Meeting Date: November 17, 2016

Agenda Item: 7-A

Report to Town Council

Topic: Discussion of canal dredging of the canals adjacent to Old Carriage Road and Anchor Drive.

Recommended Motion: As determined by Council.

Summary: Please see attached memorandum from Mr. Joulani, Planning & Development Director. Both he and Mr. Shepard, Town Attorney, will provide information they have obtained regarding the canal dredging of the canals adjacent to Old Carriage Road and Anchor Drive.

Additionally, the presentation / fact-finding report that was presented to the Town Council at the April 21, 2016 Regular Council meeting is attached.

Requested by: Town Council

Approved by: Ms. Witt, Town Manager

MEMORANDUM

TOWN OF PONCE INLET, PLANNING AND DEVELOPMENT DEPARTMENT

The Town of Ponce Inlet staff shall be professional, caring and fair in delivering community excellence while ensuring Ponce Inlet citizens obtain the greatest value for their tax dollar.

To: Jeaneen Witt, Town Manager

From: Aref Joulani, Director, Planning & Development

Date: November 8, 2016

Subject: Discussion of the Emerald Isle and Yacht Haven subdivisions canal dredging effort

MEETING DATE: November 17, 2016

HISTORY:

At the November 19, 2015 regular meeting, the Town Council approved Resolution 2015-17; establishing a five member Ad-Hoc Committee for the purpose of gathering information and fact-finding to determine the level of interest for participation in neighborhood cost-sharing of a canal dredging effort specific to the Emerald Isle and Yacht Haven subdivisions.

On April 21, 2016, Mr. Henry Dreifus, Chairperson of the Canal Dredging Committee (Committee), presented a fact-finding report on the Emerald Island and Yacht Haven Canals; which included the level of interest for participation in the cost-sharing for dredging of these canals. It was stated that grants are available for this type of dredging. In response, Councilmember Milano inquired about the information that would be needed in order to apply for grants. Mr. Dreifus noted that ownership of the canals must first be determined, and that experts and consultants can assist with that information. He also requested that the Committee be dissolved as it has fulfilled its obligation. Following the meeting Mr. Dreifus requested a follow-up meeting with staff.

On June 8, 2016, Staff was contacted by Brandon Roth a resident of 106 Old Carriage Road who was a member of the Committee. A meeting was scheduled for June 16 at the Town Hall with two additional staff from this department and two other members of the Committee participating. At the meeting, Mr. Dreifus presented the information that the Committee had gathered for their report and talked about the factors that the Committee believes contributed to the water quality and water flow in these canals. Other topics of discussion included funding of the dredging of the canals. It was stated that the Florida Inland Navigation District (FIND) has grants available that can be acquired if application is submitted. Staff agreed that assistance from a specialized consultant would greatly increase the quality of the grant application and increase the likelihood of acquiring the grant. Staff explained that based on previous conversation with the Assistant Executive Director of FIND, these grants are highly competitive and not all the canals would qualify for such grant. Staff assured that FIND will be contacted again to assess our chances of funding the dredging with grant from that agency.

DISCUSSION:

1. **Title and Ownership:**

The Committee members believe that the canals are public, and therefore would qualify as public waterways for the purpose of acquiring grants. The recorded plat of the Emerald Subdivision dated February 1968 granted a permanent easement and the right to use the waterways to Volusia County for drainage purposes only. The recorded plat of the Yacht Haven Subdivision dated August 7, 1969 includes a statement dedicating the streets, thoroughfares, canals, and drainage easements to the perpetual use of the public, and Yacht Haven, Inc. (Attachment A.). The Town attorney has been tasked with investigating the ownership of the canals and will be reporting separately.

2. **Funding and Grants:**

A. Dredging Grants:

On July 06, 2016, Staff contacted Janet Zimmerman, the Assistant Executive Director of FIND for an in depth conversation about the committee's findings and potential funding sources for the dredging project. Ms. Zimmerman was clearly explained the Waterway Assistant Program (WAP) grants and the type of project that would be considered qualified for funding. She stated that grants are available for assisting local governments with water access improvement projects. To qualify for the grant, waterway related projects must be located on natural, navigable waterways within the District. Eligible waterway related projects include navigation channel dredging, boat ramps, docking facilities, fishing & viewing piers, waterfront boardwalks, inlet management, environmental education, law enforcement equipment, boating safety programs, dredge material management, environmental mitigation, and shoreline stabilization. She stated that private canals would not qualify for dredging under eligible waterways for grant funding per District Rule 66B-2.003(29)[1]. Specifically, the canals around the Emerald Island/Yacht Haven area do not qualify as a potentially eligible project under WAP rules (Attachment B). When Staff inquired about the definition of public waterways, Ms. Zimerman stated that they must be navigable and accessible for recreational uses by all residents of the state from Miami to Jacksonville.

Ms. Zimmermann indicated that if the Town builds a kayak launch at the end of the waterway north of Old Carriage Road, the waterway may become eligible for WAP funding only for necessary dredging for kayak access with certain conditions on that canal only, but any eligibility would be limited only to maintain the depth necessary for kayak use and there is no guarantee that this competitive funding would be available even for this.

B. Stormwater Runoff

The Ad-Hoc Committee's report stated that the town's storm drains flow into the canals and therefore, contribute to "poor tidal flow" and create unhealthy water for "sea life and humans". They have asked the town to look into various grants that may be used to improve the water quality and potentially towards the canal dredging efforts. It should be clarified that subject storm drains were approved when the two subdivisions were created and only carry the street runoffs that are generated from the streets within the two subdivisions.

[1] 66B-2.003(29): "WATERWAYS" means the Atlantic Intracoastal Waterway, the Okeechobee Waterway, the Barge Canal in Brevard County west of the Port Canaveral Locks, those portions of the Dania Cut-Off Canal and the Hillsboro Canal east of the water control structures, all navigable natural rivers, bays, creeks or lagoons intersected by said waterways and all navigable natural creeks, rivers, bays or lagoons entering or extending from said waterways.

On July 20, 2016, Staff contacted Kathryn Merchant, Program Administrator of Nonpoint Source Management Program of FDEP to find out if grants are available for canal dredging or water quality improvement efforts. Staff was informed that FDEP has an "urban storwater grant" grant that is generally geared to treating stormwater before it hits the water body. The grant would be more applicable to projects that institute treatments measures prior to the water going into the canals. There is also a nonpoint source grant that could be used to institute erosion control measures, primary for planting projects. It appears that these grants cannot be used for dredging the canals.

3. **Maintenance Dredging:**

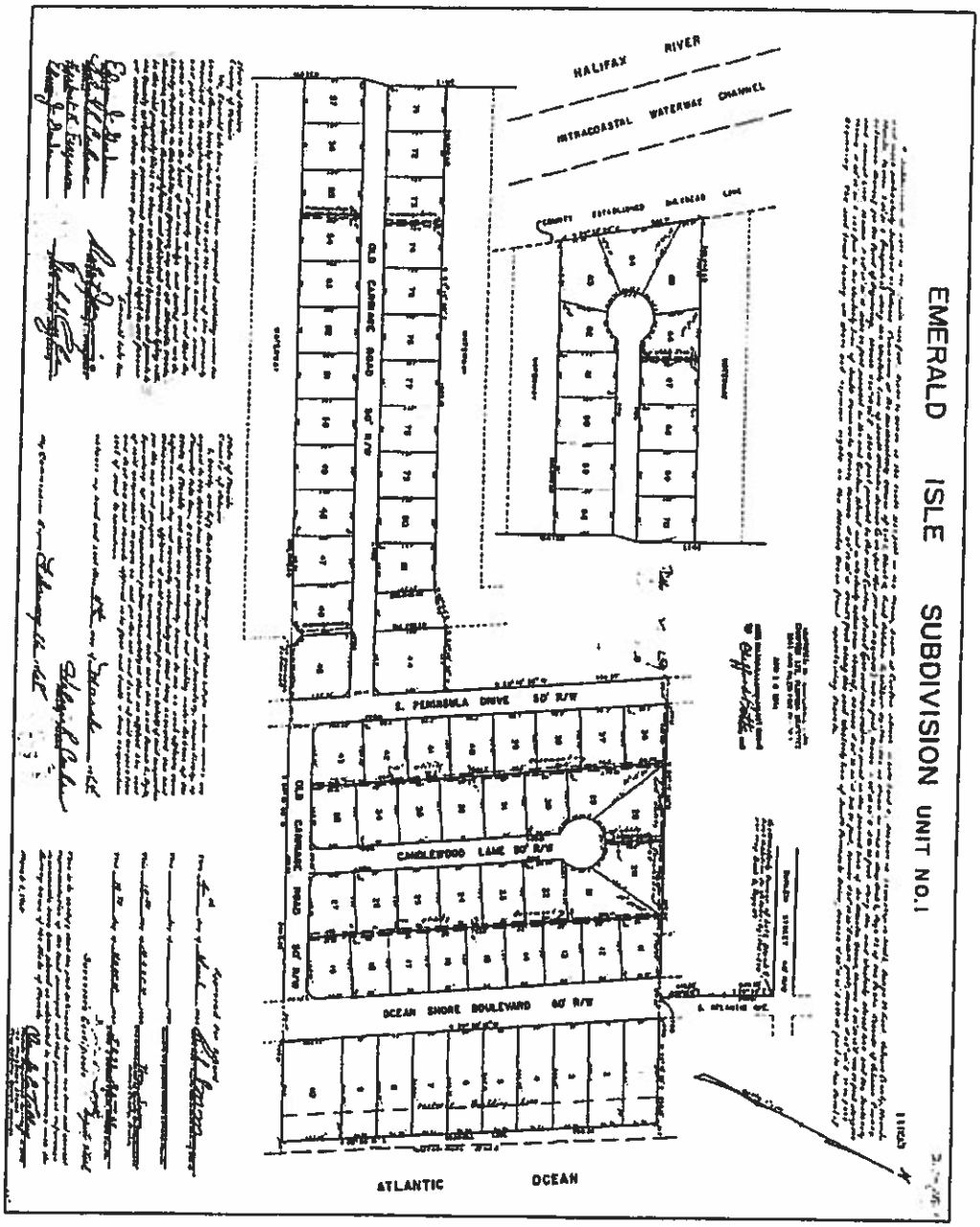
On August 4, 2012, FDEP issued a Joint Coastal Permit (JCP) to the Army Corps of Engineers (Corps) for periodic maintenance dredging of the Ponce de Leon Inlet. The Corps determined that the relatively high rate of shoal buildup within the Inlet Federal channel necessitates frequent maintenance dredging. Removal of the shoal material would maintain the navigable capacity of the project channel. The Corps next maintenance dredging is scheduled for 2017. Unfortunately, the mouths of the subject canals are outside the boundary of the Corps dredging permit (Attachment C). Staff tried to contact the Corps specialists to discuss the canal issues, but no response has been received yet.

Aref Joulani, Director, Planning & Development — 11/08/2016 Date

Attachments:

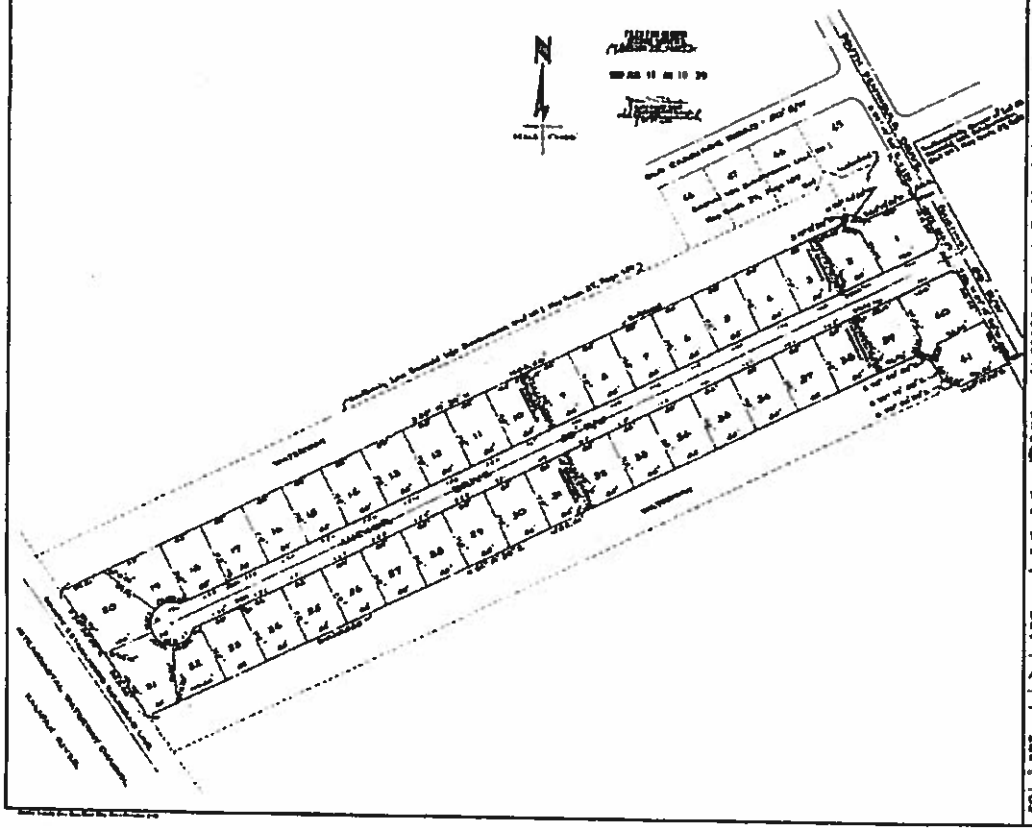
A. The Recorded Plat
B. Emails from Janet Zimmerman
C. Corps maintenance dredging Limits

ATTACHMENT A.



YACHT HAVEN SUBDIVISION

A Subdivision of part of the South 1320 feet, More or Less, of the south 3/4 thereof on the Ocean, South of Center Island as Lots 1 and 2, Section 18, Township 15 South, Range 35 East, Volusia County, Florida and more particularly described as follows: Commence at the Southeasterly Corner of Lot 46 Emerald Isle Subdivision and as I am shown on Map or Map Book 27, Page 109 of the Public Records of Volusia County, Florida; thence S 27°17'20" E 90.0 feet along the Westerly line of South Peninsula Drive (50' Road of Reference); thence S 62°42'40" W 100 feet parallel to the said Emerald Isle Subdivision; thence N 27°17'20" W 21277 feet; thence S 62°42'40" W 22.89 feet; thence S 62°19'35" W 1004.00 feet parallel to the said Emerald Isle Subdivision; thence S 0°07'20" E 248.04 feet; thence N 62°19'35" E 1004.00 feet parallel to the said Emerald Isle Subdivision; thence S 27°17'20" E 200 feet; thence S 62°42'40" E 24.61 feet; thence S 62°42'40" E 76.39 feet parallel to the said Emerald Isle Subdivision to the said Westerly line of South Peninsula Drive; thence N 27°17'20" W 382.89 feet along said Westerly line of South Peninsula Drive to the Point of Beginning.



PLAT BOOK 29
AND PAGE 92

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That the Corporation named below, being the owner in fee simple of the lands described in the foregoing caption to the plat, hereby confirming said lands and plat to be true and proper, does hereby grant and dedicate the streets, thoroughfares, parks, canals and drainage easements shown thereon to the perpetual use of the public and Yacht Haven, Inc.

IN WITNESS WHEREOF, the corporate name hereunto to be signed and attested to by the officers named below and its corporate seal to be affixed hereto by ... this ... day of ... 1966.

By ... President

Attest: ... Secretary

Signed and sealed in the presence of:

...

...

...

CORPORATE SEAL

STATE OF ... COUNTY OF ...

THIS IS TO CERTIFY, That on ... day of ... 1966, before me, an officer duly authorized to take acknowledgments in the State and County aforesaid, personally appeared ... and ..., ... and ... respectively ... President and ... Secretary of the above named corporation, incorporated under the laws of the State of ..., to me known to be the individuals and officers described in and who executed the foregoing Dedication and severally acknowledged the executing thereof to be their free act and deed as such officers thereunto duly authorized; that the official seal of said corporation is duly affixed thereto, and that the said Deed is the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereto set my hand and seal on the above date.

...

NOTARY PUBLIC

My Commission Expires October 1970

CERTIFICATE OF SURVEYOR

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being a licensed and registered land surveyor, does hereby certify that on ... day of ... 1966, he completed the survey of the lands as shown in the foregoing plat; that said plat is a true representation of the lands thereby surveyed and platted; and that permanent reference monuments have been placed as shown thereon as required by Chapter 177, Florida Statutes, and that said land is located in ... Township, ... Range, ... County, Florida.

Dated this ... day of ... 1966

...

CERTIFICATE OF APPROVAL BY BOARD OF COUNTY COMMISSIONERS

THIS IS TO CERTIFY, That on the ... day of ... 1966, the foregoing plat was approved by the Board of County Commissioners of Volusia County, Florida.

...

Chairman of the Board

Attest:

...

Clerk of the Board

CERTIFICATE OF APPROVAL

THIS IS TO CERTIFY, That on ... day of ... 1966, the foregoing plat was approved by ...

...

THIS IS TO CERTIFY, That on ... day of ... 1966, the foregoing plat was approved by ...

...

CERTIFICATE OF APPROVAL BY BOARD OF COUNTY COMMISSIONERS

THIS IS TO CERTIFY, That on ... the foregoing plat was approved by the Board of County Commissioners of Volusia County, Florida.

...

Chairman of the Board

Attest:

...

Clerk of the Board

CERTIFICATE OF CLERK

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of Chapter 177, Florida Statutes, and was filed for record on ... day of ... 1966, File No. ...

...

Clerk of the Circuit Court
In and for Volusia County, Fla.

ATTACHMENT B.

Joulani, Aref

From: Janet Zimmerman [jzimmerman@aicw.org]
Sent: Wednesday, July 06, 2016 11:15 AM
To: Joulani, Aref
Cc: Susanne McCabe (sdm@mccabelawyers.com)
Subject: Citizen request for dredging Town of Ponce Inlet
Attachments: 66B-2.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Joulani,

It was good to speak with you this morning regarding potential funding sources for residential canal dredging. Unfortunately, there is little to no grant funding available for such. I have attached the FIND Waterway Assistance Program (WAP) grant rule for full details.

Private canals are not eligible waterways for WAP grant funding per District Rule 66B-2.003(29). The dredging of the canals around the Emerald Island/Old Carriage Rd area do not qualify as a potentially eligible project under WAP rules.

In general, FIND funded public navigation projects have strict requirements (Rule 66B-2.005(6)) if a project is eligible to apply.

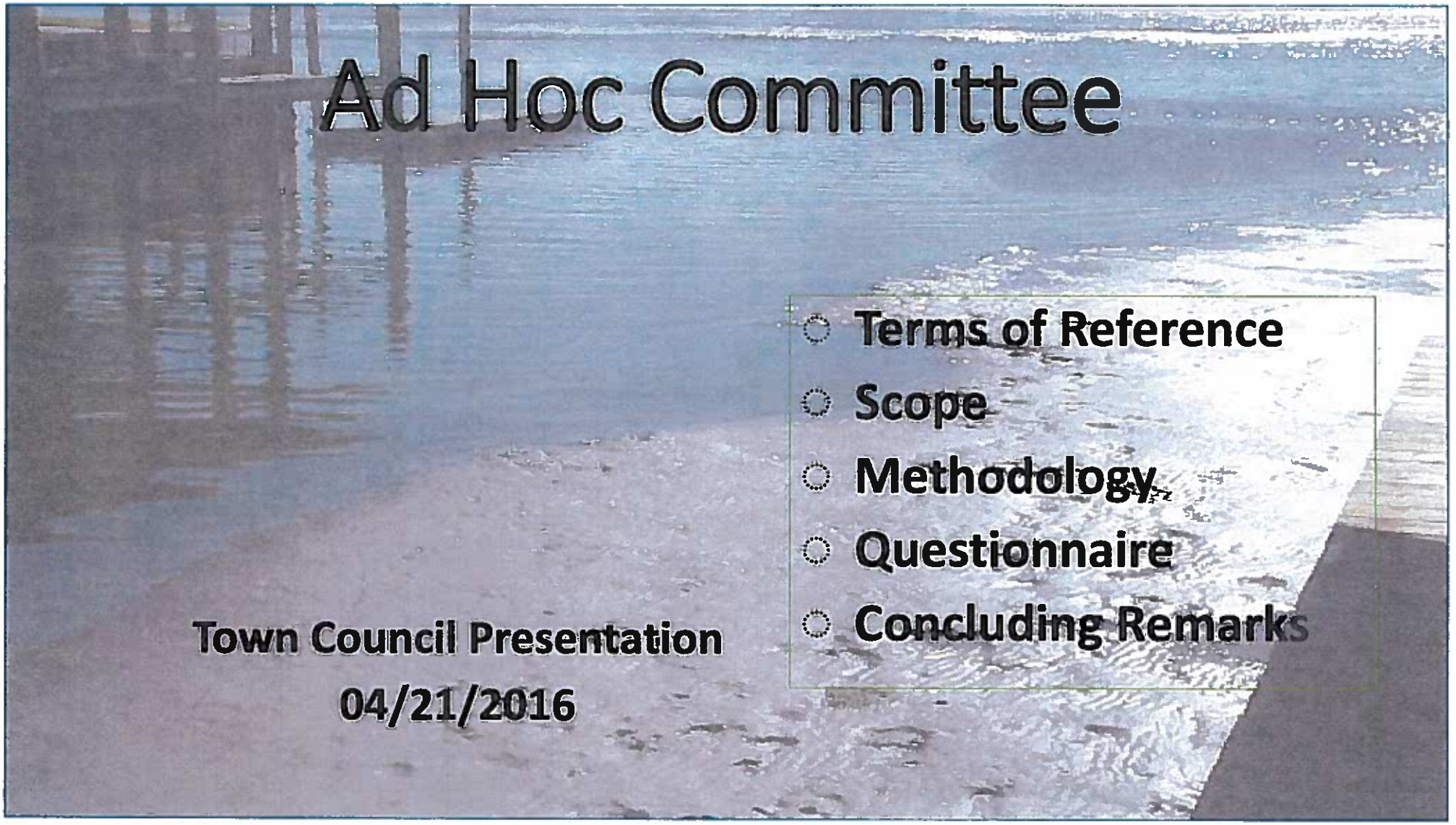
The Division of State Lands website I mentioned is: http://tlhdslweb.dep.state.fl.us/florida/flpro/viewer.htm

If I can be of further assistance, please let me know.

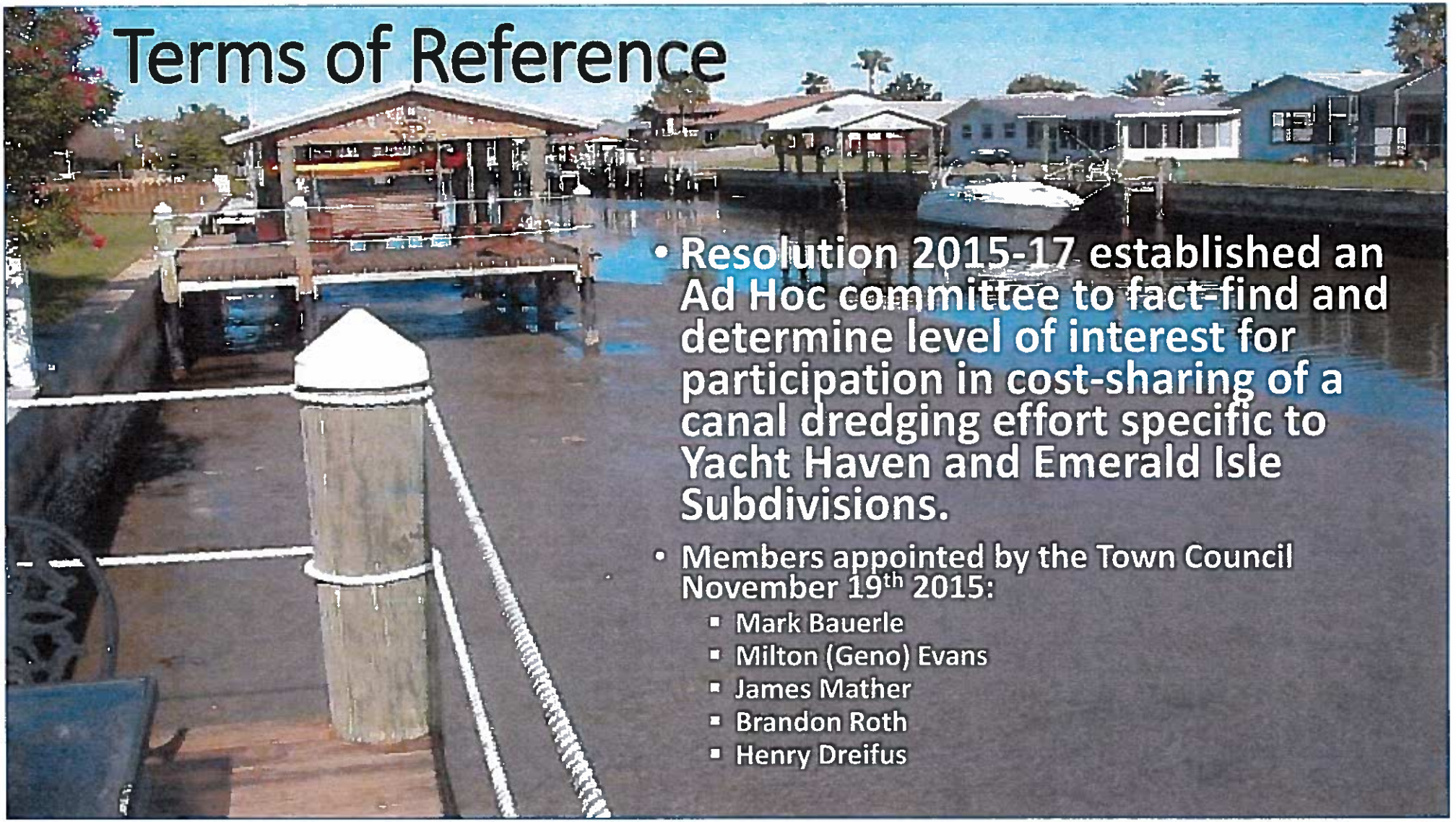
Sincerely,

Janet Zimmerman, Assistant Executive Director
Florida Inland Navigation District (FIND)
1314 Marcinski Rd
Jupiter, FL 33477
561.627.3386

Attachment C:
Boundary of Corps Dredging Project


Ad Hoc Committee
Terms of Reference
Scope
Methodology
Questionnaire
Concluding Remarks
Town Council Presentation
04/21/2016

Terms of Reference



- Resolution 2015-17 established an Ad Hoc committee to fact-find and determine level of interest for participation in cost-sharing of a canal dredging effort specific to Yacht Haven and Emerald Isle Subdivisions.
- Members appointed by the Town Council November 19th 2015:
  - Mark Bauerle
  - Milton (Geno) Evans
  - James Mather
  - Brandon Roth
  - Henry Dreifus

Scope

- Developed an understanding and fact-gathering for the challenges based on similar / comparable canal issues and considerations.
- Calibrated a level of interest from stakeholders for the dredging efforts for the Canals adjacent to the Yacht Haven and Emerald Isle subdivisions.
- Developed, distributed and collected a stakeholder questionnaire to the Yacht Haven and Emerald Isle communities.
- Developed fact-finding for the scope for the dredging effort.

Halifax River
Old Carriage Rd
Old Carriage Rd
Old Carriage Rd
Anchor Dr
Anchor Dr

Methodology & Questionnaire

- Team met to review the scope, prior history and develop a questionnaire which was distributed early March 2016.
- Reviewed other representative Florida community canal challenges and resolutions.
- 82 questionnaires were distributed; 39 responses received (48% response rate).
- Results aggregated and summarized.

This survey is being conducted by the Ad Hoc Committee of the Town Council of the Town of Ponce Inlet. The purpose of the survey is to obtain your input as a part of fact finding regarding concerns of the canals that surround the Yacht Haven and Emerald Isle Subdivisions. Your input is important to help provide an understanding of the challenges and approaches to improve the community. Please respond no later than March 6th. Thank you for making the time to share your insights on behalf of the community.

1. How long have you owned your home in the Yacht Haven / Emerald Isle Subdivisions? ____ Years
2. What were the primary reasons for choosing your home in the Yacht Haven or Emerald Isle Subdivisions? _____
3. When you purchased your home, did you receive documents showing ownership or rights to the canal adjacent to your home? ☐ Yes ☐ No
   - What is you understanding of ownership of the waterway adjacent to your home? _____
4. Do your keep a boat in the canal adjacent to your home?
   - If no, why? _____
5. When using your boat, do you experience problems navigating home?
   - If yes, how long have these problems existed? _____
   - Please describe the problems that exist: _____
   - Do you have photographs that include areas of difficulty, past issues or other concerns involving the waterways adjacent to y
6. How important is it to address these issues for personal enjoyment of your community or to protect the value of your h
   - Please Explain: _____
7. How important is it for the Town of Ponce Inlet to create and implement a regular maintenance program to address these issues? _____
8. Are you, as a resident of the Yacht Haven and Emerald Isle Subdivisions, willing to share in the cost of an initial solution and a subsequent maintenance program? ☐ Yes ☐ No
9. Do you have any additional information that would be helpful in the research or information gathering of the committee in regards to the waterways / canals adjacent to your home? _____

PROPERTY OWNER _____

PROPERTY ADDRESS _____

Please return by March 6th using one of the methods below:

- email: Jim Mather FL@gmail.com
- Fax: (386) 304-3303
- Dropbox on the porch: 120 Old Carriage Road Ponce Inlet, FL 32127

See attached for full questionnaire

Questionnaire Summary (n=39)

How Long Lived in Yacht Haven/ Emerald Isle			15.24	Years
Primary Reason: Because of Water/Boating/Canal			35.00	90%
Do you have now or recently had a boat at your home?			33.00	85%
Problems navigating/aware of canal problems?			30.00	77%
Do you think it is important for the Town to address canal?			35.00	90%
Concerns over home value/impacting use of boating.			33.00	85%
Cost Share Considerations	Willing to Share in the Cost		15.00	**38%**
	Not Willing to Share in the Cost		9.00	23%
	Town Responsibility	**64%**	1.00	3%
	Depends on Cost		14.00	36%

26%

100%

Select Questionnaire Responses

[All questionnaire responses are available for review]

- 90% (35) indicated that they moved to their residence because of the proximity to access the water, boating or the canal.
- 85% (33) currently own or recently have owned a boat.
- 82% (32) would be willing to consider to share in the cost *depending on the amount* for resolving the canal issues.
- 80% (31) have concerns over not being able to use the canals for boating.
- 77% (30) have experienced or aware of the problems navigating the canals.
- 90% (35) believe it is important for the Town to address these issues.

Representative Comments/Questionnaire Feedback

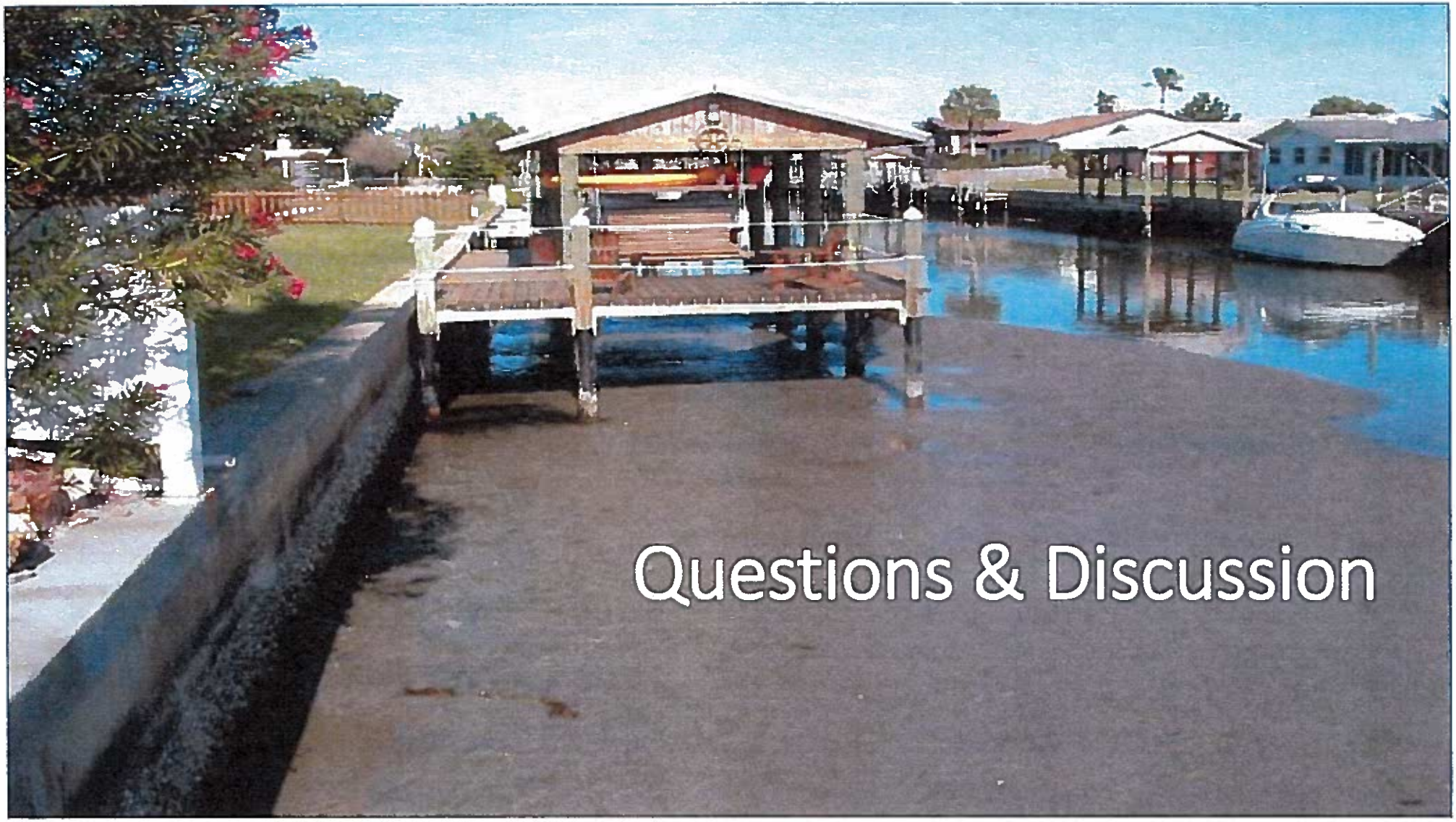
- The majority of the concerns could be addressed if the mouths of the canals were dredged.
- The Town Storm drains flow into the canals and have contributed to "poor tidal flow", creating unhealthy water for sea life and humans.
- The Town should try to take advantage of funding sources from the Federal, State and County governments to address the canal dredging issue.
- Creating a "Slow Zone" near the canals would reduce the amount of silt being disturbed and settling in the canal mouths.
- More than 90% of the Canal traffic on the North side is from non residents using the waterways.
- Dredging the mouths of the canals will open the flow up to help clean and condition them.

Canal Dredging Considerations

- Ad Hoc Committee reviewed other Florida canal-community situations including New Smyrna Beach, South Daytona, Matanzas, Oak Hill, Edgewater, Rose Bay, etc.
- There are significant funding resources available. South Daytona and New Smyrna Beach are regularly benefitting from grants and reimbursement resources for improving their canals/waterways/access.
- Major grant/sources can be applied for and are specifically available for this purpose – and may be applicable for use. Dredging can be 75% reimbursed via a Federal Program administered by the State of Florida. This grant could be applied for and included as early as the next Florida Inland Navigational District (F.I.N.D.) panned major dredge of Ponce Inlet, scheduled for 2017 by the US Army Corps of Engineers.
- The Town of Ponce Inlet will need to aver ownership of the canals for any type of dredging permit.

Concluding Observations

- We learned a lot and appreciate the scope, complexities and challenges involved in addressing the issue of the Canals.
- The steps taken for Emerald Isle and Yacht Haven can help to set a course and path for the Town to address all the canals and waterways around the community to maintain and preserve our ecosystem and quality of the environment.
- The Ad Hoc committee members are grateful for the opportunity to contribute to the improvement of Ponce Inlet.


Questions & Discussion

esri
200ft

Northern Canal Entrance

Visible Imagery

Center Canal

Visible Imagery

Southern Canal

Visible Imagery

Flow restricted – Northern Canal into Wilbur Bay

Visible Imagery

Southern Canal – *flow restricted to/from conservation area*

Visible Imagery

100M / 50ft

Visible