

**BURNT STORE ISLES
CANAL ADVISORY COMMITTEE
MEETING
MARCH 13, 2018**

MEMBERS PRESENT: Bill Hughes, Chairman
John Forr, Sean Harrigan,
Mike McIntosh, Jack Pryor

OTHERS PRESENT: Cathy Miller, Canal Maintenance Supervisor
Gary Disher, Public Works Analyst
Rick Keeney, Public Works Director
Mark Gering, City Engineer
Jeff Ziemer, Joann Ziemer, John Todd, Rick Doll

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. Next Scheduled Meeting - April 10, 2018
- Mr. Pryor noted he would not be able to attend the April 10, 2018 meeting.

CITIZEN COMMENTS ON AGENDA ITEMS ONLY

- There were none.

APPROVAL OF MINUTES

- A. Approval of Minutes - February 13, 2018
- Mr. Harrigan MOVED, Mr. McIntosh SECONDED approval of the February 13, 2018 minutes. MOTION CARRIED UNANIMOUSLY.

REPORTS

- A. Patrol Update - February 2018
- Mr. Hughes briefly reviewed the February 2018 Marine Volunteers in Policing Report, as delineated in the agenda material, noting two patrols were conducted.
- B. Finance Reports - February 2018
- Ms. Cathy Miller, Canal Maintenance Supervisor, drew members' attention to the January 2018 financials, as delineated in the agenda material, confirming there were no questions.
- C. Budget Utilization Report - February 2018
- Ms. Miller drew members' attention to the Budget Utilization Report for February 2018, as delineated in the agenda material, explaining the recently invoiced cap replacement was completed in Fiscal Year (FY) 2016-2017.

D. Seawall Replacement Status Reports - February 2018

- Ms. Miller announced Burnt Store Isles (BSI) would be divided into north and south sections for seawall replacements.
- Mr. Hughes confirmed bidding started this date, questioning when work would begin.
- Ms. Miller reviewed the bidding process, estimating construction would begin in one to two months.

E. Permits Authorized by City Staff - Jan. & Feb. 2018

- Ms. Miller announced 6 permits were authorized by staff.
- Mr. Hughes drew attention to Permit #146602, noting Mr. Jeff Ziemer wished to voice concerns. He then announced the Committee would hear Hurricane Irma Seawall Failure Updates so that technical issues could be resolved.

Note: The remainder of the discussion was heard following Item B, Unfinished Business.

- Mr. Ziemer displayed two diagrams of the dock proposed at 3707 Candia Drive, as delineated in the agenda material, opining same encroached on the 40 foot navigable channel. He asserted City Code did not allow the construction of this dock. He voiced concern regarding the difficulty of navigating the curve of the canal, opining navigational rights superseded riparian rights when safety was in question.
- Mr. McIntosh inquired if the permit for the dock had been issued.
- Mr. Mark Gering, City Engineer, replied the permit application for Candia Drive had been received. He explained the dock met the forty foot requirement, further explaining analysis of the BSI canal system found navigation of this section with the dock would not differ significantly from other turns in BSI's canal system. He reminded members the definition for navigation of waters had always been measured to the root line of mangroves. He concluded the City Attorney had been asked to clarify the City Code section which stated docks and lifts within a canal could not "unreasonably or unnecessarily constitute a hazard," noting approximately 30 docks and lifts existed which presented similar issues.
- Mr. Hughes confirmed the application was pending until the City Attorney provided clarification.
- Mr. Ziemer opined previous approval of similar docks was not reason to continue to approve docks which could pose navigational hazards.
- Ms. Joann Ziemer opined the lock currently presented a navigational hazard which would be exacerbated by the construction of a dock, requesting staff take same into consideration.
- Mr. John Todd opined the proposed location of the dock was unsafe, suggesting the location of the dock be changed to the location of the other lift.

- Mr. Hughes requested Mr. Gering take the citizen's concerns to the Building Division.
- Mr. Gering stated he understood the Committee wanted an Ordinance change; however, staff needed more direction. He stated he reserved the right to determine whether the dock constituted an unreasonable and unnecessary hazard until the City Attorney provided direction.
- Mr. McIntosh requested the section of City Code which limited structures in canals to extend no further than ten feet waterward be brought to the City Attorney's attention.
- Mr. Rick Keeney, Director of Public Works, pointed out lifts did not constitute a structure according to the Building Division.
- Mr. Forr questioned whether the Keesling Construction drawing accounted for riprap.
- Mr. Gering replied in the negative, explaining edge of water was the standard used for permitting.
- Mr. McIntosh declared the Committee's hands were tied as this dock and lift met City Code. He requested clarification as to why a boat lift did not constitute a structure. He then confirmed the Building Division would not issue a permit for 3707 Candia Drive until the City Attorney directed otherwise.
- Mr. Pryor reiterated the Committee had no authority over the approval of this permit.
- Mr. Hughes questioned why the Building Division had not contacted the Committee about the permit for 3707 Candia Drive.
- Mr. Gering replied Mr. Randy Cole, Building Official, had been on vacation.
- Mr. Rick Doll opined the easiest solution at the pinch point was to dredge to the shoreline instead of to the mangroves.
- Mr. Pryor confirmed Public Works could include removing mangroves and dredging the corner of concern for FY 2018-2019. He opined if the canal were widened, it would make any difficulty resulting from construction at 3707 Candia Drive temporary.
- Mr. Forr noted if the corner were widened in the future, the current riprap would be removed.
- Mr. McIntosh confirmed a representative from the Building Department would address his concerns regarding boat lifts.
- Mr. Gering drew attention to the City Code which appeared to indicate the "ten foot waterward" limit regarding construction in the canals did not apply to BSI.
- Mr. Ziemer stated his attorney believed the forty foot width requirement and the "ten foot waterward" limit applied in this case.

Note: Items A and B, Unfinished Business, were heard following Item D, Reports.

UNFINISHED BUSINESS

- A. Hurricane Irma Seawall Failure Updates

- Mr. Gary Disher, Public Works Analyst, announced bids were opening this date and additional information would be presented at the next meeting.
- B. BSI Perimeter Channel "Pinch Points"
 - Mr. Hughes thanked Mr. Disher for the post-dredge hydrographic survey provided in the agenda material.
 - Mr. Harrigan explained he had used the 2015 bathymetric survey data to find channels which would have less than forty feet in width if a ten-foot wide dock were installed, suggesting specified lots be addressed by the Committee. He opined the canal was originally widened to maintain a navigable channel width of forty feet.
 - Mr. Hughes confirmed the bathymetric data only pertained to perimeter canals. He inquired if members wished to review Canal Construction Special Permits before the City issued a permit at the identified pinch points.
 - Mr. Forr recalled City Council had decided lots would not be purchased to stage for seawall repair and replacement, therefore the canals needed to remain wide enough for navigation by a barge.
 - Mr. Pryor opined mangroves and seawalls already precluded a barge from navigating certain sections of the BSI canals. He spoke in favor of the Committee reviewing permits at pinch points. He stated barges might not be needed in the future if the City pursued new seawall installation methods; however, maintaining the specified canal width remained vital for safe navigation.
 - Mr. McIntosh questioned if the Committee wanted to change the standard for a navigable waterway back to fifty feet and require all docks and lifts which would encroach on that standard to obtain special approval.
 - Mr. Hughes voiced uncertainty regarding same, speaking in favor of Mr. Harrigan's proposal to address the previously identified lots.
 - Mr. McIntosh expressed concern Mr. Harrigan's proposal targeted individual lot owners, opining a restriction of fifty feet would not target individuals.
 - Mr. Disher noted specific locations had been given restrictions in Punta Gorda Isles due to impediments such as bridges.
 - Mr. Keeney recalled a previous City Attorney had advised the change to forty feet be made to protect the riparian rights of all property owners within BSI.
 - Mr. Harrigan drew attention to a section of canal fronted by 3707 Candia Drive, opining the construction of a dock would leave less than a forty foot navigable waterway. He argued maintaining navigability was the issue at hand.
 - Mr. Keeney reminded members City Code already precluded the approval of docks which encroached on the forty foot navigable waterway. He pointed out the previous

dredging had been done to maintain, not widen, the canals, adding widening the canals at pinch points could be done in the future.

- Mr. Hughes reiterated the Committee wished to identify pinch points which would require special approval to construct a dock.
- Mr. Harrigan confirmed the definition of a navigable channel concerned the area from the mangrove root line to the seawall, which was a different standard than used for dredging.
- Mr. Keeney recalled City Attorney Levin refrained from defining a navigable waterway with specific measurements due to the diverse requirements of different vessels for same.
- Mr. McIntosh opined the Committee had authority to review pinch points to maintain the forty foot navigable waterway.
- Mr. Harrigan questioned whether the definition of a navigable waterway should include the dredged channel or just the width of the waterway.
- Mr. McIntosh opined there would not be a clear answer regarding same.
- Mr. Keeney stated a width of forty feet was being maintained according to the drawings submitted for the Candia lot permit. He clarified the Building Department certified the canal widths. He recalled the current discussion was instigated to determine pinch points at areas where properties had forty feet or more of width.
- Mr. Hughes confirmed the Committee desired to continue this discussion at the April 2018 meeting.

STAFF COMMENTS

- Mr. Gering reiterated staff was waiting to issue the permit for 3707 Candia Drive until the City Attorney clarified what constituted an unreasonable or unnecessary hazard. He added the Building Division could confirm whether the word “except” in the clause regarding BSI was the basis for the approval of the permits extending more than ten feet waterward. He concluded the Building Division would address the Committee’s concerns regarding lifts.

ADJOURNMENT

- Meeting Adjourned: 2:50 p.m.

Bill Hughes, Chairman

Sara Welch, Recording Secretary