

TCSW 10-31-1996

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MEMORANDUM

DATE: October 25, 1996

TO: Town Commission
FROM: Griff H. Roberts, Town Manager
SUBJECT: Special Commission Workshop Meeting
(10-31-96 @ 1 PM)

Notice is hereby given that Mayor Bob Drohlich has called a Special Commission Workshop Meeting on Thursday, October 31st, at 1:00 P.M. for consideration of the following item:

- I. Canal Dredging Report
- II. Town Attorney Comments
- III. Town Manager Comments
- IV. Town Commission Comments
- V. Public To Be Heard
- VI. Press To Be Heard

(* Indicates no agenda material was distributed at this time.)
(# Indicates revision.)
(@ Indicates postponed or requested to be postponed.)

If any person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, a record of the proceedings will be needed. For such purpose that person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

/dhs

minutes indexed
1-2-97

MINUTES OF THE SPECIAL WORKSHOP OF THE LONGBOAT KEY COMMISSION,
OCTOBER 31, 1996, 1:00 PM

Present: Mayor Drohlich, Vice-Mayor Metz, Commissioners Legler,
Farber, Sagman, Loiselle

Absent: Commissioner Patterson

Also Present: Town Manager Roberts, Assistant Town Manager St.
Denis, Town Attorney Persson, Public Works Director
Smally, Town Clerk Arends, Deputy Clerk-Minutes Dunay

I. Canal Dredging Report

Mr. Roberts stated the report would be presented by slides using the overhead projector; each Commissioner received a photocopy of the slides. He explained that the first section for review would be the project background; staff and the Town Attorney helped to compile the report, and Mr. St. Denis prepared the outline.

Mr. Roberts reported that the Coastal Planning & Engineering (CPE) study proposed dredging specific canals with an initial project cost of \$1.2 million; at the 2-15-96 Workshop the Commission discussed canal dredging and the canals that were included in the estimate. The Commission directed investigation of additional canals; those canals were added to the project, and the total project was estimated at \$1.8 million.

Mr. Roberts reported Town staff conducted a survey of affected canal properties with the following results: surveys were mailed to 881 property owners; 67% of the surveys were returned; 61% of the surveyed property owners favored a canal dredging program, and 50% were willing to pay for the program. He explained the figures were based on a limited study and the cost could vary as a result of several factors that could not be identified without further study; the canals to be included in the final project and the cost of disposing the spoil material needed to be addressed.

Mr. Roberts reported that several concerns needed to be discussed: ownership of the canals; liability; and the financing method. He stated the first concern to be discussed would be financing.

Mr. Roberts explained there were various funding options: total public funding - the entire project would be funded as part of the Town's annual budget; total private funding - establishing a special assessment; or a combination of both options. The assessment vehicles available to fund the private portion could be by special assessment - each benefited unit would pay an equal share; assessment to benefited properties would be based on ad

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valorem values. He pointed out the alternatives that were available to create special assessment scenarios of the project: special assessment, per unit; ad valorem; and special taxing districts. He noted that a small amount of funding, \$50,000, may be available through a grant.

Mr. Roberts presented a funding example for review and discussion; with reference to dredging "public" canal areas the example included: Country Club Shores; Buttonwood; Gulf Bay Road; Emerald Harbor/Buccaneer area; Cannons Bayou, including Dream Island Road south; Bishop's Bayou; and Lands End Canal. The examples assumed the Town would pay a third of the cost, and the residents would pay two-thirds of the cost on a per unit basis. He pointed out this was a common approach with assessment programs; however, the Commission could take another approach. The cost allocations were as follows: cost to dredge "all public canals" - \$1,033,313; Town's portion - \$344,438; residents' portion - \$688,875; the numbers of benefited units were 607; the cost per unit calculated to \$1,135.

Mr. Roberts reported the "private" canal areas the example included were: Roger Cook Subdivision; Longboat Harbour Basin; Longboat Harbour North Basin, Windward Bay; Bermuda Bay to Champion Way; General Harris area, Bayview to Juan Anasco; and Longboat Key Estates. He pointed out the cost allocations as follows: cost to dredge "all private canals" - \$888,594; Town's portion - \$296,198; residents' portion - \$592,396; the number of benefited units were 365; and the cost per unit calculated to \$1,623. He noted Tarawitt was also included in the cost analysis.

Mr. Roberts stated if the Commission chose the ad valorem tax rate option for funding, and all costs were paid by ad valorem taxes, two scenarios were developed: the project estimate was \$1.2 million and would increase ad valorem taxes by .000555 mills, a little over half a mill. He explained a one-time tax charge to all property owners of \$166.50 would be assessed for a property with a taxable value of \$300,000. He noted if the project cost were \$1.8 million, the ad valorem taxes would increase by .000833 of a mill, or a one-time tax charge to all property owners of \$249.90

Commissioner Loisellette stated that Windward Bay had a small low point which would take about 50 cubic yards; he pointed out the problem would be going from the seawall to the Intercoastal Waterway, and that area was not included in the project; he asked who would take care of that area.

Mr. Roberts asked if Windward Bay was a public canal. Commissioner Loisellette stated it was a private canal. Mr. Roberts stated later in the presentation it would be pointed out that the

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Commission needed to address the issue of private canals. He explained that the project had developed into two separate issues: private and public canals. The Commission would need to determine what the criteria would be in order for the Commission to be willing to incorporate private canals into the project and on what basis.

Commissioner Loiselle stated the problem would not be solved. Commissioner Legler asked if the example assumed that every property owner would pay the same amount. Mr. Roberts replied yes; however, other options could be discussed.

Commissioner Legler asked if the 1/3-Town payment and the 2/3-property owner payment plan was the same as the ad valorem plan. Mr. Roberts explained that the 1/3 - 2/3 plan example applied to canal property owners only; all Town residents would not be taxed. Commissioner Legler asked if the 1/3-tax applied to all property owners. Mr. Roberts stated the Commission would have to determine where the 1/3-payment would come from; he noted that there were recommendations for the Commission to discuss if that plan were chosen by the Commission.

Commissioner Sagman said she agreed with Commissioner Legler; property owners would like to know how much the canal dredging project would cost; she asked if that figure were available. Mr. Roberts stated that scenario could be calculated.

Commissioner Sagman stated using the 80/20 breakdown, 80% of the project would be paid for by the people who benefited, and 20% of the project would be paid by all others. She noted that there would be a great number of "all others" -- people who lived on the Bay side and not on canals. She stated she interpreted the situation as "people who paid 80% for the beach renourishment project would now pay 20% of the canal dredging project", and vice-versa. Mr. Roberts stated that was the technique used for the beach renourishment project; however, that technique was not being recommended for the canal dredging project.

Commissioner Farber asked if all the private canals on Longboat Key were indicated on the provided list, with the exception of Bay Isles. Mr. Roberts replied yes. Commissioner Farber pointed out that Bay Isles had approximately 1,100 dwelling units, which would equal about 15% of the dwellings on Longboat Key, and close to three miles of waterways. He noted that the Bay Isles Master Association did not want the Town to maintain their canals; therefore, if the Bay Isles community were assessed that would not be fair. He stated the Commission should discuss the situation with the Bay Isles community before moving forward.

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Mr. Roberts pointed out that the report did address private canals; a suggestion would be made to the Commission that all private canal owners would have the opportunity to join the project; if they chose to join and met the standards established by the Commission the cost would be dispersed. He noted that an easement would be necessary so the work could be performed.

Mayor Drohlich commented whenever the Commission discussed the financing the project became fragmented. He asked if any consideration was given to spreading the cost of the dredging project by ad valorem over a five- or ten-year period. Mr. Roberts replied that the Commission could do that; the Town would have to "front" the money.

Mayor Drohlich stated the Town could charge interest; if the financing of the project were spread over ten years then everyone would pay something; however, it would not be a large amount. Mr. Roberts noted an amortization schedule could be developed and property owners would have the option of paying it off or having a lien placed on their property.

Mayor Drohlich asked why a lien would be placed on the property. Mr. Roberts stated when assessment programs were used a lien would be placed against the property.

Mayor Drohlich suggested the Commission keep in mind that several financing recommendations were made and nothing would satisfy everyone.

Commissioner Legler stated that \$2 million dollars was a small amount of money for a bond issue; the expense would be approximately \$200,000 just for the bond itself for the fees. Mr. Roberts replied that the additional cost was usually eight to ten percent of the bond.

Commissioner Farber asked if property owners who did not live on a canal or the water and who had no direct or indirect access to the water should pay for the project. He explained beach renourishment was a separate issue because everyone had access to the beach; however, canal dredging and beach renourishment could not be compared. He questioned if the Commission were being fair to the property owners by assessing property owners who had no direct or indirect access to the canals.

Mr. Roberts stated that issue had been discussed frequently with assessment programs; there were many examples of assessment programs where individuals who did not directly benefit by their choice were charged for the assessment. He pointed out many cities would install a sanitary sewer line and allow people the opportunity to connect; those who chose not to connect would

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SPECIAL WORKSHOP (CONT.)

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still have the same assessment; the same process could apply to roads, sidewalks and other projects.

Commissioner Loiselle stated Manatee County had a simple plan that worked; people who benefited from the canal dredging would pay for the service; two or three canals could be completed at a time and the cost divided among the property owners.

Vice-Mayor Metz commented the Commission needed to decide if the project would be moved forward. Mayor Drohlich stated there was an agreement to move forward with the canal dredging project predicated upon the financing and liability issues.

Mr. Roberts reported that the Town Attorney researched the issue of ownership; he asked Mr. Persson to elaborate on the subject.

Mr. Persson reported there were various categories of canal ownership on Longboat Key; public ownership was very clear, in Country Club Shores when the property was platted the streets and canals were dedicated to the Town; there were no rights to natural bodies of water, they were public; there were private ownership canals where the grantor intended them to be private; Bay Isles would be a classic example - they knew when the canals were dug that it was upland and the original plat indicated private canals; it was always intended to be private; some condominiums were part of the upland and that would be part of the common elements and a private water base. The early subdivisions were interesting; the developer had a piece of property and uplands were needed and canals were dug; the area was subdivided and sold; however, the canal bottoms were not sold or dedicated; that would create the "accidental" private ownership; the original developer sold the land and the property was upland so the original developer or his heirs would be the technical owners of that strip of property. Longboat Key Estates Homeowners Association may have enough power to grant an easement; although there was never a grant from the grantor to the public, the Homeowners Association had many indications of authority.

Mr. Persson referred to the Tarawitt Drive area, a non-subdivision where all of the property was divided by metes and bounds; the canal was dredged in the middle and there was no subdivision plat or dedication, no conveyance of easement to the public; it appeared that some people had given up some of their rights connected with canals; however, most had not. In those types of areas it would be necessary for those types of owners to agree to give up rights to the bottom and allow a public easement. Those were the types of ownership of canal bottoms.

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He pointed out some were marked "preliminary"; the reason for that was because this was "a legal morass"; every title was not looked at, but the basic canals were examined; determination of ownership was based upon the canals that were examined.

Mr. Persson stated a time frame of three months would allow enough time for private canals to become public canals, with an extension available if reasonable efforts were being made.

Mayor Drohlich asked if the Town could take over private ownership by public domain. Mr. Persson replied the Town could bring it in by domain action; to take the canals, cost would be a problem; someone would make a claim for damages or at least the cost of the property. There were two methods for taking property by private domain: "quick-take" method, which could be dangerous; the other method would be a "slow-take", where the value may not be agreed upon and the issue would go to court and a jury would determine the value.

Commissioner Farber stated the lots on Jungle Queen Way were measured from the middle of the canal to the middle of the street; he asked if the canal were private. Mr. Persson replied that the canal was private.

Commissioner Farber asked if the Jungle Queen canal was included in the proposed project. Mr. Roberts confirmed the canal was part of the proposed project.

Mr. Roberts reported the next issue for discussion was liability; canals could be narrow and dredging could affect stability at the "toe" of the wall; seawalls could be in poor condition so that any activity could accelerate failure.

Mr. Roberts explained that liability could be addressed in several ways: delete the problem areas from the project; require property owners to sign waivers prior to dredging; additional insurance could be purchased; liability could be passed to the contractor through the contract; steps could be taken to minimize liability. He reported liability may be overrated; an inspection of the seawalls would be made; a video of the seawalls could be made, and property owners could be notified by written notice that their seawall was in danger of failing; the property owner would be asked to repair the seawall or provide an engineer's opinion about the suitability of the canal.

Mayor Drohlich questioned the cost of insurance to protect the Town. Mr. Roberts replied at this point that figure was not determined. Vice-Mayor Metz asked if the Town Attorney investigated the possibility of additional insurance through the Town's insurance carrier. Mr. Persson reported that he spoke

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with Mr. Hubbard and the insurance carrier, and obtaining additional insurance was recommended. Mr. Roberts stated another avenue would be to require the contractor to obtain the insurance. Mr. Persson stated that there was a risk factor; the contractor would raise the price to cover the additional insurance.

Commissioner Sagman questioned if seawalls were insurable. Mr. Roberts stated it would be a liability policy of the Town for the contract; seawalls would not be insured. He noted the cost to perform the survey was not included in the estimate; if the Town wished to perform the survey the cost would need to be allocated.

Mayor Drohlich asked if the figures given previously included insurance or seawall protection. Mr. Roberts replied the figure given was just for the dredging.

Commissioner Legler questioned how the Town would protect itself over the next 10 or 20 years; he asked if a statute of limitation could be added. Mr. Persson replied that was the problem, as five years from now a seawall could fail and the Town could be sued; the insurance policy could be extended for a certain period of time, or the liability could be passed to the contractor for an extended period of time.

Commissioner Farber stated the number one issue was liability; if that issue could not be solved it would be difficult to move forward. He pointed out that Manatee County had a plan and asked if that portion of Longboat Key within Manatee County could be included in Manatee County's plan. Mr. Roberts reported that staff attempted to receive information from Manatee County; however, staff was not successful; telephone calls were made. Mr. Persson replied the Town could not legally delegate the Town's ability to establish the special assessment, MSTU, to the Manatee County Commission. The Town could enter into an interlocal agreement with Manatee County to utilize Manatee County's staff for purposes of preparing information for the Town; the final authority for making those determinations would rest with the Town Commission.

Commissioner Farber stated Manatee County had a plan in place which was effective, whether the Town "piggybacked" Manatee County or adopted the plan, 50% of the work would be done; the problem of liability would be solved.

Mr. Roberts said he had concluded that the Town should not become involved with Manatee County due to the complexities.

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Commissioner Farber stated the Town could use Manatee County's plan as a guide for the Town; the problem with liability was solved.

Mayor Drohlich stated that he spoke with Stan Stephens (Manatee County Commission Chairman) and Manatee County had a limited plan; only five very small projects were completed within the last five years.

Mr. Roberts reported that the Manatee County plan was simple; property owners had to agree to waive liability or the canal would not be dredged; that would eliminate a good portion of the project. Mr. Persson noted that a provision was included that liability needed to be waived; however, no one signed the waiver.

Mr. Roberts pointed out that CPE estimated that preliminary studies, design, permitting and development of construction documents would take approximately 18 months; dredging could start after that point. He noted the timeframe would be greatly influenced by: How long it would take the Commission to decide to proceed with the project; determination of which canals to include in the project; the time it would take for private canals to be included in the project; elimination of barriers to public dredging; time to identify an acceptable spoil site.

Mr. Roberts explained that the Town Commission needed to determine several issues: was the project worth pursuing; what areas would be included in the project; if private canals were considered, how much time would be allowed for them to become public; how would the project be funded; what were alternatives for funding sources; what would be the basis for private contribution percentages; would cost assessed to private owners be based on actual cost of dredging a particular canal, or "blended" so that all units were charged the same regardless of the cost of dredging the canal.

Mr. Roberts concluded the presentation and distributed cost data to the Commission. He explained if the Town wished to use a funding allocation of 50% paid by the Town and 50% paid by property owners, the calculations were as follows for public canals: unit cost at \$851 per unit; for private canals the cost would be \$1,217 per unit - the cost was higher in the case of private canals due to the lower number of units.

Vice-Mayor Metz asked if the total number of units for the Town was 972. Mr. Roberts stated that the total project cost was \$1,921,900; the Town's portion was 50% of that, \$960,950; the portion for property owners would be \$960,950; the average per unit was \$988.

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Mr. Roberts reported if the Town wished to use a funding allocation of 25% paid by the Town and 75% by property owners the calculations were as follows for public canals: unit cost at \$1,276 per unit; for private canals the cost would be \$1,826 per unit.

Commissioner Farber asked if the Town could take the cost of the liability insurance and ask those people who lived on the canals to pay their own liability insurance. Mr. Persson pointed out that Manatee County's plan rolled back the cost of the assessment to the MSTU; however, it may be possible to establish a similar system so if any further liability were incurred it could be rolled back into the special assessment.

Mr. Roberts noted that the report identified certain canals that had a risk to dredging; if the Town could identify those canals and inform the property owners that their canal was a risk and the cost of insurance would be added to their portion.

Commissioner Legler pointed out that there was a provision under Florida law that said a unit benefit assessment could be made; he asked if a unit benefit assessment could be set up for the next 10 years on all property owners who lived on canals. He noted that his concern was that "down the road" suits would be filed against the Town if seawalls failed.

Mr. Persson replied the municipality had the power to set it up; some legislation applied to the counties; the question would be the cost of setting it up and administering it; the insurance cost should be minimal considering the size of the project.

Mr. Roberts reported that staff considered the possibility of requiring property owners to sign a waiver of liability, or require them as a unit or a canal to provide their own insurance.

Commissioner Loiselle stated he was concerned about the millage: the Town was paying on the 1993 beach project, on the interim project, and if the Town went along with the 1998-1999 project, the canal dredging would run concurrently; people on the Gulf side would be paying 4.6 mills which was close to the limit of 5 mills. Mr. Roberts replied that the limit was 10 mills.

A recess was called at 1:50 PM; the Special Workshop reconvened at 2:00 PM.

Mayor Drohlich stated the Commission needed to break down the project and make some decisions. He asked Mr. Roberts to list on the chalkboard the following: 1) Request by Canal Property Owners - (A) dredge canals on individual basis, and (B) Town sharing cost with individual canal owners; 2) Community of Canals (by

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group)-(A) dredge canals by group, and (B) Town sharing the cost; 3) Town would take over the responsibility to dredge all of the canals; 4) establish a taxing district, similar to the beach renourishment project.

Mayor Drohlich asked if there were any other options that needed to be listed. Commissioner Loiselle asked if there were a possibility of obtaining State aid. Mr. Roberts replied the State aid would be minimal, approximately \$50,000. Commissioner Legler stated establishing a separate district may be too elaborate for this type of operation. He suggested different charges for canal owners and non-canal owners rather than a district. Mayor Drohlich stated he would like to consider establishing a district. Mr. Roberts listed Commissioner Legler's suggestion on the chalkboard.

Mayor Drohlich asked if there were items that could be removed from the list which the Commission wished to eliminate. Commissioner Farber suggested moving along in a different manner; the Town should go into a canal dredging program covering all canals within the Town, both public and private; it did not mean the dredging procedure would be used in every canal. Mayor Drohlich stated that Commissioner Farber was suggesting following "3" on the list - that would be to have the Town assume the responsibility for all canals. Commissioner Loiselle stated he wished to eliminate "1" on the list. Commissioner Sagman asked for clarification on "1" from the list. Mayor Drohlich explained that residents on a particular canal would make their own determination to dredge their canal. Commissioner Sagman stated "1" should not be eliminated.

Mayor Drohlich approached the issue from another angle. He stated Commissioner Farber suggested that concept "3" be followed; he asked for a consensus.

Commissioner Farber stated it was easy to separate the Town into areas; however, if canal dredging was good, it would be good for all canals; for that reason, if the Commission assumed that canal dredging were important it would be important for all canals.

Commissioner Legler stated canal owners should pay more than non-canal owners. Mr. Roberts stated financing would be another issue; the question was: should (3) be the policy for the Town; if that were the consensus of the Commission then the next step would be to select the financing plan.

Commissioner Sagman pointed out that 90% of the boats were able to travel along the canals. Dr. Antonini had stated that 90% did not have a problem. Commissioner Sagman had stated "going

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overboard" on a project to improve such a small percentage did not make sense.

Commissioner Farber stated if the Town agreed to assume the responsibility for dredging all of the canals it would not mean that all of the canals would be dredged; only the canals that required dredging would be worked on.

There was a consensus to remove from the chalkboard all of the suggestions except for the suggestion of the Town assuming responsibility for all of the canals within Longboat Key.

Mayor Drohlich stated there was a consensus for the Town to assume the responsibility for all of the canals within Longboat Key as its policy; the next issue would be to break down how the Town could assume the responsibility.

Mr. Roberts stated the Town could set its standard for what basis it would assume responsibility for private canals; if the owners of those canals were to agree to the dredging under those conditions, it could be accomplished.

Mayor Drohlich stated that the Town would establish a policy for public canals and if the private canal property owners wished to proceed with the policy they could join in.

Commissioner Sagman asked what criteria would be used to determine whether a canal would be dredged. Mr. Roberts replied that would be a policy decision for the Commission; a typical assessment program would need 51%.

Mayor Drohlich asked if it were the Town's obligation to keep the canals open since the Town owned the public canals. Mr. Roberts replied that the Town had the right to make that policy.

Commissioner Legler pointed out that the Commission reached a consensus that the Town would take responsibility for all of the canals within Longboat Key. He stated the next issue would be to determine how private canals could be included in the program. Mr. Roberts replied that would be subject to Town policy; the Commission needed to determine Town policy.

Commissioner Farber stated Commissioner Sagman was concerned about dredging canals that did not require dredging. He explained that a survey could be performed that would inform the Commission of the standard by which canals would be judged; the canals would be dredged to that standard. Mr. Roberts replied that CPE already performed that study; that was one of the results from the study and there was a recommended depth of 5.2

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feet; anything that was already at 5.2 feet or deeper would not be dredged.

Commissioner Loiselle stated that he was still concerned with the liability issue.

Vice-Mayor Metz asked if the Town issued the policy and assumed the responsibility for all of the canals, would that mean the Town would be responsible to clean up silted canals. Mr. Roberts replied that would be determined by what the policy conditions were; he explained that government did what individuals could not do themselves or could not do as well themselves; government collectively could perform the job better than individuals could by trying to dredge their own property.

Mr. Roberts suggested the Commission may wish to determine the percentage the Town would be willing to pay within the established policy. Mayor Drohlich suggested the Town be responsible for 50% of the cost and the necessary additional insurance.

Commissioner Legler questioned whether the decision to dredge a canal would be made by the property owners or by the Town Commission. Mr. Roberts replied that the procedure could be that property owners would petition the Town for dredging of their canals, and the Town would establish criteria for the projects; a certain number of canals would constitute a project.

Commissioner Farber suggested that the Town assume the responsibility for dredging both public and private canals to a standard, and the Town would start dredging immediately; he stated if canal dredging was important to Longboat Key the Town should enter into a program to dredge all the public canals and those private canals where owners asked to be included in the program.

Mr. Roberts replied that the Town would have an "everyday" dredging program established. Mayor Drohlich stated he did not agree with Commissioner Farber. Mr. Roberts reminded the Commission that the canals had never been dredged; a one-time dredging program could last for a prolonged period; that would speak against an ongoing program. He stated there were other alternatives that could be taken.

Mayor Drohlich asked for a consensus that the Town would pay 50% of the cost for canal dredging with canal owners petitioning the Town for the service. Mr. Roberts stated that the Town would need to determine what a unit would be the (number of canals in a project). Mr. Roberts stated it would be advisable for the Commission to know what a reasonable size project would be.

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Dr. Cliff Truitt, Mote Marine, stated there were certain fixed costs that would apply to any size project; half to three-quarters of a million dollar-range would be the least amount a dredging contractor would be interested in pursuing on a one-time mobilization.

Mayor Drohlich asked if a percentage figure could be established with language that would require a certain amount of interest prior to proceeding. Mr. Roberts replied that could be part of the Town's policy; once a certain number of canals or property owners petitioned the Town, the engineers would perform the design work and bids would be taken and there would be an assessment project.

Dr. Truitt stated the petition would be used to acknowledge that the private property owner agreed to pay for the project; it would also be used to get permission to use the property; dredging could not take place unless the private property owners agreed to designate the Town's engineer as agents for the applicant.

Commissioner Farber stated he did not favor the Town funding 50% of the cost because the Town was the taxpayer; the taxpayers would be paying 50% of the cost for dredging canals for other taxpayers who had direct access to the canals; the people who lived on canals had a very direct benefit, and those people who did not live on canals had no benefit; the Town should not participate at that level; also, the Town should not carry the insurance; the people who lived on those canals and who wanted the canal dredged should be willing to pay the necessary insurance.

Mr. Roberts reported if the Town assumed responsibility for all canals there were some canals that were silted in; the cost to dredge those canals would be high both to the Town and property owners; CPE did advise not to dredge certain canals, so if those canals were to be dredged a waiver of liability should be obtained first.

Vice-Mayor Metz stated he had no problem with 50% of the cost being paid by the Town; however, he was concerned with the insurance issue. Mr. Roberts stated the seawall survey would not be eliminated; the property owners would be notified if their seawall was determined to be failing.

Commissioner Legler stated the Town would levy an assessment; property owners could petition the Town to dredge the canals; a six-month "window" could be given to allow property owners to petition the Town; every property owner on those canals would be

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required to pay an assessment; he suggested allowing an additional six-month period for private canals so easements could be given to the Town. Commissioner Legler stated the insurance issue needed to be clarified; if a resident were to sue the Town the insurance company would defend the Town, and if the Town were found to be liable then the insurance company would pay.

Commissioner Sagman stated she was against the Town paying 50% of the cost for canal dredging; only two-thirds of the people returned the survey and from the returned surveys only 50% were willing to pay for canal dredging.

Mayor Drohlich asked if the project were worth pursuing; the issues of insurance, ownership, and financing had been discussed. Commissioner Legler indicated yes; Vice-Mayor Metz indicated no; Commissioner Loiselle indicated no; Commissioner Sagman responded with a qualified no; Commissioner Farber responded with a qualified yes; Mayor Drohlich indicated yes.

Commissioner Farber explained that canal dredging should be driven by the public; if the public wished to have the canals dredged they would organize themselves and inform the Commission that they wished to dredge the canals, and then the project should be moved forward. Mayor Drohlich stated there was no consensus with a "3 to 3 vote"; however, the issue should be moved forward to the next step.

Mr. Roberts replied that the Commission was on the right track; he suggested the Commission identify the policy for canal dredging and state what would be required from the public to get their canals dredged; that policy could be offered to the public and then determine if the residents wished to have the canals dredged. He stated that another Workshop could be scheduled for the full Commission.

Mayor Drohlich asked each Commissioner to submit to the Town Manager their suggestions and proposals to establish a criteria for the Town policy on canal dredging.

Commissioner Loiselle suggested that the Commission table the discussion on canal dredging. Mayor Drohlich stated the Town Manager should have a minimum of 30 days to report prior to the next Special Workshop; he suggested placing an advertisement asking for input and announcing the date of the Workshop.

Rainer Josenhanss, 6669 Gulf of Mexico Drive, stated he was concerned and confused when the Mayor asked for each Commissioner to submit a proposal to the Town Manager; an informal vote was made and it was "split". Mayor Drohlich stated the Commission did not vote on the issue, a consensus was asked for.

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Mr. Josenhanss stated Mr. Roberts identified the problem and only eleven people were present at this Special Workshop; the program should be written on paper and then a referendum should be held to determine the interest. He pointed out that spending \$1.9 million to benefit 972 canal owners who were not present to discuss the issue was not cost efficient.

Mr. Roberts stated he was not advocating a referendum; however, if a petition were received, that in essence would be a referendum from that group, because they would be informing the Commission they wished for work to be done.

Helen Holt, 608 Bayview Drive, disagreed with Mr. Josenhanss; she stated just as the beach renourishment program improved the value of the property of every Longboat Key property owner, so would deep-water canals; canal accesses were available throughout the Town. She added that canal property owners should have to pay more than the beach residents.

Jim Brown, former Mayor, 524 Outrigger Lane, stated the beach issue was put forth as a Town issue, the community of Longboat Key moved ahead with the beach and unity was achieved -- people worked together to meet a need. He pointed out that canals were a factor when determining property values; however, the water in those canals were traveled by fishermen; the canals belonged to everyone. Mr. Brown stated the canal property owners should pay the major part of the project; he noted 15 years ago the Town had an ordinance which permitted canal property owners to petition the Town and establish a special district for canal dredging; the Town would pay the engineering and administrative costs.

Richard Olin, 3440 Gulf of Mexico Drive, Director of the Buttonwood Harbour Channel System, stated he was in charge of maintaining the waterway markers within the channel and maintaining a good relationship with the Coast Guard; he spoke on behalf of the membership; the Buttonwood Harbour area was called a public canal; however, some canals were actually private because they only serviced one group of homeowners. He pointed out the Town would be the appropriate vehicle for mobilizing the project; it would be very difficult for individuals or small groups to achieve large projects such as canal dredging.

E.K. Ervin, 5850 Gulf of Mexico Drive, stated he had lived on Longboat Key for 27 years; some canals were silted in, and the Commission could address dredging those canals. He stated the Commission did not address the issue of bottom lands from an environmental viewpoint; he was concerned that dredging would affect the bottom land.

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SPECIAL WORKSHOP (CONT.)

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Mayor Drohlich asked for the Town Manager to proceed with the plan.

II. Town Attorney Comments1. The Reserve Case

Mr. Persson reported that The Reserve case was scheduled for trial in November; he would advise the Commission of the actual date.

III. Town Manager CommentsIV. Town Commission Comments1. Seawall Construction - GMD

Mayor Drohlich stated he attended the Metropolitan Planning Organization meeting on 10-28; construction of the seawall by the trailer park was scheduled to start on 12-2; the contractors had 40 days plus holidays and rain days to complete the seawall.

Commissioner Sagman asked if the projects were moved forward because of the last tropical storm. Mayor Drohlich replied yes.

2. Town Commission/Sarasota County Commission Joint Meeting

Mayor Drohlich stated he attended the Council of Government meeting held on 10-30; a round table discussion was held. He explained that he spoke to Gene Mathews, Sarasota County Commission Chairman, and discussed scheduling a Town/County joint meeting. Mayor Drohlich asked that a formal request and agenda be sent to Commissioner Mathews at Sarasota County.

Mr. Roberts replied that he would compile a list and asked that each Commissioner suggest items for the agenda.

3. Sarasota County Tourist Development Funds

Commissioner Loiselle stated that he spoke with Jack O'Neil, Sarasota County Commissioner, who was advocating the 1% added tax to the TDC funding; the Town should push to get the extra 1%.

4. St. Jude's Benefit Luncheon

Commissioner Farber advised the Commission that the St. Jude luncheon would be held on Saturday, 11-9-96; former Mayor Jim Brown had tickets.

5. Bayfront Park Recreation Center Tennis Courts

Mr. Roberts stated the tennis courts at the Rec Center were completed and available for use; he asked if the Commission was interested in holding a tennis match.

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6. Employee Appreciation Dinner

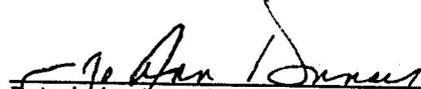
Mayor Drohlich reminded the Commission that the Employee Appreciation Dinner was scheduled for 11-16; if they planned to attend the dinner, they should make their reservations.

V. Public to be Heard

VI. Press to be Heard

VII. Adjournment

The Special Workshop was adjourned at 4:25 PM.


Patricia Arends, CMC/AAE, Town Clerk
Jo Ann Dunay, Deputy Clerk-Minutes

MINUTES OF THE SPECIAL WORKSHOP OF THE LONGBOAT KEY COMMISSION,
OCTOBER 31, 1996, 1:00 PM



Present: Mayor Drohlich, Vice-Mayor Metz, Commissioners Legler,
Farber, Sagman, Loiselle

Absent: Commissioner Patterson

Also Present: Town Manager Roberts, Assistant Town Manager St.
Denis, Town Attorney Persson, Public Works Director
Smally, Town Clerk Arends, Deputy Clerk-Minutes Dunay

I. Canal Dredging Report

Mr. Roberts stated the report would be presented by slides using the overhead projector; each Commissioner received a photocopy of the slides. He explained that the first section for review would be the project background; staff and the Town Attorney helped to compile the report, and Mr. St. Denis prepared the outline.

Mr. Roberts reported that the Coastal Planning & Engineering (CPE) study proposed dredging specific canals with an initial project cost of \$1.2 million; at the 2-15-96 Workshop the Commission discussed canal dredging and the canals that were included in the estimate. The Commission directed investigation of additional canals; those canals were added to the project, and the total project was estimated at \$1.8 million.

Mr. Roberts reported Town staff conducted a survey of affected canal properties with the following results: surveys were mailed to 881 property owners; 67% of the surveys were returned; 61% of the surveyed property owners favored a canal dredging program, and 50% were willing to pay for the program. He explained the figures were based on a limited study and the cost could vary as a result of several factors that could not be identified without further study; the canals to be included in the final project and the cost of disposing the spoil material needed to be addressed.

Mr. Roberts reported that several concerns needed to be discussed: ownership of the canals; liability; and the financing method. He stated the first concern to be discussed would be financing.

Mr. Roberts explained there were various funding options: total public funding - the entire project would be funded as part of the Town's annual budget; total private funding - establishing a special assessment; or a combination of both options. The assessment vehicles available to fund the private portion could be by special assessment - each benefited unit would pay an equal share; assessment to benefited properties would be based on ad

valorem values. He pointed out the alternatives that were available to create special assessment scenarios of the project: special assessment, per unit; ad valorem; and special taxing districts. He noted that a small amount of funding, \$50,000, may be available through a grant.

Mr. Roberts presented a funding example for review and discussion; with reference to dredging "public" canal areas the example included: Country Club Shores; Buttonwood; Gulf Bay Road; Emerald Harbor/Buccaneer area; Cannons Bayou, including Dream Island Road south; Bishop's Bayou; and Lands End Canal. The examples assumed the Town would pay a third of the cost, and the residents would pay two-thirds of the cost on a per unit basis. He pointed out this was a common approach with assessment programs; however, the Commission could take another approach. The cost allocations were as follows: cost to dredge "all public canals" - \$1,033,313; Town's portion - \$344,438; residents' portion - \$688,875; the numbers of benefited units were 607; the cost per unit calculated to \$1,135.

Mr. Roberts reported the "private" canal areas the example included were: Roger Cook Subdivision; Longboat Harbour Basin; Longboat Harbour North Basin, Windward Bay; Bermuda Bay to Champion Way; General Harris area, Bayview to Juan Anasco; and Longboat Key Estates. He pointed out the cost allocations as follows: cost to dredge "all private canals" - \$888,594; Town's portion - \$296,198; residents' portion - \$592,396; the number of benefited units were 365; and the cost per unit calculated to \$1,623. He noted Tarawitt was also included in the cost analysis.

Mr. Roberts stated if the Commission chose the ad valorem tax rate option for funding, and all costs were paid by ad valorem taxes, two scenarios were developed: the project estimate was \$1.2 million and would increase ad valorem taxes by .000555 mills, a little over half a mill. He explained a one-time tax charge to all property owners of \$166.50 would be assessed for a property with a taxable value of \$300,000. He noted if the project cost were \$1.8 million, the ad valorem taxes would increase by .000833 of a mill, or a one-time tax charge to all property owners of \$249.90

Commissioner Loiselle stated that Windward Bay had a small low point which would take about 50 cubic yards; he pointed out the problem would be going from the seawall to the Intercoastal Waterway, and that area was not included in the project; he asked who would take care of that area.

Mr. Roberts asked if Windward Bay was a public canal. Commissioner Loiselle stated it was a private canal. Mr. Roberts stated later in the presentation it would be pointed out that the

Commission needed to address the issue of private canals. He explained that the project had developed into two separate issues: private and public canals. The Commission would need to determine what the criteria would be in order for the Commission to be willing to incorporate private canals into the project and on what basis.

Commissioner Loiselle stated the problem would not be solved. Commissioner Legler asked if the example assumed that every property owner would pay the same amount. Mr. Roberts replied yes; however, other options could be discussed.

Commissioner Legler asked if the 1/3-Town payment and the 2/3-property owner payment plan was the same as the ad valorem plan. Mr. Roberts explained that the 1/3 - 2/3 plan example applied to canal property owners only; all Town residents would not be taxed. Commissioner Legler asked if the 1/3-tax applied to all property owners. Mr. Roberts stated the Commission would have to determine where the 1/3-payment would come from; he noted that there were recommendations for the Commission to discuss if that plan were chosen by the Commission.

Commissioner Sagman said she agreed with Commissioner Legler; property owners would like to know how much the canal dredging project would cost; she asked if that figure were available. Mr. Roberts stated that scenario could be calculated.

Commissioner Sagman stated using the 80/20 breakdown, 80% of the project would be paid for by the people who benefited, and 20% of the project would be paid by all others. She noted that there would be a great number of "all others" -- people who lived on the Bay side and not on canals. She stated she interpreted the situation as "people who paid 80% for the beach renourishment project would now pay 20% of the canal dredging project", and vice-versa. Mr. Roberts stated that was the technique used for the beach renourishment project; however, that technique was not being recommended for the canal dredging project.

Commissioner Farber asked if all the private canals on Longboat Key were indicated on the provided list, with the exception of Bay Isles. Mr. Roberts replied yes. Commissioner Farber pointed out that Bay Isles had approximately 1,100 dwelling units, which would equal about 15% of the dwellings on Longboat Key, and close to three miles of waterways. He noted that the Bay Isles Master Association did not want the Town to maintain their canals; therefore, if the Bay Isles community were assessed that would not be fair. He stated the Commission should discuss the situation with the Bay Isles community before moving forward.

Mr. Roberts pointed out that the report did address private canals; a suggestion would be made to the Commission that all private canal owners would have the opportunity to join the project; if they chose to join and met the standards established by the Commission the cost would be dispersed. He noted that an easement would be necessary so the work could be performed.

Mayor Drohlich commented whenever the Commission discussed the financing the project became fragmented. He asked if any consideration was given to spreading the cost of the dredging project by ad valorem over a five- or ten-year period. Mr. Roberts replied that the Commission could do that; the Town would have to "front" the money.

Mayor Drohlich stated the Town could charge interest; if the financing of the project were spread over ten years then everyone would pay something; however, it would not be a large amount. Mr. Roberts noted an amortization schedule could be developed and property owners would have the option of paying it off or having a lien placed on their property.

Mayor Drohlich asked why a lien would be placed on the property. Mr. Roberts stated when assessment programs were used a lien would be placed against the property.

Mayor Drohlich suggested the Commission keep in mind that several financing recommendations were made and nothing would satisfy everyone.

Commissioner Legler stated that \$2 million dollars was a small amount of money for a bond issue; the expense would be approximately \$200,000 just for the bond itself for the fees. Mr. Roberts replied that the additional cost was usually eight to ten percent of the bond.

Commissioner Farber asked if property owners who did not live on a canal or the water and who had no direct or indirect access to the water should pay for the project. He explained beach renourishment was a separate issue because everyone had access to the beach; however, canal dredging and beach renourishment could not be compared. He questioned if the Commission were being fair to the property owners by assessing property owners who had no direct or indirect access to the canals.

Mr. Roberts stated that issue had been discussed frequently with assessment programs; there were many examples of assessment programs where individuals who did not directly benefit by their choice were charged for the assessment. He pointed out many cities would install a sanitary sewer line and allow people the opportunity to connect; those who chose not to connect would

still have the same assessment; the same process could apply to roads, sidewalks and other projects.

Commissioner Loiselle stated Manatee County had a simple plan that worked; people who benefited from the canal dredging would pay for the service; two or three canals could be completed at a time and the cost divided among the property owners.

Vice-Mayor Metz commented the Commission needed to decide if the project would be moved forward. Mayor Drohlich stated there was an agreement to move forward with the canal dredging project predicated upon the financing and liability issues.

Mr. Roberts reported that the Town Attorney researched the issue of ownership; he asked Mr. Persson to elaborate on the subject.

Mr. Persson reported there were various categories of canal ownership on Longboat Key; public ownership was very clear, in Country Club Shores when the property was platted the streets and canals were dedicated to the Town; there were no rights to natural bodies of water, they were public; there were private ownership canals where the grantor intended them to be private; Bay Isles would be a classic example - they knew when the canals were dug that it was upland and the original plat indicated private canals; it was always intended to be private; some condominiums were part of the upland and that would be part of the common elements and a private water base. The early subdivisions were interesting; the developer had a piece of property and uplands were needed and canals were dug; the area was subdivided and sold; however, the canal bottoms were not sold or dedicated; that would create the "accidental" private ownership; the original developer sold the land and the property was upland so the original developer or his heirs would be the technical owners of that strip of property. Longboat Key Estates Homeowners Association may have enough power to grant an easement; although there was never a grant from the grantor to the public, the Homeowners Association had many indications of authority.

Mr. Persson referred to the Tarawitt Drive area, a non-subdivision where all of the property was divided by metes and bounds; the canal was dredged in the middle and there was no subdivision plat or dedication, no conveyance of easement to the public; it appeared that some people had given up some of their rights connected with canals; however, most had not. In those types of areas it would be necessary for those types of owners to agree to give up rights to the bottom and allow a public easement. Those were the types of ownership of canal bottoms.

He pointed out some were marked "preliminary"; the reason for that was because this was "a legal morass"; every title was not looked at, but the basic canals were examined; determination of ownership was based upon the canals that were examined.

Mr. Persson stated a time frame of three months would allow enough time for private canals to become public canals, with an extension available if reasonable efforts were being made.

Mayor Drohlich asked if the Town could take over private ownership by public domain. Mr. Persson replied the Town could bring it in by domain action; to take the canals, cost would be a problem; someone would make a claim for damages or at least the cost of the property. There were two methods for taking property by private domain: "quick-take" method, which could be dangerous; the other method would be a "slow-take", where the value may not be agreed upon and the issue would go to court and a jury would determine the value.

Commissioner Farber stated the lots on Jungle Queen Way were measured from the middle of the canal to the middle of the street; he asked if the canal were private. Mr. Persson replied that the canal was private.

Commissioner Farber asked if the Jungle Queen canal was included in the proposed project. Mr. Roberts confirmed the canal was part of the proposed project.

Mr. Roberts reported the next issue for discussion was liability; canals could be narrow and dredging could affect stability at the "toe" of the wall; seawalls could be in poor condition so that any activity could accelerate failure.

Mr. Roberts explained that liability could be addressed in several ways: delete the problem areas from the project; require property owners to sign waivers prior to dredging; additional insurance could be purchased; liability could be passed to the contractor through the contract; steps could be taken to minimize liability. He reported liability may be overrated; an inspection of the seawalls would be made; a video of the seawalls could be made, and property owners could be notified by written notice that their seawall was in danger of failing; the property owner would be asked to repair the seawall or provide an engineer's opinion about the suitability of the canal.

Mayor Drohlich questioned the cost of insurance to protect the Town. Mr. Roberts replied at this point that figure was not determined. Vice-Mayor Metz asked if the Town Attorney investigated the possibility of additional insurance through the Town's insurance carrier. Mr. Persson reported that he spoke

with Mr. Hubbard and the insurance carrier, and obtaining additional insurance was recommended. Mr. Roberts stated another avenue would be to require the contractor to obtain the insurance. Mr. Persson stated that there was a risk factor; the contractor would raise the price to cover the additional insurance.

Commissioner Sagman questioned if seawalls were insurable. Mr. Roberts stated it would be a liability policy of the Town for the contract; seawalls would not be insured. He noted the cost to perform the survey was not included in the estimate; if the Town wished to perform the survey the cost would need to be allocated.

Mayor Drohlich asked if the figures given previously included insurance or seawall protection. Mr. Roberts replied the figure given was just for the dredging.

Commissioner Legler questioned how the Town would protect itself over the next 10 or 20 years; he asked if a statute of limitation could be added. Mr. Persson replied that was the problem, as five years from now a seawall could fail and the Town could be sued; the insurance policy could be extended for a certain period of time, or the liability could be passed to the contractor for an extended period of time.

Commissioner Farber stated the number one issue was liability; if that issue could not be solved it would be difficult to move forward. He pointed out that Manatee County had a plan and asked if that portion of Longboat Key within Manatee County could be included in Manatee County's plan. Mr. Roberts reported that staff attempted to receive information from Manatee County; however, staff was not successful; telephone calls were made. Mr. Persson replied the Town could not legally delegate the Town's ability to establish the special assessment, MSTU, to the Manatee County Commission. The Town could enter into an interlocal agreement with Manatee County to utilize Manatee County's staff for purposes of preparing information for the Town; the final authority for making those determinations would rest with the Town Commission.

Commissioner Farber stated Manatee County had a plan in place which was effective, whether the Town "piggybacked" Manatee County or adopted the plan, 50% of the work would be done; the problem of liability would be solved.

Mr. Roberts said he had concluded that the Town should not become involved with Manatee County due to the complexities.

Commissioner Farber stated the Town could use Manatee County's plan as a guide for the Town; the problem with liability was solved.

Mayor Drohlich stated that he spoke with Stan Stephens (Manatee County Commission Chairman) and Manatee County had a limited plan; only five very small projects were completed within the last five years.

Mr. Roberts reported that the Manatee County plan was simple; property owners had to agree to waive liability or the canal would not be dredged; that would eliminate a good portion of the project. Mr. Persson noted that a provision was included that liability needed to be waived; however, no one signed the waiver.

Mr. Roberts pointed out that CPE estimated that preliminary studies, design, permitting and development of construction documents would take approximately 18 months; dredging could start after that point. He noted the timeframe would be greatly influenced by: How long it would take the Commission to decide to proceed with the project; determination of which canals to include in the project; the time it would take for private canals to be included in the project; elimination of barriers to public dredging; time to identify an acceptable spoil site.

Mr. Roberts explained that the Town Commission needed to determine several issues: was the project worth pursuing; what areas would be included in the project; if private canals were considered, how much time would be allowed for them to become public; how would the project be funded; what were alternatives for funding sources; what would be the basis for private contribution percentages; would cost assessed to private owners be based on actual cost of dredging a particular canal, or "blended" so that all units were charged the same regardless of the cost of dredging the canal.

Mr. Roberts concluded the presentation and distributed cost data to the Commission. He explained if the Town wished to use a funding allocation of 50% paid by the Town and 50% paid by property owners, the calculations were as follows for public canals: unit cost at \$851 per unit; for private canals the cost would be \$1,217 per unit - the cost was higher in the case of private canals due to the lower number of units.

Vice-Mayor Metz asked if the total number of units for the Town was 972. Mr. Roberts stated that the total project cost was \$1,921,900; the Town's portion was 50% of that, \$960,950; the portion for property owners would be \$960,950; the average per unit was \$988.

Mr. Roberts reported if the Town wished to use a funding allocation of 25% paid by the Town and 75% by property owners the calculations were as follows for public canals: unit cost at \$1,276 per unit; for private canals the cost would be \$1,826 per unit.

Commissioner Farber asked if the Town could take the cost of the liability insurance and ask those people who lived on the canals to pay their own liability insurance. Mr. Persson pointed out that Manatee County's plan rolled back the cost of the assessment to the MSTU; however, it may be possible to establish a similar system so if any further liability were incurred it could be rolled back into the special assessment.

Mr. Roberts noted that the report identified certain canals that had a risk to dredging; if the Town could identify those canals and inform the property owners that their canal was a risk and the cost of insurance would be added to their portion.

Commissioner Legler pointed out that there was a provision under Florida law that said a unit benefit assessment could be made; he asked if a unit benefit assessment could be set up for the next 10 years on all property owners who lived on canals. He noted that his concern was that "down the road" suits would be filed against the Town if seawalls failed.

Mr. Persson replied the municipality had the power to set it up; some legislation applied to the counties; the question would be the cost of setting it up and administering it; the insurance cost should be minimal considering the size of the project.

Mr. Roberts reported that staff considered the possibility of requiring property owners to sign a waiver of liability, or require them as a unit or a canal to provide their own insurance.

Commissioner Loiselle stated he was concerned about the millage: the Town was paying on the 1993 beach project, on the interim project, and if the Town went along with the 1998-1999 project, the canal dredging would run concurrently; people on the Gulf side would be paying 4.6 mills which was close to the limit of 5 mills. Mr. Roberts replied that the limit was 10 mills.

A recess was called at 1:50 PM; the Special Workshop reconvened at 2:00 PM.

Mayor Drohlich stated the Commission needed to break down the project and make some decisions. He asked Mr. Roberts to list on the chalkboard the following: 1) Request by Canal Property Owners - (A) dredge canals on individual basis, and (B) Town sharing cost with individual canal owners; 2) Community of Canals (by

group)-(A) dredge canals by group, and (B) Town sharing the cost; 3) Town would take over the responsibility to dredge all of the canals; 4) establish a taxing district, similar to the beach renourishment project.

Mayor Drohlich asked if there were any other options that needed to be listed. Commissioner Loiselle asked if there were a possibility of obtaining State aid. Mr. Roberts replied the State aid would be minimal, approximately \$50,000. Commissioner Legler stated establishing a separate district may be too elaborate for this type of operation. He suggested different charges for canal owners and non-canal owners rather than a district. Mayor Drohlich stated he would like to consider establishing a district. Mr. Roberts listed Commissioner Legler's suggestion on the chalkboard.

Mayor Drohlich asked if there were items that could be removed from the list which the Commission wished to eliminate. Commissioner Farber suggested moving along in a different manner; the Town should go into a canal dredging program covering all canals within the Town, both public and private; it did not mean the dredging procedure would be used in every canal. Mayor Drohlich stated that Commissioner Farber was suggesting following "3" on the list - that would be to have the Town assume the responsibility for all canals. Commissioner Loiselle stated he wished to eliminate "1" on the list. Commissioner Sagman asked for clarification on "1" from the list. Mayor Drohlich explained that residents on a particular canal would make their own determination to dredge their canal. Commissioner Sagman stated "1" should not be eliminated.

Mayor Drohlich approached the issue from another angle. He stated Commissioner Farber suggested that concept "3" be followed; he asked for a consensus.

Commissioner Farber stated it was easy to separate the Town into areas; however, if canal dredging was good, it would be good for all canals; for that reason, if the Commission assumed that canal dredging were important it would be important for all canals.

Commissioner Legler stated canal owners should pay more than non-canal owners. Mr. Roberts stated financing would be another issue; the question was: should (3) be the policy for the Town; if that were the consensus of the Commission then the next step would be to select the financing plan.

Commissioner Sagman pointed out that 90% of the boats were able to travel along the canals. Dr. Antonini had stated that 90% did not have a problem. Commissioner Sagman had stated "going

overboard" on a project to improve such a small percentage did not make sense.

Commissioner Farber stated if the Town agreed to assume the responsibility for dredging all of the canals it would not mean that all of the canals would be dredged; only the canals that required dredging would be worked on.

There was a consensus to remove from the chalkboard all of the suggestions except for the suggestion of the Town assuming responsibility for all of the canals within Longboat Key.

Mayor Drohlich stated there was a consensus for the Town to assume the responsibility for all of the canals within Longboat Key as its policy; the next issue would be to break down how the Town could assume the responsibility.

Mr. Roberts stated the Town could set its standard for what basis it would assume responsibility for private canals; if the owners of those canals were to agree to the dredging under those conditions, it could be accomplished.

Mayor Drohlich stated that the Town would establish a policy for public canals and if the private canal property owners wished to proceed with the policy they could join in.

Commission Sagman asked what criteria would be used to determine whether a canal would be dredged. Mr. Roberts replied that would be a policy decision for the Commission; a typical assessment program would need 51%.

Mayor Drohlich asked if it were the Town's obligation to keep the canals open since the Town owned the public canals. Mr. Roberts replied that the Town had the right to make that policy.

Commissioner Legler pointed out that the Commission reached a consensus that the Town would take responsibility for all of the canals within Longboat Key. He stated the next issue would be to determine how private canals could be included in the program. Mr. Roberts replied that would be subject to Town policy; the Commission needed to determine Town policy.

Commissioner Farber stated Commissioner Sagman was concerned about dredging canals that did not require dredging. He explained that a survey could be performed that would inform the Commission of the standard by which canals would be judged; the canals would be dredged to that standard. Mr. Roberts replied that CPE already performed that study; that was one of the results from the study and there was a recommended depth of 5.2

feet; anything that was already at 5.2 feet or deeper would not be dredged.

Commissioner Loiselles stated that he was still concerned with the liability issue.

Vice-Mayor Metz asked if the Town issued the policy and assumed the responsibility for all of the canals, would that mean the Town would be responsible to clean up silted canals. Mr. Roberts replied that would be determined by what the policy conditions were; he explained that government did what individuals could not do themselves or could not do as well themselves; government collectively could perform the job better than individuals could by trying to dredge their own property.

Mr. Roberts suggested the Commission may wish to determine the percentage the Town would be willing to pay within the established policy. Mayor Drohlich suggested the Town be responsible for 50% of the cost and the necessary additional insurance.

Commissioner Legler questioned whether the decision to dredge a canal would be made by the property owners or by the Town Commission. Mr. Roberts replied that the procedure could be that property owners would petition the Town for dredging of their canals, and the Town would establish criteria for the projects; a certain number of canals would constitute a project.

Commissioner Farber suggested that the Town assume the responsibility for dredging both public and private canals to a standard, and the Town would start dredging immediately; he stated if canal dredging was important to Longboat Key the Town should enter into a program to dredge all the public canals and those private canals where owners asked to be included in the program.

Mr. Roberts replied that the Town would have an "everyday" dredging program established. Mayor Drohlich stated he did not agree with Commissioner Farber. Mr. Roberts reminded the Commission that the canals had never been dredged; a one-time dredging program could last for a prolonged period; that would speak against an ongoing program. He stated there were other alternatives that could be taken.

Mayor Drohlich asked for a consensus that the Town would pay 50% of the cost for canal dredging with canal owners petitioning the Town for the service. Mr. Roberts stated that the Town would need to determine what a unit would be the (number of canals in a project). Mr. Roberts stated it would be advisable for the Commission to know what a reasonable size project would be.

Dr. Cliff Truitt, Mote Marine, stated there were certain fixed costs that would apply to any size project; half to three-quarters of a million dollar-range would be the least amount a dredging contractor would be interested in pursuing on a one-time mobilization.

Mayor Drohlich asked if a percentage figure could be established with language that would require a certain amount of interest prior to proceeding. Mr. Roberts replied that could be part of the Town's policy; once a certain number of canals or property owners petitioned the Town, the engineers would perform the design work and bids would be taken and there would be an assessment project.

Dr. Truitt stated the petition would be used to acknowledge that the private property owner agreed to pay for the project; it would also be used to get permission to use the property; dredging could not take place unless the private property owners agreed to designate the Town's engineer as agents for the applicant.

Commissioner Farber stated he did not favor the Town funding 50% of the cost because the Town was the taxpayer; the taxpayers would be paying 50% of the cost for dredging canals for other taxpayers who had direct access to the canals; the people who lived on canals had a very direct benefit, and those people who did not live on canals had no benefit; the Town should not participate at that level; also, the Town should not carry the insurance; the people who lived on those canals and who wanted the canal dredged should be willing to pay the necessary insurance.

Mr. Roberts reported if the Town assumed responsibility for all canals there were some canals that were silted in; the cost to dredge those canals would be high both to the Town and property owners; CPE did advise not to dredge certain canals, so if those canals were to be dredged a waiver of liability should be obtained first.

Vice-Mayor Metz stated he had no problem with 50% of the cost being paid by the Town; however, he was concerned with the insurance issue. Mr. Roberts stated the seawall survey would not be eliminated; the property owners would be notified if their seawall was determined to be failing.

Commissioner Legler stated the Town would levy an assessment; property owners could petition the Town to dredge the canals; a six-month "window" could be given to allow property owners to petition the Town; every property owner on those canals would be

required to pay an assessment; he suggested allowing an additional six-month period for private canals so easements could be given to the Town. Commissioner Legler stated the insurance issue needed to be clarified; if a resident were to sue the Town the insurance company would defend the Town, and if the Town were found to be liable then the insurance company would pay.

Commissioner Sagman stated she was against the Town paying 50% of the cost for canal dredging; only two-thirds of the people returned the survey and from the returned surveys only 50% were willing to pay for canal dredging.

Mayor Drohlich asked if the project were worth pursuing; the issues of insurance, ownership, and financing had been discussed. Commissioner Legler indicated yes; Vice-Mayor Metz indicated no; Commissioner Loiselle indicated no; Commissioner Sagman responded with a qualified no; Commissioner Farber responded with a qualified yes; Mayor Drohlich indicated yes.

Commissioner Farber explained that canal dredging should be driven by the public; if the public wished to have the canals dredged they would organize themselves and inform the Commission that they wished to dredge the canals, and then the project should be moved forward. Mayor Drohlich stated there was no consensus with a "3 to 3 vote"; however, the issue should be moved forward to the next step.

Mr. Roberts replied that the Commission was on the right track; he suggested the Commission identify the policy for canal dredging and state what would be required from the public to get their canals dredged; that policy could be offered to the public and then determine if the residents wished to have the canals dredged. He stated that another Workshop could be scheduled for the full Commission.

Mayor Drohlich asked each Commissioner to submit to the Town Manager their suggestions and proposals to establish a criteria for the Town policy on canal dredging.

Commissioner Loiselle suggested that the Commission table the discussion on canal dredging. Mayor Drohlich stated the Town Manager should have a minimum of 30 days to report prior to the next Special Workshop; he suggested placing an advertisement asking for input and announcing the date of the Workshop.

Rainer Josenhanss, 6669 Gulf of Mexico Drive, stated he was concerned and confused when the Mayor asked for each Commissioner to submit a proposal to the Town Manager; an informal vote was made and it was "split". Mayor Drohlich stated the Commission did not vote on the issue, a consensus was asked for.

Mr. Josenhanss stated Mr. Roberts identified the problem and only eleven people were present at this Special Workshop; the program should be written on paper and then a referendum should be held to determine the interest. He pointed out that spending \$1.9 million to benefit 972 canal owners who were not present to discuss the issue was not cost efficient.

Mr. Roberts stated he was not advocating a referendum; however, if a petition were received, that in essence would be a referendum from that group, because they would be informing the Commission they wished for work to be done.

Helen Holt, 608 Bayview Drive, disagreed with Mr. Josenhanss; she stated just as the beach renourishment program improved the value of the property of every Longboat Key property owner, so would deep-water canals; canal accesses were available throughout the Town. She added that canal property owners should have to pay more than the beach residents.

Jim Brown, former Mayor, 524 Outrigger Lane, stated the beach issue was put forth as a Town issue, the community of Longboat Key moved ahead with the beach and unity was achieved -- people worked together to meet a need. He pointed out that canals were a factor when determining property values; however, the water in those canals were traveled by fishermen; the canals belonged to everyone. Mr. Brown stated the canal property owners should pay the major part of the project; he noted 15 years ago the Town had an ordinance which permitted canal property owners to petition the Town and establish a special district for canal dredging; the Town would pay the engineering and administrative costs.

Richard Olin, 3440 Gulf of Mexico Drive, Director of the Buttonwood Harbour Channel System, stated he was in charge of maintaining the waterway markers within the channel and maintaining a good relationship with the Coast Guard; he spoke on behalf of the membership; the Buttonwood Harbour area was called a public canal; however, some canals were actually private because they only serviced one group of homeowners. He pointed out the Town would be the appropriate vehicle for mobilizing the project; it would be very difficult for individuals or small groups to achieve large projects such as canal dredging.

E.K. Ervin, 5850 Gulf of Mexico Drive, stated he had lived on Longboat Key for 27 years; some canals were silted in, and the Commission could address dredging those canals. He stated the Commission did not address the issue of bottom lands from an environmental viewpoint; he was concerned that dredging would affect the bottom land.

Mayor Drohlich asked for the Town Manager to proceed with the plan.

II. Town Attorney Comments

1. The Reserve Case

Mr. Persson reported that The Reserve case was scheduled for trial in November; he would advise the Commission of the actual date.

III. Town Manager Comments

IV. Town Commission Comments

1. Seawall Construction - GMD

Mayor Drohlich stated he attended the Metropolitan Planning Organization meeting on 10-28; construction of the seawall by the trailer park was scheduled to start on 12-2; the contractors had 40 days plus holidays and rain days to complete the seawall.

Commissioner Sagman asked if the projects were moved forward because of the last tropical storm. Mayor Drohlich replied yes.

2. Town Commission/Sarasota County Commission Joint Meeting

Mayor Drohlich stated he attended the Council of Government meeting held on 10-30; a round table discussion was held. He explained that he spoke to Gene Mathews, Sarasota County Commission Chairman, and discussed scheduling a Town/County joint meeting. Mayor Drohlich asked that a formal request and agenda be sent to Commissioner Mathews at Sarasota County.

Mr. Roberts replied that he would compile a list and asked that each Commissioner suggest items for the agenda.

3. Sarasota County Tourist Development Funds

Commissioner Loiselle stated that he spoke with Jack O'Neil, Sarasota County Commissioner, who was advocating the 1% added tax to the TDC funding; the Town should push to get the extra 1%.

4. St. Jude's Benefit Luncheon

Commissioner Farber advised the Commission that the St. Jude luncheon would be held on Saturday, 11-9-96; former Mayor Jim Brown had tickets.

5. Bayfront Park Recreation Center Tennis Courts

Mr. Roberts stated the tennis courts at the Rec Center were completed and available for use; he asked if the Commission was interested in holding a tennis match.

6. Employee Appreciation Dinner

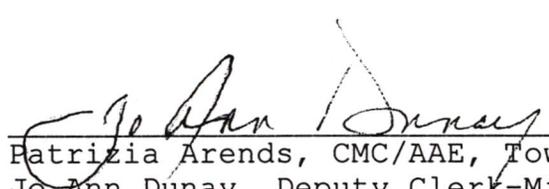
Mayor Drohlich reminded the Commission that the Employee Appreciation Dinner was scheduled for 11-16; if they planned to attend the dinner, they should make their reservations.

V. Public to be Heard

VI. Press to be Heard

VII. Adjournment

The Special Workshop was adjourned at 4:25 PM.



Patrizia Arends, CMC/AAE, Town Clerk
Jo Ann Dunay, Deputy Clerk-Minutes