 3770 Candia Drive, distributed a copy of an email he sent to staff and certain members of the Committee regarding his opposition to this request. He then

read into the record the email which listed his reasons as to why this request should not be approved, pointing out the illustrations attached depicting alternative solutions to this request.

- Mr. Ashworth drew attention to Mr. South's drawing of a suggested dock and boat lift for the subject property which adhered to the Code, inquiring as to why same was not being considered.
- Mr. South replied that he had an updated drawing of same and distributed a copy to members and staff, opining the applicant's request should adhere to the Code and the two pilings on the proposed lift were a navigational hazard.
- Mr. Bob Nikula, Public Works Project Manager, displayed photographs of the subject property and proposed construction drawings from the agenda material, providing a detailed review of the request. He stated the property had 40 feet of seawall at an end-of-canal location with a canal width of approximately 125 feet, explaining a watercraft could be stored up to 30 feet waterward from the seawall. He indicated the approach angle of the proposed boat lift would be parallel to the boat lift at the adjoining property, adding the furthest piling from the seawall for the proposed boat lift would be 24 feet waterward. He reviewed the six criteria for approving a special permit, noting staff believed this request met same. He then stated staff reviewed the location of proposed structures in relation to safe navigation, explaining certain alternatives to this request might adhere to the Code; however, same would not be functional for the subject property. He explained the approach angle proposed in this request would be configured in a way that prevented the applicant's vessel from exceeding the boat limitation lines, concluding staff recommended approval of this request.
- Mr. McIntosh questioned whether the proposed boat lift could be angled so that a vessel would use a straight approach to the dock, which would bring the pilings closer to the permitted 45 degree angle.
- Mr. Nikula replied the rationale for the angled approach would need to be addressed by the applicant's agent. He then displayed a photograph taken this date of the adjacent neighbor's vessel on a boat lift, explaining restrictions prevented dredging within seven feet of a seawall.
- Mr. Mike Parr, applicant's agent, agreed with Mr. Nikula's statements regarding all the considerations that went into this request. He noted safety and navigation considerations contributed to the proposed configuration, explaining turning the boat lift would require the vessel to be backed onto same. He pointed out the special exception process was created for situations where the typical configurations which adhered to the Code would not work.

- A lengthy discussion ensued regarding the details of the proposed configurations as well as alternatives, with Mr. Parr opining his proposed configuration was the best solution for the subject property.
- Mr. Harrigan questioned whether the applicant and Mr. South could work together for a solution which was satisfactory to them both.
- Mr. South replied he would not object to the request if the proposed boat lift was rotated slightly counter-clockwise, opining the configuration would increase space, create a direct approach and be parallel to the existing dock on the right.
- Mr. Harrigan inquired whether this request could be continued to the next meeting to allow time for the applicant and Mr. South to come to a compromise.
- Mr. Parr indicated that a continuance would likely not produce much change, expressing uncertainty as to how his proposed configuration could be revised.
- Discussion ensued regarding the process for continuing a request.
- Mr. McIntosh confirmed the meeting on March 9, 2021, would need to remain scheduled. He then called three times for public comment.
- Mr. Harrigan MOVED, Mr. Logenbarger SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Harrigan suggested the applicant and Mr. South resolve their concerns rather than the Committee members making a decision on the request at this time.
- Mr. Harrigan MOVED, Mr. Daugherty SECONDED to continue CCP-02-2021 to the March 9, 2021, meeting. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

A. Mayors Cut Pilings

- Ms. Miller announced one of the requirements for removing the doors from the boat lock at Mayors Cut was to install pilings in place of same, adding the pilings and mangroves at the location had widened over a period of time. She stated a meeting with the Florida Department of Environmental Protection (FDEP) confirmed the City was responsible for maintaining the pilings and preventing boat access through Mayors Cut, verifying the location was intended for passage of manatees and kayakers only. She advised the application fee for the permit exempt was \$100 and the contractor confirmed the cost for 6 pilings was approximately \$6,500. She explained the distances measured between the last piling and the mangrove line were 16 feet on one side and 10 feet on the other, noting pilings were required to be spaced every 5 feet and to be as close to the mangroves as possible without damaging them. She requested members' approval for installation of the pilings at the estimated cost.

- Mr. Harrigan spoke against the installation of additional pilings, explaining mangroves were illegally trimmed by boaters each time same occurred. He indicated the pilings created a larger problem with water flow, commenting on the number of pilings added to the location over the previous ten years.
- Ms. Miller verified a total of thirteen pilings were permitted at the location, confirming there had been no additional pilings installed in the past ten years and same were only replaced when damaged.
- A lengthy discussion ensued regarding enforcement issues related to navigation through Mayors Cut along with potential solutions for same, including increased involvement of the Police Department as well as the BSI community.
- Mr. Harrigan questioned if signage could be posted indicating trimming the mangroves was an offense.
- Ms. Miller responded same required permitting, but could be done.
- Mr. Brian Bender, 3956 San Pietro Court, agreed signage should be posted at the subject location, adding there was no indication boaters were not authorized to navigate through same. He inquired whether cameras could be installed at the location and used for enforcement.
- Ms. Miller recalled previous discussions revealed maintenance, costs and monitoring of cameras needed to be considered.
- Mr. Bender indicated same might be worth exploring given the cost of the six pilings.
- Mr. Longenbarger questioned if riprap could be installed, adding same would prevent erosion.
- Ms. Miller replied the waters at the location were considered critical habitat for small tooth sawfish and installation of riprap would require special permitting.
- Mr. Disher advised staff would need to work with the consultants on the scope and permitting for that option if members desired.
- Ms. Miller confirmed a proposal and timeline of costs for riprap and signage could be provided at the next meeting.
- Mr. Harrigan indicated the question was how to prevent the reoccurring issues with boaters trimming mangroves.
- Ms. Miller reiterated same might require discussions with the Police Department, expressing uncertainty on whether a volunteer marine patrol could be considered for assistance.
- Mr. McIntosh recommended members approve the installation of the required pilings, adding staff could return with information on installing rip rap and signage at a future meeting.

- Mr. Daugherty MOVED, Mr. Longenbarger SECONDED for Ms. Miller to return with a review of the Committee's options for a long term solution to reduce issues at the subject location and to provide recommendations for same.
- Ms. Miller emphasized the District was legally bound to maintain current conditions, verifying same did not require a committed timeframe; however, staff had already met with the FDEP and they were waiting on the permit for same.
- Mr. Harrigan expressed concern boaters would trim the mangroves shortly after the new pilings were installed.
- Ms. Miller stated the mangroves were closely trimmed to the uplands, explaining boaters would need to shovel ground materials if they attempted to trim any more.
- Discussion ensued regarding the current conditions of the pilings and mangroves at Mayors Cut along with potential permanent solutions for same.
- Mr. Bevak indicated he had witnessed boaters trimming and running into mangroves, adding he had photographs of same; however, the Police Department informed him the photographs did not count. He drew attention to the Consent Order of the District, noting the FDEP advised him the Committee was responsible for maintaining the area.
- Ms. Miller verified the District, according to the Consent Order, included everyone who resided in BSI. She then requested clarification on whether the motion on the floor was for installation of the pilings and for staff to return to the next meeting with potential solutions for the edges of the mangrove area and cost for signage.
- Mr. Daugherty MOVED, Mr. Longenbarger SECONDED to make that motion.
- VOTING AYE: Daugherty, Longenbarger, McIntosh.
- VOTING NAY: Ashworth, Harrigan.
- MOTION CARRIED.
- Ms. Miller requested clarification on the verbiage for the signage.
- Mr. Harrigan replied same should advise it was illegal to navigate through the area with a power boat and disturbing mangroves was a federal offense.
- Mr. Ashworth added the signage should include "violators shall be prosecuted".
- Discussion continued regarding the rationale for potential signage at Mayors Cut, with Mr. Disher verifying an ordinance number would be required at the bottom of the signage or same would not be enforceable.
- Mr. Bender indicated some boaters might not be aware they were in violation, opining educating the community would be beneficial.
- Ms. Miller stated staff could assist with same, concluding additional information would be provided at the March 9, 2021, meeting.

- Mr. Nikula pointed out Section 1-14(d) of the Punta Gorda Code indicated the Chief of Police was authorized to appoint and train volunteers to serve as code officers, noting one provision covered interference with navigation. He suggested same might allow residents the opportunity to assist in monitoring the canals under the current Code.
- Mr. Disher expressed uncertainty as to how active the volunteer program was, indicating a previous accident had led to discontinuing same.

UNFINISHED BUSINESS

A. Seawall Materials and Methods Feasibility Study

- Mr. Disher reported City Council was presented with the Seawall Materials and Methods Feasibility Study (Study) at their January 20, 2021, meeting, adding he had sent members the link to the YouTube video of same. He indicated Councilmembers did not approve additional funding at this time, noting they requested further input from the public be obtained by the Canal Advisory Committees. He requested feedback from members and how they desired to proceed.
- Mr. McIntosh reiterated his suggestion to meet with Mr. Disher the following week to create a presentation which reviewed the results of the Study. He explained the presentation could include the potential outcome if annual rates remained the same as opposed to if same were to be increased, indicating massive seawall failures could occur in the future if residents were not proactive. He advised the presentation should be formatted to promote residents' understanding, suggesting a large venue be considered for the presentation.
- Mr. Disher commented staff could research options, noting the COVID-19 pandemic needed to be considered when involving the public. He suggested a virtual workshop might be an option, adding additional information could be shared on the City's website.
- Mr. McIntosh recommended the presentation be video recorded and live streamed as well, noting members needed to relay the message to residents somehow.
- Mr. Harrigan spoke in favor of the presentation; however, he indicated additional research was needed prior to presenting same. He recommended the Finance Department develop a proforma to address each item, including information on the lifespan of seawalls as well as costs for replacements. He opined members needed to convince residents that extensive research had been done.
- Mr. Disher stated staff had provided data and information on costs many times at previous meetings, noting staff could revisit same.
- Mr. Harrigan added members should also revisit decisions which were postponed, such as the BSI Inlet Widening Project and whether same was necessary.

- Discussion ensued regarding the rationale for the BSI Inlet Widening Project, which included barge access and current navigational issues within the BSI Inlet.
- Ms. Miller stated the Finance Department informed her a proforma would likely be available in April or May 2021, verifying rate changes would not go into effect until the next fiscal year.
- Mr. Disher reiterated staff would gather additional data, noting the consultants would be returning the final Study with comments incorporated into same. He concluded Councilmembers approved all recommendations from the Study except spending the funds.

STAFF COMMENTS

- A. Election of Officers – Chairman & Vice Chairman
- Recording Secretary Pues opened the floor for nominations for Chairman.
 - Mr. Harrigan NOMINATED Mr. McIntosh for Chairman.
 - As there were no other nominations, Mr. McIntosh was appointed Chairman by acclamation.
 - Recording Secretary Pues opened the floor for nominations for Vice Chairman.
 - Mr. Harrigan NOMINATED Mr. Ashworth for Vice Chairman.
 - Mr. Daugherty NOMINATED himself for Vice Chairman.
 - Consensus of members was to appoint Mr. Daugherty as Vice Chairman.

NOTE: Citizens Comments on Agenda Items Only heard following Item A – Staff Comments.

- Mr. Disher reported Mr. Bryan Clemons was hired as the new City Engineer.

COMMITTEE/BOARD COMMENTS

- None.

CITIZENS' COMMENTS

- Mr. Christopher Pena, 591 Macedonia Drive, stated a dock was recently installed at his property and he desired to have a boat lift installed as well; however, three marine contractors had advised same could not be done. He explained the contractors indicated an elevert boat lift would not work due to adoption of the new ordinance which required navigable channels be forty feet wide. He expressed confusion as to how to move forward without paying a large fee with the potential for his request to be denied, inquiring as to what his options were.
- A lengthy discussion ensued regarding Mr. Pena’s concerns regarding installing a boat lift at his property while adhering to the ordinance, with members verifying the portion of the ordinance concerning the width of the canal was adopted due to safety concerns related to navigation.

- Mr. Ashworth opined others in the area near Mr. Pena's property would encounter the same issue, suggesting the ordinance be revisited.
- Mr. Disher noted the draft of the ordinance was discussed at length at previous meetings, adding same could only be discussed so many times prior to going into effect.
- Mr. Pena indicated he was not aware of same.
- Mr. McIntosh stated an ordinance change or a special permit appeared to be Mr. Pena's only option.
- Mr. Daugherty suggested Mr. Pena meet with a marine contractor and go through the special permitting process, adding he desired to see examples prior to making a decision.
- Mr. Ashworth recommended estimating the number of lots affected by the ordinance change, reiterating larger concerns might result from the change.
- Mr. Disher noted smaller vessels could be stored within the subject area.
- Discussion continued regarding the process for revising the ordinance.
- Mr. Bevak opined the ordinance would be an issue for real estate agents which would have to disclose that the waters could not have a boat lift at the subject location, agreeing the ordinance should be reconsidered.

ADJOURNMENT

- Meeting Adjourned: 3:52p.m.

Mike McIntosh, Chairman

Leah Pues, Recording Secretary