

WORKSHOP MEETING, JUNE 20, 1996
AGENDA ITEM # B-1

Agenda Item: Canal Dredging Project
(Policies re: Liability and Financing
Alternatives)

Presenter: Town Manager, Town Attorney, Finance Director,
Public Works Director, and Dr. Cliff Truitt

Summary: The Canal Dredging Study prepared by Coastal
Planning & Engineering, Inc. was first considered
by Town Commission at its May 16 Workshop meeting.
At that time, the Town Commission accepted Phase I
of the program (i.e. CPE's report) and agreed to
move to Phase II to resolve the questions of
liability and ownership and, further, to review
financing alternatives for the project. This
Phase II is the subject of today's discussion of
the Canal Dredging Project. Included in today's
discussion will be various approaches to dealing
with the question of liability and various
financing alternatives for the Town Commission to
consider. (The question of ownership, as well as
the remaining aspects of the Canal Dredging
Project will be presented at a later date.)

Attachments: 6-14-96 Memo, Town Manager to Town Commission;
6-14-96 Canal Dredging Project Report

Recommended
Action: Pending consensus of the Commission

MEMORANDUM

DATE: 06-14-96

TO: Town Commission

FROM: Griff Roberts, Town Manager

SUBJECT: Canal Dredging Project
(Liability and Financing Alternatives)

Attached is a report prepared by staff to address the two issues of liability and financing alternatives which were the subjects specified by the Town Commission for this workshop meeting. The remaining subjects concerning this project will be scheduled at the July Workshop meeting or later depending upon your action at this workshop meeting.



GHR/dhs

Attachment

Town of Longboat Key

CANAL DREDGING PROJECT

ALTERNATIVES FOR HANDLING LIABILITY

Following are suggested alternatives for handling the question of liability. To excerpt from the Town Attorney's June 3rd letter:

"Liability is essentially an issue of who should pay for damages. It seems that the alternatives for payment are: the Town; a smaller taxing unit; or the (individual) property owner."

The following are some specific approaches to handling the question of liability:

1. Have our engineers do visual inspections of seawalls and other appurtenances and notify owners of those that appear to be vulnerable, advise them that the Town will not be responsible for the failure of their seawall or other appurtenances and suggest that they may want to get their own expert opinion.
2. Require the contractor to carry insurance for liability in the amount specified by Coastal Planning & engineering, Inc.
3. If the Town uses an assessment program via a MSBU (Municipal Service Benefit Unit), any damages to seawalls or other appurtenances may be added to the total assessment program and paid for by all benefiting property owners.
4. Before dredging privately owned canals, get an easement or permission from the property owners to dredge to the engineer's design and relieve the Town of any liability for damages.
5. The Town could do the total project, funded by ad valorem taxes, and add any claims for damage to the total cost which would be added to the project and paid by ad valorem taxes.

CANAL DREDGING PROJECT

FINANCING ALTERNATIVES

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From the Feasibility Study performed by Coastal Planning & Engineering the cost to perform the proposed project is \$1.2 million. With the costs of liability insurance policies, the addition of three canals and other unknowns, a cost of \$1.4 million will be used as a conservative measure.

Fundamentally, financing the project involves three issues: obtaining the funds, determining who pays, and developing methods for repayment.

I. OBTAINING THE PROJECT FUNDS

1. Bond Issues

Because of the inflexibility of bond issuance costs (e.g. rating agency fees, bond insurance, multiple attorney fees and others), a bond of \$1.4 million is relatively expensive. This same inflexibility makes larger bonds relatively less expensive.

Other bonding options would be to enter into one of the established project pools in the State of Florida. The interest rates in these pools are higher than the bond market, but for a short duration, the pools may prove economical.

2. Direct Bank Placement

Approaching a bank directly may be advantageous because banks can dispense with many of the costs associated with bonds. Loans of this size are tax exempt which further assists banks in competing with the bond market.

3. Internal Funding

The town could fund the project as a loan, at interest, from the Utility Fund or a combination of Utility Fund and other fund surpluses.

4. Matching Grants

There has been some speculation that agencies of the State of Florida have matching grants for dredging. If available, these funds can be used to pay debt service or if bank financing or internal funding is selected the grant could pay down directly on principal.

II. WHO PAYS HOW MUCH

There are many issues involved in determining who pays how much of a project.

A. Townwide Project

This project is very small compared to the town's tax base of \$2.16 billion. The appeal of highly navigable canals alone could raise the town's ad valorem value far in excess of the \$1.4 million. A one-time, town-wide assessment (similar to the sidewalk project) would equal .6481 mills (gross). If the average home on Longboat Key were \$300,000, the average one-time cost would be \$194.43. Even if the project were to rise to \$1.8 million the millage would be .8333 (gross) which would be \$250 on a home valued at \$300,000. If the project were financed on a 5-year basis the annual debt payment would be \$341,447 or .1581 mills (at \$1.8 million it would be \$429,266 or .1987 mills).

B. District A and District B

The canal-front homes benefit greatly from the dredging, but to some extent all Longboat Key property owners benefit (as well as the Counties). It is arguable that the 80/20 (millage) formula of District A and District B should be reversed for canal dredging. On a one-time levy for District B would be 1.2043 mills (\$1,028,600) or \$361 on a home valued at \$300,000 and District A would be .3010 mills (\$371,400) or \$90 on a home of \$300,000. On a 5-year levy for District B would be .2937 (or \$250,867) and District A would be .0734 (or \$90,579).

C. Special Assessment Project

Creating a special assessment district as a subset of the town as a whole is a good match for the proposed project. This subset could be the 800 canal front properties affected in this project area (number of units will change subject to final review).

D. Methods of Establishing Special Assessment Districts

1. Town Commission Establishment

If there is sufficient public interest or if the town deems it necessary, a special assessment district can be designated by the Town Commission by ordinance.

2. Citizen Petition

Citizens can petition the Town Commission to establish an assessment district to perform a project. For example, Manatee County will create an assessment district when more than 50% of the property owners in a designated "benefit area" petition the County to perform a project. In a public hearing the boundaries, project definition, project costs, and the special assessment formula for payment are determined.

E. Fair Payment Formula

Factors involved in developing an equitable formula are as follows:

1. Town participation
2. Value gained from dredging
3. Value gained from maintenance of the canal
4. Number of users
5. Size of lots
6. Cost to dredge each canal
7. Property Values

Establishing a formula using all factors is unnecessary. A formula which is uncomplicated but fair may be established (especially due to the small size of individual assessment). As an example, the formula could be established in thirds.

1. The entire town's share could be one-third (partially paid from grants).
2. All properties in the project area could be charged two-thirds.

Thus, the town would pay \$467,000, the 800 effected properties would pay \$1,168 each for a total of \$964,400.

III. HOW WILL IT BE PAID

- A. Town-wide and Beach District alternatives would pay for the project or the debt service by an ad valorem tax.
- B. Special Assessment Districts will pay a fixed amount.

Spending funds on behalf of a Special Assessment District creates a lien on property. This very action alone helps early payment of an assessment because (1) many property owners pay off liens to avoid obligations or interest; (2) many real estate transactions stipulate "fee simple" titles which requires liens to be paid; and (3) many mortgage brokers demand senior lien positions on property loans. The size of the borrowing and the payment schedule are directly affected by these actions.

- C. Fees and Interest

Those who do not pay immediately would be subject to fees and interest for the duration of the payments. Special assessment districts are popular with counties and some cities for street, lighting, and utility projects. Property appraisers and tax collectors handle special assessments and charge fees up to 3% of collections for their services. Additionally, the town establishes an interest rate of, perhaps, 2% above its cost.

- D. Payment Schedules

If the payment were town-wide it could be charged in a single year or within a convenient time frame. In the example, above, the total for each property is minimal; thus, three years might be selected for the levy. Other scenarios may be more costly to a group of property owners which might suggest a levy of five years.

IV. SUMMARY OF ALTERNATIVES

A. FINANCING:

Bond Market
State Pools
Bank Borrowing
Internal Funding
Special Assessment
Grants

B. WHO PAYS:

Townwide
Reverse Beach Districts
Effectuated Canal Front Properties

C. REPAYMENT:

One-Time Tax
Three-Year Levy
Five-Year Levy
Other

CANAL DREDGING POLICY OPTIONS

- Require all canal-front property owners to sign a release holding the Town harmless for any damage to their seawall.
- Require all property owners on the narrow canals (judged too narrow to be dredged), as well as other canal-front property owners whose seawalls are determined to be failing, to sign a release relieving the Town of any liability due to damage to their seawall.
- Require no releases.
- Have the project insured for an adequate amount (to be determined) to cover resulting damage to seawalls; have the project insured either by the Town or by the contractor.
- Using the CPE study, solicit proposals from contractors including a requirement that the contractor provide the Town with a million dollar bond for damages.

Town of Longboat Key

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