

**CITY OF TREASURE ISLAND, FLORIDA
BOARD OF COMMISSIONERS WORKSHOP
April 7, 2009
IMMEDIATELY FOLLOWING THE COMMISSION MEETING**

I. DISCUSSION ITEMS:

1. Consideration of Res. 09-15, St. Pete Beach Interlocal Agreement

Cathy Hayduke gave a brief explanation of this item. They have come to an agreement with the City of St. Pete Beach regarding the use of recreational facilities. Our residents would be allowed to use the St. Pete Beach facilities, and their residents would be able to use ours at the resident rate.

Commissioner Bildz commented that we have the tennis and golf course, and asked what facilities they have. Ms. Hayduke stated that they had a gym and swimming pool, and our residents could attend their classes at the resident rate. Commissioner Bildz asked if there were a lot of St. Pete Beach residents using the golf and tennis facilities, and if so, would we be losing money. Ms. Hayduke explained that we do get a lot of business from St. Pete Beach residents, and she was hoping it would bring in more revenue.

Commissioner Coward asked about the difference in resident and non-resident rates. Ms. Hayduke explained that it was about \$1. Commissioner Coward stated that she thought it was a great idea and hoped it would encourage more cooperation between the two communities.

Commissioner Collins asked for clarification regarding the charges for Southwest Little League members. Ms. Hayduke stated that this was started because of those discussions. St. Pete Beach has not been requiring the non-resident cards this year.

This item will move forward to the April 21, 2009 meeting agenda.

2. Consideration of Res. 09-14, Transportation Engineering Contract

Jim Murphy gave a brief explanation of this item. This is similar to the engineering contracts that were passed last month. This contract would cover transportation engineering services. The contracts would be negotiated one at a time until there are two firms chosen.

Commissioner Gayton asked about the rankings and why Volkert was rated higher than E.C. Driver since their scores on his report were the same. Mr. Murphy explained that the ranking was taken down to multiple decimal points and was very close. They have done engineering for several recent projects. E.C. Driver has also done work here, namely the bascule bridge. They will both be negotiated with, and we will be going with at least two contracts. If they agree to the terms they would be the first two firms chosen.

This item will move forward to the April 21, 2009 meeting agenda.

3. Consideration of Res. 09-16, Suncoast League of Cities Delegate

Mr. Silverboard stated that Commissioner Gayton is the current delegate, and Commissioner Bildz is the alternate. They both volunteered to continue. This item will move forward with Commissioners Gayton and Bildz continuing to serve.

4. Consideration of Res. 09-17, Tampa Bay Regional Planning Council Delegate

Mr. Silverboard stated that Mayor Minning is the current delegate. Mayor Minning stated that he would like to continue. Commissioner Coward offered to be the alternate. This item will move forward with Mayor Minning and Commissioner Coward serving as delegate and alternate.

5. Consideration of Res. 09-18, BIG-C Delegate

Mr. Silverboard stated that Commissioner Collins is the current representative, and Mayor Maloof and Commissioner Bildz were the alternates. Commissioner Collins offered to continue. Commissioner Coward and Mayor Minning volunteered to be alternates. This item will move forward with Commissioner Collins, Commissioner Coward, and Mayor Minning serving as the representative and alternates.

6. Consideration of Res. 09-19, Beach Stewardship Liaison and Alternate Liaison

Mayor Minning stated that last year it was agreed that he would serve, and it would rotate to Commissioner Bildz this year. Commissioner Gayton offered to be the alternate. This item will move forward with Commissioner Bildz and Commissioner Gayton serving as the liaison and alternate.

7. Discussion Regarding Quitclaim Deed to Gulf Sands Properties and T.I. Holdings, Inc. by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida of Public Lands located on the beaches of Treasure Island (Sunset Beach) (Requested by Commissioner Gayton)

Commissioner Gayton gave a brief explanation of this item. The present companies doing business as Caddy's are Gulf Sands Properties and T.I. Holdings. His concern after reading the settlement agreement was that the State is going to quit claim what they consider public lands over to private corporations. He is concerned with what is going to happen to our federal, state, and county funds for beach renourishment. We have to fight for the money. We have asked for opinions as to who owns the beach, and we have always been told that anything west of the 1968 Mean High Water Line is owned by the state and entrusted to the City of Treasure Island. Our nourishment in 1969 was the first nourishment in the State of Florida. Commissioner Gayton then asked former Mayor Julian Fant to give an overview of how this project got started.

Mr. Fant stated that he is a 48 year resident of the Isle of Palms. He told a story of a storm that occurred 70 years ago outside of St. Augustine and the damage that it caused. He moved here from St. Augustine to become the Manager of the Chamber of Commerce. He was dismayed to see the erosion that was taking place on the beaches here. There were groins being built to protect property that was being lost with every storm. They did not work because every time there was a storm the baffles, which were made of ironwood from the Florida Keys, washed away. When he was elected Mayor he vowed to correct the erosion that they were experiencing. A few years after that, the Commissioner who represented District 2 came in to a Commission Workshop and gave them a clipping from a newspaper

that said that the Federal government was entertaining the idea of trying to fund projects for renourishment. They found out what the program entailed. If the government felt that the erosion was serious enough they would fund the project, but the local government had to have state, county, and local funding for the project. Also, the owners of the properties involved would have to give up their rights, including their riparian rights, to the properties. They went to Washington and presented pictures of Sunset and Sunshine Beaches. Because of that presentation, and the property owners' willingness to sign off, they received the funding that they needed. The nourishment started in 1969 and has continued since. He was contacted shortly after the program went in by Mr. Rossi of Bradenton Beach. He was the president of Tropicana Foods. Bradenton Beach went for it and was accepted. The government later passed a bill that stated that the sign off project was too cumbersome, so they declared that from then on all property east or west of the high water mark, depending on which coast it was, would be declared public property. It was declared owned by the State of Florida and the public if it was renourished. This is much more serious than spring breakers, and has far more serious and far reaching affects, not only for Treasure Island, but for other cities as well, because we were the first.

Commissioner Gayton stated that the information that he was going to discuss was from information that he received from the City Attorney and public records. He stated that from everything that he can find, this case has not been settled yet. The last entry for this case was from September of 2008. The lawsuit is not Caddy's. It is between Gulf Sands Property, LLC and T.I. Holdings, Inc. He handed out two additional maps to the Commission. In the discussions during the lawsuits they reference block and lot numbers. There was a quit claim deed in the proposed settlement from the Board of Trustees to Gulf Sands Properties and T.I. Holdings for lots 13, 14, and 15 of Block 8. There is a disclaimer from the Board of Trustees for lots 13, 14, and 15 of Block 8. This has to be signed by the Board of Trustees, which consists of Charlie Crist, Governor, Bill McCollum, Attorney General, Alex Sink, Chief Financial Officer, and Charles Bronson, Commissioner of Agriculture. There is another quit claim deed for lots 6, 7, 8, 9, 10 & 11 of Block 10. There is a special warranty deed from Gulf Sands to the Board of Trustees. His problem is with lots 6, 7, 11 & 12 on Block 12. That piece of property has always been claimed by the state, and is in the middle of our renourishment. That property is now under discussion. What happens to our renourishment if that piece of property becomes private property? Will we still get federal and county funds? We should pose that question to the state before they give that property away. He thinks it should be resolved. We should ask the Mayor to send a letter to the Board of Trustees asking them if they were to give the properties away by quit claim can they guarantee us that they will still renourish our beaches. What if the feds say that they are not going to provide funds for a private corporation?

Commissioner Bildz stated that they were both on the same page. The two items could be discussed as one. He read an excerpt from the state constitution regarding public land below the mean high water line. He feels that we should hold their feet to the fire. Beach renourishment doesn't look good when you give away public property. How can the state give this land away if it is held for all the people? His other question was, if this is going to be private property, what could be done.

Commissioner Coward stated that when she received the information she was under the impression that this was a done deal, and now it sounds like it has not been finalized. Ms. Kiefer stated that the settlement agreement has been signed by all parties. The deeds have not been filed. Commissioner Coward asked if this topic was discussed at the time of the lawsuit. Ms. Kiefer stated that she doesn't think that it was.

Commissioner Gayton stated that as of 3:00 this afternoon the quit claim deeds have not been recorded by the County. He does not believe that anything has been signed by the Trustees. The agreement that he has seen was signed by the Secretary of the committee, and the attorney. The documents have not been signed by the Board of Trustees. As far as he understands the case is still open. This is serious, and we should get information that says that this will not affect our renourishment. When we look at the map given to us by our attorney we can see that this land sits right in the middle of our beach. These are not the only corporations that are claiming rights to our beaches. If the trust gives the land away to one, why couldn't they give it away to others? He would like to see the Mayor write the letter to the Cabinet.

Commissioner Collins stated that based on the facts represented here, if we write the letter, time is of the essence.

Tony Amico stated that he could clear up a few things. He stated that they are acting as if it is not a done deal. The settlement agreement and mutual release to the corporations says that the state has to give him those quit claim deeds, and he has to give the state quit claim deeds. They are obligated to give him the deeds. The lots that Commissioner Gayton is most concerned about, 6, 7, 10, and 11, were given to the State by his corporations. He doesn't understand why there is concern that they lost the beach there. The 1968 High Water Line is an erroneous line. It runs through the middle of four people's houses, through Caddy's which was built in 1947, and through a parking lot. It was allowed to be sold. The property next door to Caddy's, which everyone is worried about protecting, was allowed to be sold several times since 1969. It was also issued building permits to open a real estate office in 1986. Where was everyone then? They allowed him to pay \$1 million for his property, and nobody said anything then. There are houses along the beach built along the 1968 high water line. People would lose their homes and their properties. If you are issued a deed then you own it. He paid for them. Everybody recognized the sale, he is taxed every year on the property, and when his building was burned down he was told that he did not own the property, but the state did. He spent over \$140,000 to battle the state to protect the property that he paid for. The city had issued building permits on that property. The judge told him to work this out with the state. They offered to sell him his property at market value, and stated that the rest of the property is lost. He was not willing to accept that. He went to court. The judge suggested to the Attorney General that they settle on this. Mr. Amico explained the settlement, what he offered, and what they offered to him. His riparian rights were reinstated to him, and the state agreed to continue to renourish the property because he agreed to give them a conservation easement and never build on it. He is allowed to use the beach to serve food, drinks, including alcohol, put out chairs and charge for them, jet skis, and many other things that he will not do. He is entitled to the property that he bought. If they want to take it away then they can buy it from him. He bought it and defended it with his money.

Commissioner Coward asked Mr. Amico for clarification regarding the beach renourishment and whether it will continue. Mr. Amico stated that it was part of the agreement. They have the document that states that. The deeds will be given per the agreement. Commissioner Collins asked him to clarify that again, and Mr. Amico was asked to show the Commissioner where in the documents it states that.

Mr. Fant stated that he now understands more fully how this came about, but stated that there are other agencies involved, and questions whether they will offer the same.

Heidi Horak stated that she does this sort of thing for a living, and she has been working with Ms. Kiefer on this. She stated that Mr. Amico is correct on the fact that the state is required to issue those deeds. This is a settlement between the State of Florida and a private individual. The City of Treasure Island is not a party to this, and you can not give away something that you don't have. The city is the only one that can regulate the use. The state can deed it away, but can't regulate it. The city has the right to regulate whatever goes on on the soft sand beach. She suggested that the city take a position on paragraph 5, which talks about the rights to use lots 6, 7, 10, and 11, on block 12. The state can not tell you how to regulate the use of that property. You can not give away what you do not have the jurisdiction to give away. They can say it, but it doesn't mean anything if they don't have the jurisdiction. This really doesn't affect us and our ability to regulate the operations at the beach. Regarding the state giving Mr. Amico the riparian rights, there is conflicting law regarding that. She doesn't feel that it will affect anything as his patrons have the same rights to use the beach as the public does. She was curious about the statements that were given in the 1960's. She went into the deed records. The statement says all kinds of things that didn't happen. She doesn't think that the deeds were ever given. She saw a temporary easement to dredge and fill. She doesn't feel that there is much arguing to be done on this.

Mr. Amico stated that what Ms. Horak brought up about the lots in Block 12, he has discussed with the City Manager. He would agree never to use them if the city will make some concessions to him. He does not want to impose on the homeowners in the area. He will not put up volleyball nets, beach rides, picnic tables, etc. The conservation easement is the one on lots 6 and 11 on Block 10. He read an excerpt from the agreement regarding the beach renourishment. Commissioner Gayton stated that easement is for Block 10, not Block 12. Mr. Amico stated that there is one for Block 12. Commissioner Gayton read an excerpt from the agreement regarding the lots on Block 12. That property is not contiguous with Caddy's on the beach. It is not Caddy's. We have to separate those two issues. This property belongs to the state, and nowhere in these documents does the state say that they will give him the property and continue to renourish it. All he wants is the Board of Trustees to sign these documents. They have not been signed by the board. Without the attachments being signed the agreement is worth nothing. He is fine with it as long as we are guaranteed that the beach will still be renourished and funding provided for it.

Mr. Amico stated that he is saying that the state is giving away the property. He bought the property. It was for sale. Anyone could have bought it. He has spent over \$5 million around Caddy's. Nobody said that it could not be sold because of the 1968 Mean High Water line. You issued permits for structures to be built on it. People built their homes there. There is a law in the state of Florida that says if you squat on a piece of state property for 20 years you then own it. Nobody stopped them from buying or building on the property. If the city wants to take his property or rights away then you have to pay him for the property.

Commissioner Gayton stated that Caddy's is 9000 West Gulf Boulevard, and that is not what is up for discussion. It is the property west of the Mean High Water line that is the concern. Caddy's is an 80 by 170 foot piece of property. Commissioner Coward asked Commissioner Gayton if he has paperwork that the rest of them don't have in front of them. Commissioner Gayton stated that he has some that they don't have that he received from Attorney Kiefer. Commissioner Coward stated that they are talking about something that he is the only one that has access to tonight. Ms. Kiefer stated that she sent them the settlement agreement which did not contain the deeds. The settlement agreement has been executed. What have not been signed are the attachments to the settlement agreement, which consists solely of the deeds. There are about six deeds and conservation easements that are attachments to

the settlement agreement that have to be signed and recorded. Most settlement agreements are enforceable and this one likely is too. You have the body of the document. You don't have the deeds. Commissioner Gayton stated that they have the deeds as well. Commissioner Coward stated that she wants to see the document that ensures that the beach will continue to be renourished. Ms. Kiefer stated that the letter should be written asking for clarification. She will call Nicole Elko tomorrow. We have a permit to do beach renourishment, and it established an erosion control line. We know that we have private property owners that will be passed by with the beach renourishment. There are issues that come up, and will continue to come up. This is not simple. There is no harm in getting reassurance that this will not affect beach renourishment. She doesn't feel that it does, but she would prefer that they send the letter and get a response. She also agrees with Ms. Horak. That is a use or zoning issue. They put things in the deeds and agreements that are outside their jurisdiction. Right now all he can do is what is in his current site plan today. They cannot confer additional rights to him. They have the authority to convey the lands.

Mr. Amico stated that Caddy's has been allowed to serve alcohol on the beach, and people have been allowed to walk off the deck onto the sand since 1947. That has been approved by the State. If the City wants that to stop then they can reimburse him for his loss of revenue. He is not asking for anything that he has not already had. He is not asking for special treatment. If the city decides to take it away then they have to compensate him for his losses.

Commissioner Gayton stated that that property was not part of this discussion.

Mayor Minning asked to bring this back to the beginning. He will be happy to write the letter and make a number of phone calls to clear up the renourishment issue. The renourishment scheduled for this year is a done deal. The money is in place and the permits have been issued. He will start work on this tomorrow. He has already contacted someone at the Florida Shores and Beaches Association but has not heard back from them.

Commissioner Bildz stated that he wished that he had the confidence that the Mayor has in this. Those permits were signed before this agreement was signed. Commissioner Bildz asked about the zoning on this property. Ms. Rosetti explained the zoning in the area. Commissioner Bildz asked if the city had a building permit issued on the building that burned. Ms. Rosetti stated that she had done research on the 1968 mean high water line, and researched some of the meetings. At some point the references to that were removed. In 2004 we received a letter from the State of Florida DEP that stated that the CCCL was a regulatory line, and the 1968 Mean High Water line was an ownership line. Commissioner Bildz asked what was allowed on conservation preservation zoned land. Ms. Rosetti explained that it was a very limited use. There is no density allowed. It has been preservation or recreation open space in the comp plan. Commissioner Bildz asked if Mr. Amico would be allowed to operate his business on property that is zoned that way. Mr. Silverboard stated that he would not – that he had to meet all local zoning regulations. Mr. Amico understands and accepts that he can only operate in what the site plan allows. He can serve food and beverages in the area that was approved for in the site plan. He cannot do so beyond that area. People can buy and walk to the beach, but he is not allowed to serve there.

Commissioner Gayton stated that the round house was located east of the mean high water line, so permits would have been allowed to be issued. Ms. Rosetti clarified that the mean

high water line ran through part of that property. Permits were not issued on lots 7 and 8 because by that time that state had issued a letter regarding the ownership line.

Andrew Becker stated that there are too many unanswered questions regarding this issue. His wife has spoken with people in the state offices who were unaware of this. He feels that it needs to be resolved as soon as possible.

8. Discussion Regarding the Settlement Agreement Between Caddy's and the State of Florida (Requested by Commissioner Bildz)

Commissioner Bildz stated that everything that needed to be said was said, with the exception of one thing. Mr. Amico understands that he can only do what our zoning laws allow. Mr. Silverboard stated that he can only use the property as in his approved site plan. Other usage would require a site plan for expansion of a use. He would have to go through the required process for that.

Commissioner Gayton stated that we have an application in the packet, and asked if we have a letter to Ms. Rosetti. He read an excerpt from the application and asked if the city had signed off on it. Mr. Silverboard stated that we signed off on the city portion of the agreement. Commissioner Gayton stated that you cannot take a beer out of a bar anywhere else. Mr. Silverboard stated that all we signed off on was the expansion of what his premises is. If the Bureau of Alcohol and Tobacco has an issue it is up to them to enforce it. If the state doesn't permit it then it is up to them to enforce it. Commissioner Gayton stated that he does not want anything signed by the city that would allow that. Mr. Silverboard stated that Mr. Amico also has a package license that would allow someone to purchase a closed alcoholic beverage and take it out to the beach. Commissioner Gayton stated again that he doesn't want the city to sign off on anyone being allowed to remove open drinks from a bar. Commissioner Gayton asked how far back the "black line" goes as far as the site plan goes. Mr. Silverboard explained that it was the line where the picnic tables are. The city approved him to use that area outside the deck area as part of his operation. Commissioner Gayton asked if the stairs and picnic tables were on state lands. Mr. Silverboard stated that it is his understanding that that is what the state has deeded to him and he has granted a conservation easement on. Commissioner Gayton stated that it has not been deeded yet. Mr. Silverboard stated that they have tied it to the approved site plan that was approved in 1983. Commissioner Gayton stated that the license does not extend out to where the stairs or picnic tables are. He does not want the city approving a site plan that is going to the ATF for a license to operate outside of Caddy's. Should the city have measured when there is a site plan that does not have dimension on it? Mr. Silverboard stated that it is tied to the site plan from 1983.

Commissioner Collins asked for clarification regarding what is allowed under the package license. Mr. Silverboard stated that his package license allows for a customer to come to the bar and purchase an unopened beverage, take it out on the beach, and open and drink it. His consumption license allows him to serve a customer an open drink and take it out to the edge of his deck to consume it. What people have done is to purchase drinks and take them wherever they want to consume them. The package license usually is in a different location than this one is. Commissioner Collins asked if Caddy's was allowed to have servers go between the deck and the CCL. Mr. Silverboard stated that the city gave him permission in 1983 to use that area as part of his service area. Mr. Amico got site plan approval to do so.

In this case it was a site plan approval that approved that area as a seating area. Nothing has been approved further seaward than what was in the approved site plan.

Pam MacIntyre asked if they had the original site plan in front of them. She asked why this didn't go to the Planning and Zoning Board for site plan modification since this increases the size of the business. Mr. Silverboard stated that the site plan is not a modification. It is simply a portion of the existing approved site plan.

Commissioner Gayton asked if it was the contention of the city that the stairs were part of the existing site plan. Mr. Silverboard stated that it was the city's contention to approve what is currently allowed in the existing site plan. Ms. Kiefer stated that when this question came up during the spring break discussion it was not the site plan that needed to be updated, it was his ATF license that needed to be updated. We did not bypass Planning and Zoning.

Mr. Amico stated that he asked the City to expand his area of sales, and he was told that they could not unless he could provide adequate parking. He was unable to do so. He set up the mini bars on the beach in error. He will not put them there anymore. His agreement is that he can't serve outside the picnic table area, but if you want to carry it from there out you are welcome to because alcohol is permitted on the beach. Commissioner Bildz clarified that with a consumption license you can purchase and consume in the serving area, and with the package license you can take an unopened beverage out to the beach. Mr. Amico stated that it is being done all up and down the beach, and if they are going to enforce with him, then they will have to enforce everywhere down the beach.

Ms. Horak asked if he owns these lots, if he wants to put mini bars on lots 7 and 8, does the site plan allow it. Mr. Silverboard stated that he would have to come back to the city for site plan approval. Ms. Horak stated then he would not have to come back to the city as he already has site plan approval. Mr. Silverboard stated that according to his site plan and application he is only allowed use of the certain area that he was given approval for. He would only go back to the Planning and Zoning Board if he applies for a modification to the site plan. Ms. Horak clarified that Mr. Amico was serving outside with the permission of the city, but without the correct ATF license. Commissioner Bildz stated that the reason the plans showed the entire property was because he also had to show that he had adequate parking.

Julian Fant stated that in his earlier comments he did not refer to any one business or individual. When he was on the beach the day the first renourishment started there was nobody there from the state of Florida.

II. OLD BUSINESS:

Commissioner Collins asked for an update on the Causeway house sale.

III. CITY MANAGER/CITY ATTORNEY REPORTS AND COMMENTS:

Ms. Kiefer stated that she has provided them with an update on legal matters. She wanted to add that the Gina Presson case has been dismissed.

Mr. Silverboard stated that Commissioner Bildz has called him several times regarding Lift Station #3 not working properly. He has provided Commissioner Bildz with a report. Because of the work done on Gulf Boulevard the pumps were being overloaded. It is being handled. The notifications from the SCADA system were not sufficient, so we have reduced the time factor. Commissioner Bildz asked if the spilled sewage had to be reported. Mr. Silverboard stated that he will talk to Mr. Murphy.

IV. REPORTS & COMMENTS BY COMMISSIONERS:

Commissioner Gayton asked about the date for the Executive Session that the City Attorney requested. It is Wednesday, May 6th at 4:00.

Commissioner Coward stated that several people have asked her about the ordinance regarding animal feces in the Gulf. We have an ordinance prohibiting it. She urged people to pick up after their pets and dispose of it properly.

Commissioner Coward had calls from people who were confused about the watering schedule. The information is on the website, and it is very well done.

Commissioner Coward gave a reminder of the Easter egg hunt to be held on Saturday at 10:00 at the Community center.

Commissioner Bildz reported on the Library special meeting. An ex-employee was offered the Library Director's job.

Commissioner Bildz wished everyone a happy Easter and a happy Passover.

Mayor Minning wished everyone a happy Easter and happy Passover.

V. PUBLIC COMMENTS:

VI. ADJOURNMENT:

The meeting was adjourned at 8:45 p.m. by Mayor Minning.