

**TOWN OF CINCO BAYOU
REGULAR COUNCIL MEETING
SEPTEMBER 14, 1995**

SILENT PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

PresentS: Mayor Laginess
Councilman Broxson
Councilwoman Chamberlain
Councilman Kendrick
Councilwoman Leach
Councilman Skelly

Also Present: Attorney McInnis Nancy Frey Tom Leach
Engineer King Carol Koch W. Bond
James Goodwin

PUBLIC HEARING - Ad Valorem Tax Millage Rate and General Operating Budget for the Fiscal Year Ending September 30, 1996.

1. Ad Valorem Tax Millage Rate - Tentative adoption of the proposed Ad Valorem Tax Millage Rate. (2.350 Mills). Councilman Skelly made a motion to approve the tentative adoption of the Ad Valorem Tax Millage Rate of 2.350, seconded by Councilman Broxson. The motion was unanimously approved.

2. General Operating Budget for the FYE September 30, 1996- Tentative adoption of the proposed General Operating Budget for the fiscal year ending September 30, 1996. (\$ 179,848.00). Councilwoman Chamberlain made a motion to tentatively adopt the General Operating Budget for the FYE September 30, 1995, seconded by Councilman Broxson. The motion was unanimously approved.

6. Ordinance No. 166 - First reading of Ordinance No. 166, an Ordinance providing for an Ad Valorem Tax Millage rate of 2.350 mills (an increase of 12.66% over the rolled-back rate) upon all real and personal property located in the Town of Cinco Bayou, Florida, on January 1, 1995. Attorney McInnis read Ordinance No. 166, by title only. Councilwoman Chamberlain made a motion to accept the first reading of Ordinance No. 166, seconded by Councilman Kendrick. The motion was unanimously approved.

7. Resolution 95-06 - First reading of Resolution 95-06, a Resolution of the Town of Cinco Bayou, Florida, adopting the General Operating Budget (\$ 179,848.00) for the Town of Cinco Bayou, Florida, for the fiscal year October 1, 1995 through September 30, 1996. Attorney McInnis read Resolution 95-06 by title only. Councilman Kendrick made a motion to accept the first reading of Resolution 95-06, seconded by Councilman Broxson. The motion was unanimously approved.

REGULAR BUSINESS

1. Minutes - September 14, 1995. Councilwoman Chamberlain made a motion to approve the minutes of September 14, 1995, 1995, seconded by Councilman Kendrick. The motion was unanimously approved.

2. Financial Report - September, 1995 - Councilman Broxson made a motion to approve the Financial Report for September, 1995, seconded by Councilwoman Chamberlain. The motion was unanimously approved.

3. Continuing Contract for Professional Tree Service - Mayor Laginess informed the Council that there had been several meetings concerning the Contract with FEMA, due to the damage caused by Hurricane Erin. Councilwoman Chamberlain made a motion to accept the Contract from FEMA and the State of Florida, seconded by Councilwoman Leach. The motion was unanimously approved. Then Mayor Laginess said he would turn over the contract dispute to the new Town Manager and that would be his first job. He would meet with Mr. George Collins and fill out a form disputing what FEMA wanted to pay the Town for all the damage caused by Hurricane Erin. Mayor Laginess also informed the Council that he wanted to thank the Okaloosa County Correction Facility for all the help provided by the inmates in cleaning up all the debris left from Hurricane Erin.

At that time Attorney McInnis ask the Council to consider a rate increase for his legal fees. The \$250.00 retainer fee would remain the same for the services currently provided under the retainer and the rate for all other services will be \$95.00 per hour. The contract for professional services will be amended to implement these changes. Attorney McInnis said there had been no rate increase since he has worked for the Town in nine and one half years (9 1/2). Councilwoman Chamberlain made a motion to approve the rate increase, seconded by Councilman Broxson. The motion was approved unanimously.

4. TOWN MANAGER/CLERK CONTRACT - Attorney Mcinnis read the contract to the Council. On a motion by Councilwoman Chamberlain, seconded by Councilman Broxson, the contract was approved unanimously.

COUNCILMEMBERS REPORTS/COMMENTS -Councilman Skelly said there had been an ordinance violation when the Mayor Pro Tem was appointed. Councilwoman Chamberlain made a motion to elect Councilman Broxson as Mayor Pro Tem, seconded by Councilman Skelly. The motion was unanimously approved.

Councilman Skelly asked when the parks would reopen. Mayor Laginess informed the council about the process needed to re-open the parks.

PUBLIC REQUESTS WILL BE HEARD AT THIS TIME -Mrs Frey addressed the Council and passed out a letter of questions and concerns she had about the public boat ramp. After a brief discussion the Council asked Manager Bell to look into the matter.

Mr. Jim Goodwin addressed the Council and ask why a public street had been blocked off at Andalusia and Kelly. After a brief discussion Mayor Laginess ask the Town Manager to get Mr. Goodwin's phone number and as soon as he had a chance to check on the problem and resolve it.

COMMITTEE REPORTS

1. Administrative Committee- No Report
2. Finance & Budget Committee-No Report
3. Comprehensive Plan Committee-No Report

TOWN MANAGER'S REPORT - Mr. Bell thanked the Council for having chosen him for the position of Town Manager for the Town of Cinco Bayou.

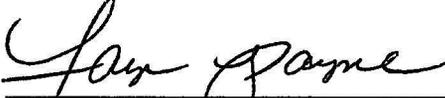
MAYOR'S ANNOUNCEMENTS - Mayor Laginess reminded everyone of the Town Picnic on Tuesday September 19, 1995.

There being no further business the meeting was ajourned at 6:45 P.M.

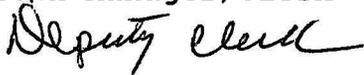


Mayor

Attest:



Town Manager/Clerk



Anchors, Foster, Mc Innis & Keefe, P. A.

Attorneys at Law

909 MAR WALT DRIVE, SUITE 1014
FT. WALTON BEACH, FLORIDA 32547

C. LEDON ANCHORS
W. SCOTT FOSTER*
C. JEFFREY MCINNIS
LAWRENCE KEEFE

AREA CODE 904
TELEPHONE 863-4064
FAX 862-1138

*ALSO ADMITTED IN ALABAMA

September 7, 1995

Town of Cinco Bayou
Attn: Faye
10 Yacht Club Drive
Fort Walton Beach, FL 32548

In Re: Continuing Contract for Professional Tree Service

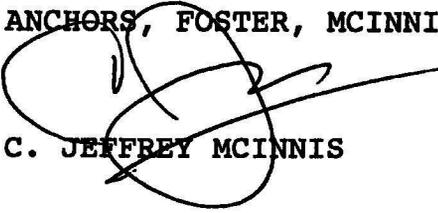
Dear Faye,

I enclose a draft of the Request for Proposals for a Continuing Contract for Professional Tree Service. This should be included on the Council's agenda for September 14, 1995, and copied in the agenda package for each Council Member.

If you should have any questions, please do not hesitate to give me a call.

Sincerely,

ANCHORS, FOSTER, MCINNIS & KEEFE, P.A.


C. JEFFREY MCINNIS

THE TOWN OF CINCO BAYOU, FLORIDA

REQUEST FOR PROPOSALS

CONTINUING CONTRACT FOR PROFESSIONAL TREE SERVICE

**The Town of Cinco Bayou, Florida
10 Yacht Club Drive
Fort Walton Beach, FL 32548**

September 7, 1995

A. NOTICE:

1. The TOWN OF CINCO BAYOU, FLORIDA will consider the selection of a professional tree service for the providing of services to the township under an annual continuing contract with a renewal provision for four additional one-year terms. Services shall include on a routine and/or emergency basis, as a minimum, tree trimming, tree and stump removal, and removal of all debris from such services.

2. Business entities interested in providing professional tree services to the Town of Cinco Bayou are hereby notified of the requirement to submit sealed proposals for such services to be received no later than 2:00 p.m. CST, October 12, 1995 at the Town Hall, 10 Yacht Club Drive, Fort Walton Beach, Florida 32548. Late responses will not be accepted or considered.

3. The Town of Cinco Bayou, Florida reserves the right to reject any one or all of the proposals, to waive any informality in any such submissions, and to select and negotiate a contract with a proposer in the best interest of the Town of Cinco Bayou, Florida. Additionally, the Town of Cinco Bayou reserves the right, in its sole discretion, to cancel this Request for Proposals and/or its review of submissions when it determines such action is in the best interest of the Town of Cinco Bayou.

4. Requests for Proposals offered must be valid for a period of sixty (60) days from the submission deadline.

B. SUBMISSION REQUIREMENTS:

1. Written proposals (including 7 copies) must be submitted in a sealed package clearly marked as "Response to Request for Proposals for Continuing Contract for Professional Tree Service".

2. Proposals should be submitted to:

Charles R. Laginess
Mayor
Town of Cinco Bayou
10 Yacht Club Drive
Fort Walton Beach, FL 32548

3. All proposals must be received by 2:00 p.m., CST, on October 12, 1995 at the Town of Cinco Bayou, Town Hall, 10 Yacht Club Drive, Fort Walton Beach, FL 32548.

C. ELIGIBILITY REQUIREMENTS OF PROPOSERS:

1. Proposer must hold an appropriate occupational license in Okaloosa County, Florida and be insured as required by the

Town. Successful firm will be required to obtain, from the Town, an occupational license to do business within the Cinco Bayou Town limits at a cost of \$50.00.

2. Proposer or its owner/principal must have a minimum of three (3) years experience in the tree service field.

3. Proposer must have its principal place of business or a field office at which necessary tree service equipment and fulltime personnel are regularly maintained within Twenty-Five (25) miles of the Cinco Bayou, Florida town limits to permit rapid response, and be willing to respond twenty-four hours a day to meet emergency requirements.

D. PROPOSALS SHALL INCLUDE:

1. General information concerning the firm offering the proposal, to include principal place of business, availability for rapid response and method/means available for notification of the requirement to respond for service, staffing, and equipment available to meet service requests.

2. Description of the experience of the firm in providing professional tree services and references from at least three (3) previous customers (should include business or governmental agency customers if any).

3. Evidence of proper business license and appropriate insurance coverage for the firm. Insurance coverages must include at a minimum, General Comprehensive Liability and Worker's Compensation as required by Florida law.

4. Disclosure as to any litigation or claims involving the firm, within the last five (5) years to include the disposition of same.

5. Provide a proposed fee schedule for services to be rendered. (Assumptions: assume the requirement to remove all debris as a part of the service provided; assume, further, the requirement for rapid response, during and after normal business hours, to meet the need for emergency services). Proposed fee schedule must include rates to be charged during each of the four optional one (1) year contract renewal terms (i.e. fee schedule must cover a five year period). Provide usual and customary contract forms with proposed fee schedule for consideration.

6. Indicate an agreement to enter into an annual continuing contract, with an annual renewal clause for four (4) additional one-year terms, and with the requirement for 24 hour rapid response to meet emergency requirements.

7. The Proposal must be signed by a duly authorized officer or the owner of the submitting firm.

8. Any costs of submitting proposals under this request shall be the responsibility of the submitting firm.

E. STATEMENT OF PROPOSAL EVALUATION:

1. Proposals will be opened and considered during the regularly scheduled public meeting of the Cinco Bayou Town Council on October 12, 1995.

2. The Town of Cinco Bayou will seek to negotiate a contract with the successful respondent. Failure to agree on contract terms will negate the respondent's selection by the Town Council.

3. A fully executed sworn statement concerning Public Entity Crimes (sample attached) is required by Florida Statutes, Section 287.133(3)(a) and will be required before a contract is executed.

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(A),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the Town of Cinco Bayou, Florida by _____
_____ for _____
whose business address is _____
_____ and its Federal Employer Identification Number (FEIN)
is _____.
2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or any agency or political subdivision or any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133 (1)(a), Florida Statutes, means:
 1. A predecessor or successor of a person convicted of a public entity crime; or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership of one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement, (indicate which statement applies).

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

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____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administration Hearings and Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list, (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017 FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature)

Sworn to and subscribed before me this _____ day of _____, 19____.

Personally known _____

Notary Public

or Produced Identification _____

State of _____

(Type of Identification)

County of _____

My Commission Expires:

September 14, 1995

Mr. Mayor, Councilmen and Councilwomen:

My name is Nancy Frey. I'm a taxpayer and a registered voter of Cinco Bayou. I addressed the council at the August city council meeting to express my concerns regarding the Cinco Bayou boat launch. I attended the August council meeting primarily to gather information. This evening, I am here to urge you to act on my ever-increasing concerns.

I will remind you that I am a new resident in one of the Captiva Cove townhouses. Therefore, I am in a position to observe launch activity on an ongoing basis. My first question is: Do you have any idea of the voluminous amount of traffic the launch generates into Cinco Bayou? My second question is: How many of those people are residents of Cinco Bayou? I have been informed by three different people who are in a position to know that rarely does a Cinco Bayou resident use this launch. Based upon other personal research on this issue, it is my understanding that the only the taxpaying citizens of Cinco Bayou are required to pay for maintenance costs and liability insurance for the launch. My third question is: How much does this cost the taxpayers of Cinco Bayou? By now it is probably obvious what my next question will be: If my information is correct, then why are the residents of Cinco Bayou footing the bill for a launch that is hardly used by its residents? I would like to see some sort of survey done to definitively determine whether or not a negligible number of residents use the launch. If this is the case, I recommend that the launch be closed. I know that there is an outstanding debt on the grant which funded the launch. One way to pay off the debt might be to charge a user's fee until the balance can be paid off. Also, perhaps donations could be solicited.

The launch is not only costing us financially. There are other issues that I feel, by themselves, would behoove us and should compel us, as members of the Cinco Bayou community, to close the launch. These issues involve quality of life. In return for use of a free launch, nonresidents (including businesses using the launch as a base of their operation) show their "appreciation" to Cinco Bayou residents and businesses in several ways. First, they continuously throw trash overboard, which floats down our shores and litters the grounds of Compass Bank. Second, their boat wakes continuously erode our shores. Third, since there is no time restriction on using the launch, their noise is ongoing, sometimes starting before dawn and continuing well after dark. (By the way, there are no lights on the dock). Twice The Fastest Pleasure Boat has been launched, complete with two eardrum-shattering jet engines, spitting fire, no less! Fourth, they place us in the position of having to constantly call tow companies to tow their illegally parked littering the streets and the private parking lots of Cinco Bayou. Last, but certainly not least, they jeopardize our safety. The vicinity of the launch and surrounding waters is a hazard at best due to congestion and reckless driving especially, and there simply aren't enough marine patrols to effectively monitor this area. Again, we are placed in the position of having to regularly call patrols because our safety on the water is at risk. I have personally placed three calls, one of

which went unanswered due to lack of manpower. The two times the marine patrols have responded, the boaters were issued citations.

I think the time has come to take our community back! Again, I ask you to : 1) determine the cost to taxpayers to operate this launch; 2) determine how many actual residents (and nonresidents) use it. (Unfortunately for purposes of the survey, we will not get an indication of peak use now since traffic is significantly reduced after Labor Day.) 3) place this issue on the agenda of the the next council meeting. 4) make the results of the survey available for public consumption. I think that if our taxpaying residents realize that they are paying for a privilege few of its residents enjoy, and on top of that, that the nonresidents are flagrantly abusing this privilege to the detriment of many of the residents and businesses of our own community , we'll all come to realize the absurdity of the situation.

In the meantime, I would like to recommend that the council implement as soon as possible the following modifications with regard to use of the launch: a) reduce the hours of operation; b) charge a user's fee to nonresidents (ban businesses altogether or charge them more); c) post "No Littering" signs; d) monitor illegal parking. (Could city police be requested to patrol and issue tickets?) ; and , e) initiate procedures to post a speed limit near the entrances on both sides of the bridge, and between the launch and the entrance on the west side of the bridge. I propose that a guard be posted during peak periods of use to monitor a, b, and c. His/her salary could be paid for out of user's fees so taxpaying citizens aren't further penalized.

Thank you for your attention to these matters.

Sincerely,



Nancy S. Frey

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