

1. Requested Motion:

Meeting Date: January 18, 2011

Authorize staff to proceed with an Invitation to Bid for construction of the Mound House observation/fishing pier as designed.

Why the action is necessary:

Accomplishes provision of water access and wildlife observation found within the Town's Management Plan with Florida Communities Trust (FCT). This project fulfills responsibilities of executed grant agreements with the Lee County Tourist Development Council to design and construct an observation/fishing pier at Mound House.

What the action accomplishes:

Directs staff to prepare a Supplemental Task Authorization to AECOM to complete construction documents and technical specifications for the observation/fishing pier and proceed with an Invitation to Bid.

2. Agenda:

- Consent
- Administrative

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other

4. Submitter of Information:

- Council
- Town Staff
- Town Attorney

5. Background:

At the meeting of January 3rd, Town Council directed staff to contact the Lee County Tourist Development Council (TDC) and inquire whether the elimination of fishing as a use from the pier would affect allocated funding. Telephone contact was made by the Cultural Resources Director with TDC Executive Director Tamara Pigott on Tuesday, January 4th. Ms. Pigott requested the Town provide the question in writing so that she could forward it to Deputy County Attorney Andrea Fraser. The question was submitted via email. Ms. Fraser responded via email to Ms. Pigott that elimination of the fishing use from the pier would make the structure ineligible for TDC funding.

The Town received grant support from TDC for the design, engineering, and permitting of the observation pier (FY2007) and construction (FY2008). Should the Town Council decide not to continue with this project, the Town may be responsible for reimbursement of design and permitting costs to the TDC.

The following supplemental materials are provided for Town Council consideration:

- Email correspondence between the Cultural Resources Director and TDC dated January 4-6, 2011.
- Memorandum regarding alternative timelines for construction from Cultural Resources Director to Town Manager dated December 27, 2010
- Memorandum on design considerations for current pier from AECOM dated April 26, 2010

6. Alternative Action:

Determine an observation/fishing pier is not desired at Mound House and direct staff to assess alternative means of providing safe wildlife observation areas at the site.

7. Management Recommendations:

Authorize staff to proceed with the construction of the observation/fishing pier as authorized within the submerged land lease boundary.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

9. Council Action:

- Approved
- Denied
- Deferred
- Other

Attachment 1

 You forwarded this message on 1/7/2011 5:51 AM.

Theresa Schober

From: Pigott, Tamara [TPigott@leegov.com] **Sent:** Thu 1/6/2011 1:30 PM
To: Theresa Schober
Cc: Macphee, Nancy
Subject: FW: Request For TDC Legal Opinion
Attachments:

Good afternoon, Theresa.

FYI. Andrea's response to your question from Tuesday is in the email string below.

Tamara Pigott
 Executive Director
 Lee County Visitor & Convention Bureau
 THE BEACHES OF FORT MYERS & SANIBEL
 12800 University Drive, Suite 550
 Fort Myers, FL 33907
 Telephone: 239-338-3500 U.S. & Canada: 800-237-6444
 www.fortmyers-sanibel.com

The Lee County Visitor & Convention Bureau promotes the world class beaches and unique attractions of Florida's unspoiled island sanctuary. The Beaches of Fort Myers & Sanibel in southwest Florida includes: Sanibel & Captiva islands, Fort Myers Beach, Fort Myers, Bonita Springs, Estero, Cape Coral, Pine Island, Boca Grande & Outer islands, North Fort Myers, Lehigh Acres.

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-----Original Message-----

From: Fraser, Andrea
Sent: Wednesday, January 05, 2011 9:19 AM
To: Pigott, Tamara
Subject: RE: Request For TDC Legal Opinion

Good morning. Happy New Year. The answer to the question is no.

Andrea R. Fraser
 Deputy County Attorney
 Lee County Attorney's Office
 PO Box 398
 Fort Myers, FL 33902-0398
 Phone: (239) 533-2236
 Fax: (239) 485-2118
 fraserar@leegov.com

-----Original Message-----

From: Pigott, Tamara
Sent: Tuesday, January 04, 2011 8:58 PM
To: Fraser, Andrea
Subject: FW: Request For TDC Legal Opinion

Andrea,

Another question from the Town of Fort Myers Beach that I felt needed to be run past you.

Several years back they received funding for a fishing pier/observation deck. They're now considering not allowing fishing from the facility, and would like to know if there is no fishing allowed would the project still be eligible for TDC funds.

Your help would be much appreciated.--Tam

From: Theresa Schober [theresa@fortmyersbeachfl.gov]
Sent: Tuesday, January 04, 2011 4:22 PM
To: Pigott, Tamara
Cc: Terry Stewart
Subject: Request For TDC Legal Opinion

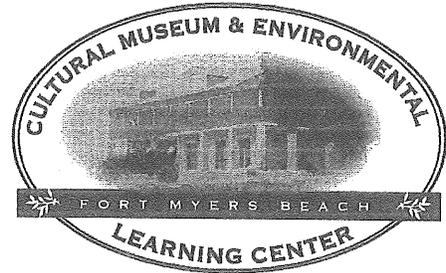
Dear Tamara -

Based on our telephone conversation, please accept this request for a legal opinion on the whether the proposed Mound House observation deck is an allowable use of TDC funds if fishing activity is regulated. As we discussed, the Town applied for and received TDC funding to construct the pier in the FY2008 Beach & Shoreline cycle. The primary intention of the pier is to provide a safe venue for the public to experience Estero Bay and the animal and plant communities within it. At the time of the application, the secondary use of the pier for fishing was anticipated.

All the best,
Theresa

Theresa M. Schober
Director of Cultural Resources
Town of Fort Myers Beach
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Please note: Florida has a very broad public records law. Most written communications to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.



Memo

To: Town Manager Terry Stewart
Cc:
From: Theresa Schober, Director of Cultural Resources
Date: 12/27/10
Re: Timelines for Construction of Mound House Pier Alternatives

The following chart provides tentative construction timelines with key tasks involved in alternative pier determinations for Town Council consideration.

Tasks	Current Design	Reduced Scale Pier	Different Pier Location
Redesign & Town Council approval	n/a	60 days	120 days ¹
Revise construction documents	n/a	45 days	45 days
Permit/submerged land lease modification	n/a	6+ months	n/a
New permit/submerged land lease application	n/a	n/a	12+ months
Finalize plans and specifications (AECOM/Town)	January 21, 2011	45 days	45 days
Advertise Invitation to Bid	January 23, 2011		
Pre-bid meeting	February 2, 2011		
Sealed bids due at Town Hall	February 21, 2011		
Present to Town Council	March 7, 2011		
Contracting	March 31, 2011	30 days	30 days
Construction	June 30, 2011	90 days	90 days
Completion	June 30, 2011	March 2012 or later	December 2012 or later

¹ Change in pier location would involve review by the Division of Historical Resources/Florida Communities Trust and the Fort Myers Beach Historic Preservation Board.

For additional information on design considerations that resulted in the permitted pier configuration, please see the attached memorandum by AECOM. In summary, considerations included:

- Impact to archaeological resources
- Impacts to existing mangroves
- Views to and from the historic house
- View corridors from neighboring properties
- Visitor experience & safety
- ADA compliance and fishing access
- Management Plan objectives



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www.aecom.com

305 444 4691 tel
305 447 3580 fax

Memorandum

To	Theresa Schober, Director of Cultural Resources	Page	1 of 3
CC	David Sacks, RLA		
Subject	Pier Design		
From	Gustavo Santana		
Date	April 26, 2010		

The existing design for the educational pier was developed by generating three alternatives to fulfill the FCT agreement objective of providing an over-water observation area, and evaluating them with the CELCAB board in the December 2006 public meetings. As you know, the original Management Plan concept of re-creating the historic pier to serve this purpose was one of the alternatives and was not selected by the board, in part due to the following considerations:

- Location of historic pier at the terminus of Connecticut Street was objectionable to some residents as it was thought that this location, being visible from up the street, might attract excess numbers of users unrelated to the Mound House's educational purpose (e.g., for fishing).
- Location outside of the property, in the public right-of-way, would make control and management more difficult.

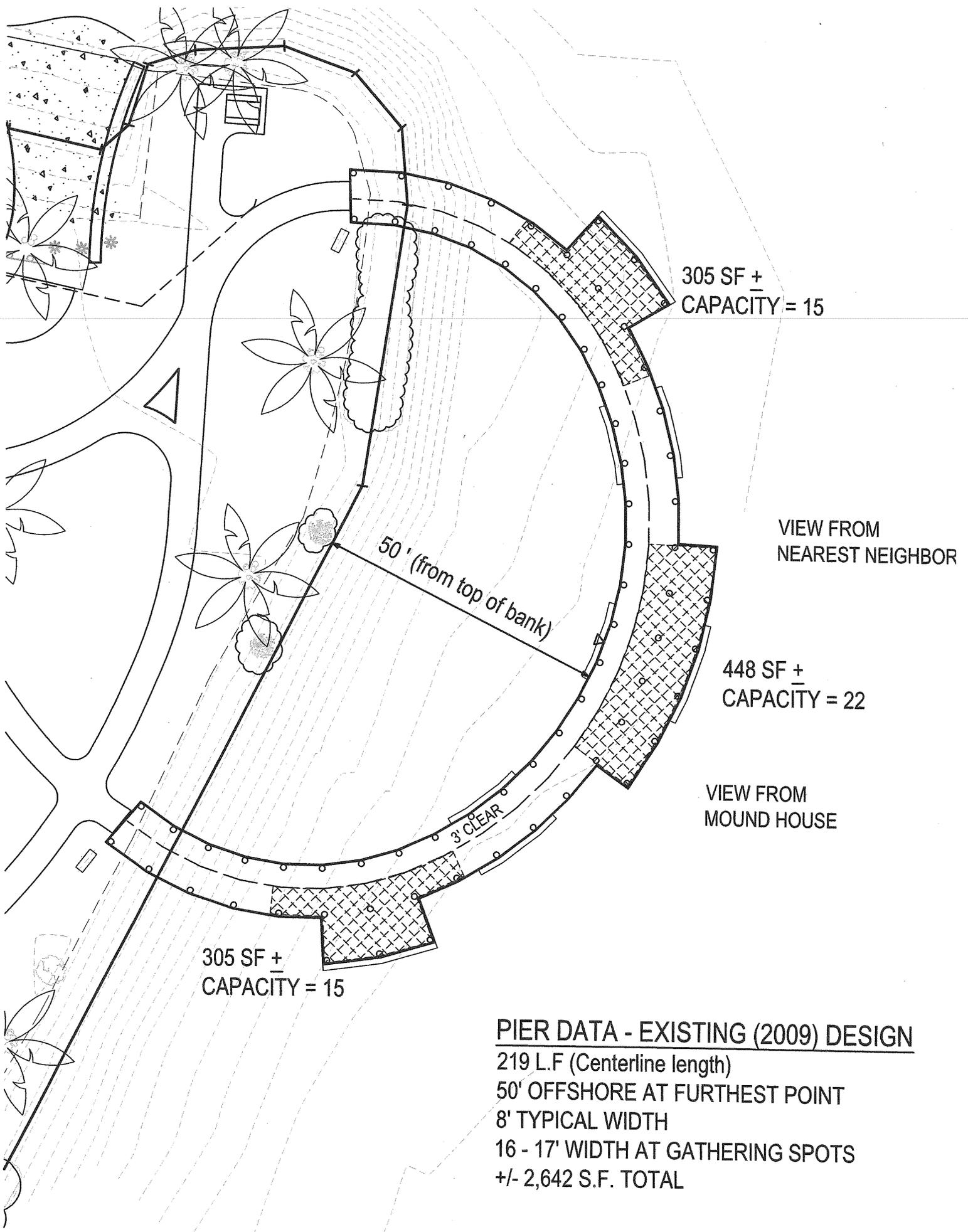
The option preferred by the board, further developed during the preparation of construction documents, was informed by the following considerations (see also attached diagram):

- It was located just beyond existing mangroves in the northeast corner of the site, to minimize visibility from the Mound House and enhance educational usage of that part of the site.
- Its design (alignment as well as siting) strives to keep it out of two key viewsheds, as much as possible: from the Mound House historic (front) landscape, and from neighboring property (across the canal, to the north). It is partially screened by the mangroves but in addition is aligned parallel, not perpendicular, to lines of sight from the neighbors' as well as the Mound House's key standpoints.
- It provides a quiet experience for the visitor, focused on the water and on bay views: buffered from the rest of the site by the mangroves, it will feel separated, 'away' from everything else. Allowing the alignment to extend a little ways out from shore – approximately 50 feet in this case – enhances this effect and also provides for a greater variety of water depths and habitats viewed.

- Width is kept to a functional minimum for the type of use (8' typical width,) to minimize visual impact and make the experience feel closer to nature; it also provides discreet, modestly larger gathering/viewing spots for small groups. (A basic principle by which such sites are designed is to accommodate groups, for educational purposes, while at the same time maintaining a comfortable scale and feel so that individuals / smaller groups, who may be visiting when the site is quiet and empty, can enjoy the intimate experience of a natural setting.)
- In this case three gathering/viewing spots were provided. They each focus in different directions and are separated as much as possible (approximately 35 to 40 feet), given the limited space available between the viewsheds.
- The curved alignment was derived from the above functional considerations but is also intended to make the experience more memorable for the visitor, by creating an unusual and graceful aesthetic.
- The points of connection to the upland (originally three, now reduced to two) were reduced and located in response to mangroves located by the surveyor at the beginning of the construction documents phase; avoiding impacts to these mangroves was an important consideration in securing approval from the Florida Department of Environmental Protection and other agencies for the Environmental Resource Permit.

The attached diagram illustrates these points and gives the basic data of the current design's dimensions and layout.

Please do not hesitate to contact me if you need further information.



305 SF +
CAPACITY = 15

VIEW FROM
NEAREST NEIGHBOR

448 SF +
CAPACITY = 22

VIEW FROM
MOUND HOUSE

50' (from top of bank)

3' CLEAR

305 SF +
CAPACITY = 15

PIER DATA - EXISTING (2009) DESIGN

- 219 L.F (Centerline length)
- 50' OFFSHORE AT FURTHEST POINT
- 8' TYPICAL WIDTH
- 16 - 17' WIDTH AT GATHERING SPOTS
- +/- 2,642 S.F. TOTAL