

TOWN OF CINCO BAYOU  
REGULAR COUNCIL MEETING  
December 15, 1977

1. MINUTES - REGULAR COUNCIL MEETING - NOVEMBER 17, 1977.
2. FINANCIAL STATEMENT - NOVEMBER 1977.
3. REQUEST FOR VARIANCE - CINCO BAPTIST CHURCH - BARNEY PARKER.
4. REQUEST FOR VARIANCE - ROY KELLY.
5. STATUS TOWN LAWSUIT/OSBORNE PRYOR. (Attorney)
6. TRAFFIC LIGHT MAINTENANCE. (Clerk)
7. ORDINANCE-SECOND AND FINAL READING-PERTAINING TO INSTALLATION OF ELECTRICAL DISCONNECT EQUIPMENT IN MULTI-FAMILY STRUCTURES. (Attorney)
8. ORDINANCE-FIRST READING-PERTAINING TO ADOPTING SOUTHERN STANDARD BUILDING CODE, 1976 EDITION. (Attorney)
9. ORDINANCE-FIRST READING-PERTAINING TO INSTALLATION OF AUTOMATIC SPRINKLER SYSTEM IN MULTI-STORY, MULTI-FAMILY STRUCTURES. (Attorney)
10. RESOLUTION-APPOINTING COUNTY BUILDING CODE DEPARTMENT AS BUILDING DEPARTMENT FOR CINCO BAYOU. (Attorney)
11. RESOLUTION-APPOINTING FWB FIRE DEPARTMENT CHIEF AS FIRE INSPECTOR FOR CINCO BAYOU. (Attorney)
12. AUDIT REPORT - FISCAL YEAR 1976-1977. (Clerk)

TOWN OF CINCO BAYOU  
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Town officials in attendance: Mayor Jim Kendrick, Council members Irene Balsley, Phil Johnston, Ralph Perry, Harold Peek and Max Usrey; Attorney Rick Powell and Recorder Dee Rouse.

Also present were: Barney Parker representing Cinco Baptist Church; Valerie Beatty representing WFTW and Adelia Robblee.

Therefore, a quorum being present, Mayor Kendrick opened the meeting with a silent prayer at 7:00 p.m.

1. MINUTES-REGULAR COUNCIL MEETING-NOVEMBER 17, 1977. Motion by Mrs. Balsley to accepted as printed, seconded by Mr. Peek. Motion carried unanimously.
2. FINANCIAL STATEMENT-NOVEMBER 1977. Motion by Mrs. Balsley to approved as presented, seconded by Mr. Johnston. Motion carried unanimously.
3. REQUEST FOR VARIANCE-CINCO BAPTIST CHURCH. Mr. Peek move to grant a variance to Cinco Baptist Church allowing a set back of ten feet on Yacht Club Drive and six feet on Kidd Street, seconded by Mr. Perry. Motion carried unanimously. (Clerk's note: After research Attroney indicated notice must be published in local newspaper and public hearing held at next Council meeting before variance could be granted).
4. REQUEST FOR VARIANCE-ROY KELLY. Mr. Peek moved to deny this request to place a mobile home at 232 Andalusia Street, seconded by Mr. Usrey. Vote: Yeas-Balsley, Peek, Usrey and Perry. Nay-Johnston.
5. STATUS TOWN LAWSUIT/OSBORNE PRYOR. Attorney informed Council he was to take Mr. Pryor's deposition December 22, 1977 and hearing before Judge Wells was set for February 3, 1978. Motion by Mr. Peek to authorize Attorney to proceed with lawsuit, seconded by Mr. Usrey. Motion carried unanimously.
6. TRAFFIC LIGHT MAINTENANCE. Clerk informed Council that Mr. Joseph Wilkins would no longer be able to perform maintenance on our traffic light and that he had discussed with Mr. Walker the possibility of Fort Walton Beach performing this maintenance for us. Mr. Walker indicated he felt this could be done but that their Council would have to approve. (Clerk's note: Fort Walton Beach Council approve this on January 10, 1978).
7. ORDINANCE-SECOND AND FINAL READING-PERTAINING TO INSTALLATION OF ELECTRICAL DISCONNECT EQUIPMENT IN MULTI-FAMILY STRUCTURES. Attorney performed second reading. Mr. Usrey moved to adopt ordinance, seconded by Mrs. Balsley. Motion carried unanimously. (Ordinance will be number 61).
8. ORDINANCE-FIRST READING-PERTAINING TO ADOPTING SOUTHERN STANDARD BUILDING CODE, 1976 EDITION. Attorney performed reading. Mr. Usrey moved to accept first reading, seconded by Mr. Johnston. Motion carried unanimously.
9. ORDINANCE-FIRST READING-PERTAINING TO INSTALLATION OF AUTOMATIC SPRINKLER SYSTEM IN MULTI-STORY, MULTI-FAMILY STRUCTURES. Attorney performed reading. Mrs. Balsley moved to accept first reading, seconded by Mr. Perry. Motion carried un-animously.

10. RESOLUTION 77-4 - APPOINTING COUNTY BUILDING CODE DEPARTMENT AS BUILDING DEPARTMENT FOR CINCO BAYOU. Attorney read resolution. Mr. Usrey moved to adopt resolution, seconded by Mrs. Balsley. Motion carried unanimously.
11. RESOLUTION 77-5 - APPOINTING FWB FIRE DEPARTMENT CHIEF AS FIRE INSPECTOR FOR CINCO BAYOU. Attorney read resolution. Mrs. Balsley moved to adopt resolution, seconded by Mr. Usrey. Motion carried unanimously.
12. AUDIT REPORT-FISCAL YEAR 1976-1977. Clerk passed out the audit report to Council for their review and informed them that Mr. Bryan would be at the next Council meeting to answer any questions.
13. ADJOURNMENT. Meeting adjourned at 7:39 p.m.

RESPECTFULLY SUBMITTED AS TRUE AND CORRECT TO BEST OF MY ACKNOWLEDGE.

  
JAMES O. GODWIN, SR.  
Town Manager/Clerk

ATTACHMENTS TO RECORD SET OF MINUTES:

1. Sketch drawings-Cinco Church
2. Ltr & Sketch drawings-Roy Kelly
3. Ordinance #61
4. Resolution 77-4 & 77-5
5. Newspaper Clippings-PGDN



# TOWN OF CINCO BAYOU

KELLY AVE.

P.O. DRAWER 1710 - CINCO BAYOU  
FORT WALTON BEACH, FLORIDA 32548  
904-244-2712 244-2012

December 22, 1977

Mayor:  
JIM KENDRICK, III

Mayor Pro-Tem:  
IRENE BALSLEY

Council Members:  
PHIL JOHNSTON  
WILL OVERSTREET  
HAROLD PEEK  
MAX USREY

Town Manager/Clerk:  
JAMES O. GODWIN, SR.

Town Attorney:  
RICK POWELL

Mr. Roy J. Kelley  
141 Linstew Drive, NW  
Fort Walton Beach, Florida 32548

Dear Sir:

This is to inform you that the Town Council, while meeting in regular session on December 15, 1977, voted to deny your request for a zoning variance to place a mobile home at 232 Andalusia Street.

Sincerely,



JAMES O. GODWIN, SR.  
Town Manager/Clerk

JOG/idr

KELLEY'S APARTMENTS  
27 Yacht Club Dr

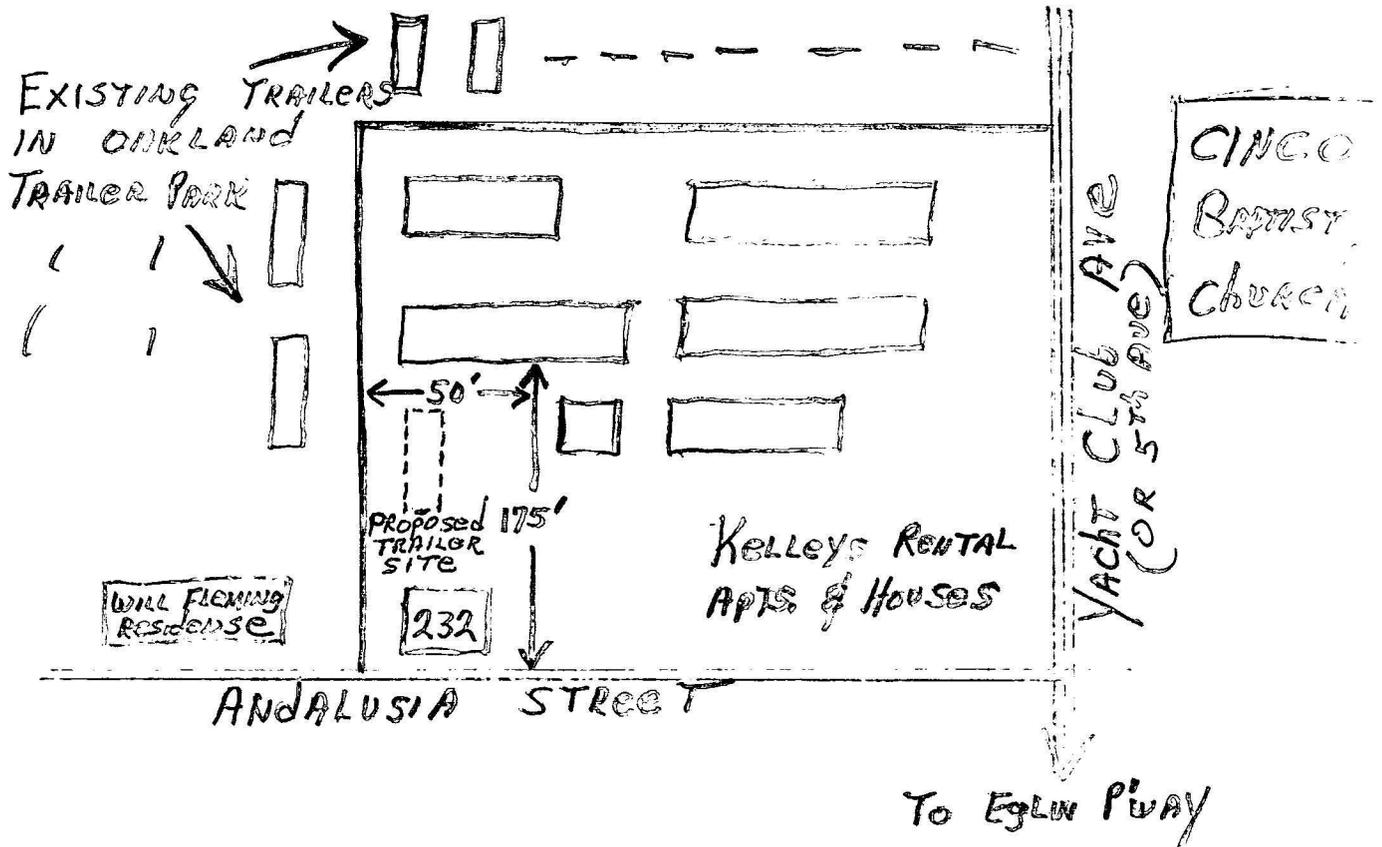
November 30, 1977

TO: Town Council of Cinco Bayou

SUBJECT: Zoning Variance

We wish to request a zoning variance at 232 Andalusia St, so we will be permitted to place a mobile home, 60 by 12 ft on this property.

As you can see readily in the sketch below the placement of this mobile home will in no way detract from neighboring property. It will be bordered on three sides by our rental complex and on the fourth side it will be adjacent to two mobile homes that presently exist in the Oakland Trailer Park. It will not be visible from existing thoroughfares.



Respectfully yours,  
*Roy J. Kelley*  
Roy J. Kelley

ORDINANCE NO. 61

AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE ENACTING SECTION 4-21 OF THE CODE OF ORDINANCES OF THE TOWN OF CINCO BAYOU; PROVIDING FOR THE INSTALLATION OF ELECTRICAL DISCONNECT EQUIPMENT IN ORDER TO BETTER CONTROL FIRES IN MULTI-FAMILY STRUCTURES; PROVIDING AN EFFECTIVE DATE HEREOF.

WHEREAS, multi-family structures of more than two floors in height offer different fire safety considerations, and

WHEREAS, there are known instances of loss of life because of the inability of fire fighters to reach the source of the fire in time to fully protect life and property, and

WHEREAS, the National Electrical Code adopted by the Town to establish rules and regulations for the installation of electrical wiring and equipment is not as clear as it could be in establishing procedures for fast and selective disconnection of electric power to a multi-family structure of more than two floors; and

WHEREAS, the Town of Cinco Bayou desires to make any structures of this type erected as fire-proof as possible,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA:

SECTION 1. Any multi-family structure constructed with a heighth of more than two floors shall have means provided for disconnecting all electrical conductors leading to the building, located on the outside of the first floor wall and a minimum of seven (7) feet above ground. This service disconnect shall consist of not more than six (6) switches or six (6) circuit breakers.

SECTION 2. Subservice feeder lines will be installed from the main service disconnects to the meters on each floor and from the meters to panels in each apartment. Service disconnects consisting of one switch or one circuit breaker will be installed at each meter and at each panel in each apartment.

SECTION 3. All disconnects shall be readily accessible and shall not be installed in bathrooms, clothes closets or kitchen cabinets.

SECTION 4. This Ordinance shall take effect after its passage and approval by the Mayor.

ADOPTED: *December 15, 1977.*

*Jim Kendrick*  
\_\_\_\_\_  
Jim Kendrick, III  
Mayor

ATTEST:

*James O. Godwin Sr.*  
\_\_\_\_\_  
James O. Godwin, Sr.  
Town Clerk

77-4

RESOLUTION OF TOWN OF CINCO BAYOU, FLORIDA,  
APPOINTING THE OKALOOSA COUNTY BUILDING CODE  
DEPARTMENT AS THE BUILDING DEPARTMENT FOR  
ISSUANCE OF BUILDING PERMITS WITHIN THE TOWN AND  
FOR INSPECTIONS; AND ENUMERATING THE TOWN  
PROCEDURE FOR PROCESSING APPLICATIONS FOR PERMITS.

WHEREAS, Section 4-2 of the Code of Ordinances of  
the Town of Cinco Bayou adopts the Southern Standard  
Building Code as the Town's Building Code; and

WHEREAS, such code provides for a building department  
and building official to implement applicable code provisions;  
and

WHEREAS, the Town Council has unofficially delegated  
the responsibility for such office and official to the  
County of Okaloosa, Florida; and

WHEREAS, the Town Council desires to enumerate the  
procedure for building code applicants and for building  
code inspections;

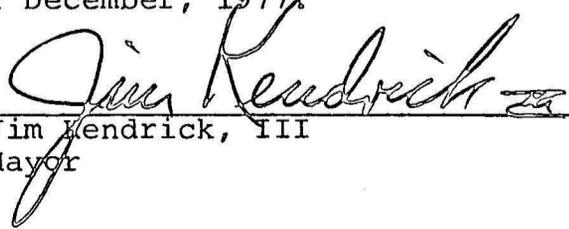
NOW, THEREFORE, BE IT RESOLVED by the Town Council of  
Cinco Bayou, Florida, that the Okaloosa County Building  
Department and its code inspectors are hereby authorized  
to implement and enforce the building code of the Town of  
Cinco Bayou, Florida.

BE IT FURTHER RESOLVED that any applicant for a building  
permit shall first apply to the Clerk of the Town of Cinco  
Bayou at the Town Hall, Kelly Avenue, Cinco Bayou,  
Florida, on a form furnished by the Clerk for that purpose.  
The application shall be brought before the Town Council of  
Cinco Bayou for consideration. Upon approval of such  
application, the applicant shall then be referred to the  
Okaloosa County Building Department for final processing  
of his application.

ADOPTED this 15<sup>th</sup> day of December, 1977.

ATTEST:

  
James O. Godwin, Sr.  
Town Clerk

  
Jim Kendrick, III  
Mayor

17-5

RESOLUTION OF TOWN OF CINCO BAYOU, FLORIDA, APPOINTING THE CITY OF FORT WALTON BEACH FIRE DEPARTMENT CHIEF AS FIRE INSPECTOR FOR THE TOWN OF CINCO BAYOU; AUTHORIZING THE INSPECTORS TO ISSUE CITATIONS FOR VIOLATIONS OF THE TOWN'S FIRE PREVENTION CODE.

WHEREAS, the Town of Cinco Bayou, Florida, has adopted in Section 5-16 of the Code of Ordinances certain codes such as the National Fire Code for the preservation of life and property from fire and explosion; and

WHEREAS, Section 5-17 of the Code of Ordinances established a bureau of fire prevention and a chief of such bureau and provides for the appointment of such chief by the Mayor and the Town Council, which appointment has not been made; and

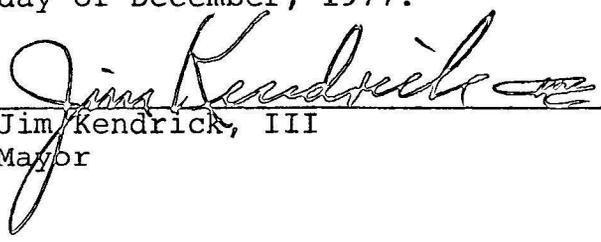
WHEREAS, the Fire Department of the City of Fort Walton Beach, Florida, provides fire protection to the Town of Cinco Bayou; and

WHEREAS, the Town of Cinco Bayou does not have a fire inspection department;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Cinco Bayou, Florida, that the Chief of the Fire Department of the City of Fort Walton Beach, Florida, and his representatives are hereby appointed fire inspectors for the Town of Cinco Bayou and are hereby authorized to enforce the Fire Prevention Code of the Town, to conduct fire inspections within the limits of the Town and to issue citations for violations of such code.

BE IT FURTHER RESOLVED that the fire inspector shall file with the Clerk of the Town of Cinco Bayou a copy of all citations issued hereunder.

ADOPTED this 15<sup>th</sup> day of December, 1977.

  
\_\_\_\_\_  
Jim Kendrick, III  
Mayor

ATTEST:

  
\_\_\_\_\_  
James O. Godwin, Sr.  
Town Clerk

# Bayou's Bottomland

PLAYGROUND DAILY NEWS

DECEMBER 9, 1977

# Counterclaim Aired

By SHEILA WELSH  
Daily News Staff Writer

Cinco Bayou's town attorney said late Thursday that title to disputed Cinco Bayou bottomlands does not rest with Osborne W. Pryor, but to heirs of the family that founded the Camp Walton area.

The only heir identified by attorney Rick Powell is Mrs. H. French Brown, great-granddaughter of John Thomas Brooks, the founder of Brooks Landing, now known as Fort Walton Beach.

Pryor, a 46-year-old Fort Walton Beach contractor, claims marketable record title

to 207.5 acres of bayou bottomlands — all of which he has listed for sale at \$17 million.

Powell has filed suit against Pryor, asking that the court halt the contractor's construction of a fence a few feet offshore from Frances Park, a recreation area owned by the town.

In a report to town council members Thursday, Powell was asked by board member Harold Peek Sr. if Pryor indeed owns the land he is claiming.

"I don't think that Mr. Pryor owns the bottomlands. I think they belong to a third party," Powell answered. "I am now in

discussions with this third party in an attempt to get a quit-claim deed, or dedication of the land, to the state for public use."

Powell later told reporters that the disputed property was purchased by Thomas and Louise Brooks in 1945. Title to the land was transferred, at some later date, to Louise Brooks.

"The land should have passed through her estate to her heirs when she died," Powell concluded. "From the material I have researched, I find that the bottomlands belong then to those heirs, not Osborne Pryor."

Powell said he contacted H. French Brown with his findings Thursday.

"I feel that they are the sort of civic-minded people that would want this land transferred to the state for the public's use," the attorney said.

Powell said there is "no doubt in my mind" that the town of Cinco Bayou has riparian (water) rights to the bayou, regardless of who owns the waterbottom.

"But Mr. Stewart (Charles Stewart, Pryor's attorney) isn't going to concede Cinco Bayou any riparian rights and I need to know if the council wants me to continue with the suit," Powell asked.

"Well, we all took this stuff as a joke when it first started," Councilman Harold Peek Sr. said, "but not anymore. I hear Pryor's even talking about trying to get our three parks."

"I don't really care who owns it, Pryor or the state," Peek continued. "All I want is for the people to have riparian rights. I think we should press on — not run off with our tails tucked."

Mayor Jim Kendrick criticized Pryor's attempt to claim the bayou, and halt the public's use of the water.

"He thinks he's some entity unto himself," Kendrick said, "but he forgets about the law. There are laws out on that water just like anywhere else."

Kendrick said many bayou property owners are "chuckling at us right now."

"But they're going to wake up one morning and find themselves in the same little boat we're in," the mayor continued. "I think this affects the county and other municipalities. Cinco Bayou just got tapped because we're here on the water's edge."

Powell told council members that Pryor's attorney might well appeal the case if the Circuit Court rules against him.

"It may cost a lot of money before it's over," Powell said. "I just want to make sure you understand that."

Peek asked the attorney if Cinco Bayou could appeal the ruling as well. "Don't we have the same right that he does...can't we

## 17 Workers Dead

# Oil Rig 'Copter Crashes in Gulf

NEW ORLEANS (UPI) — A helicopter attempting to land on an offshore oil rig spun out of control and slammed into the Gulf of Mexico Thursday, killing 17 of the

19 men aboard. Reports indicated the helicopter, carrying Pennzoil Oil Co. workers, may have clipped a crane boom or a wire leading to a crane, causing it to spin wildly into the Gulf.

"There is a possibility that that happened, but we can't substantiate that," said Frank Lee, vice president of Petroleum Helicopters, Inc., which owned the craft. "We have an investigating team out there now and we'll know more in the morning."

Pennzoil spokesman Bob Harper said none of the 17 bodies were recovered and names were withheld pending notification of relatives.

Pennzoil operates the platform, known as Platform A, which holds both oil and water about 90 miles southwest of Morgan City, La.

Several pieces of wreckage and life preservers were recovered from the Gulf, but the fuselage sank.

# rs Coalfield Utah, Ohio

International

anel exchanged gunfire in Ohio Thursday, as burned to the ground in growing violence like.

non-union miners to work at mines in Utah eratures cut picketing activities in most of

ashington under orders of federal mediator Miller said the union had presented all its osals from the Bituminous Coal Operators

scue its financially depressed health and ast misuse of funds and by wildcat strikes mines to be allowed to strike on local

thern Ohio Coal Co. mine were the first nce the nationwide strike by an estimated

s struck," said Meigs County Sheriff's kets were at the entrance. Supervisory ng in and out of the mine. Shots were ex

ded Thursday when strikers burned the only au Mine in Carbon County, Utah. But the day after deputies diverted the attention of

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• Okaloosa  
• Walton  
• Santa Rosa

# City / County / State

B

FRIDAY MORNING  
DECEMBER 9, 1977

Residents 'Probably' Have Right to Boat, Fish

## State Not Sure of Cinco Riparian Rights

• Related Story Page 1A

BY JIM SHOFFNER

Daily News Staff Writer

The state Thursday backed away from its assertion that area residents definitely have riparian rights on Cinco Bayou regardless of who owns the bottomland.

A spokesman for the state attorney general's office said the residents "probably" have the right to boat and fish on the water, but that he couldn't be "100 percent sure."

Martin S. Friedman, an assistant attorney general, told the Daily News Wednesday that "everybody living on that water body has riparian rights."

But Friedman amended his statement Thursday in a telephone conversation

with the Daily News and Charles D. Stewart, attorney for bayou claimant Osborne Pryor.

"I should've said 'probably.' In law you can't make everything 100 percent sure," Friedman said.

"My lack of using qualifying terms is what's caused the misunderstanding," he said. "I shouldn't have made such a point-blank statement. I apologize."

Friedman amended his stand on riparian rights after Stewart advised him of Florida Statute 197.228(2). That statute reads as follows:

"Navigable waters in this state shall not be held to extend to any ... waters ... lying over and upon areas which have heretofore been conveyed to private in-

dividuals by the United States ... without reservation of public rights."

Pryor and Stewart maintain that, because the disputed bayou bottomland has been previously conveyed to private individuals by the federal government, the water above it is non-navigable and thus off-limits to the public.

Pryor and Stewart claim to have researched numerous legal precedents upholding their side of the argument.

On the other hand, spokesmen for the Department of Natural Resources (DNR) and the Department of Environmental Regulation (DER) have said "common law" establishes the residents' riparian rights on the bayou, and that exceptions

have to be made on a case-by-case basis.

Stewart's desire to have Friedman clarify his stand on riparian rights arose, he said, from efforts currently underway to sell options on some of the bayou property.

Chuck Tabb, president of the Bay Agency, which is contracted to sell the bayou acreage for Pryor, said he felt sure that many persons who might have been ready to sign option agreements were now reconsidering the matter because a state official said there was no difficulty with riparian rights.

Tabb said these people might be discouraged from buying the property if they were told they could have riparian

rights on it regardless of the bottomland's ownership.

In another matter, Stewart told the Daily News he has decided to apply for a Disclaimer of Trustees' Interest— which would amount to a quit-claim deed on the disputed bayou acreage from the Internal Improvement Trust Fund.

The state has repeatedly urged Pryor to request a disclaimer in order to resolve the land-title questions, but Pryor has until now refused to do so.

Pryor and Stewart said Thursday the disclaimer route appears to be the quickest way of settling the issue.

Both pointed out, however, that they will accept a disclaimer only if it is

prepared in accordance with the federal deeds that originally conveyed the land to Pryor's predecessors in title.

Pryor said the original deeds included not only bottomland acreage but water rights as well. If the state's disclaimer is written similarly, he said, the issues of both land title and riparian rights will be resolved in his favor.

If the disclaimer is not written to their satisfaction, Stewart said, he will go ahead with plans to file a quiet-title suit in a state appeals court.

Stewart and Pryor said that, despite the disclaimer plans, they would really prefer to have the state buy the disputed land outright.