



AGENDA MEMORANDUM

Action Item for the City Council Meeting August 27, 2024

DATE: August 27, 2024
TO: Peter Zaroni, City Manager
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Authorizing acceptance of easements and legal responsibility for the Michael J. Ellis (North Padre Island) Seawall

CAPTION:

Motion authorizing execution of all documents necessary to acquire property interests necessary for the City to accept legal responsibility, improve and maintain the Michael J. Ellis Seawall on North Padre Island, which will be dedicated to the City at no cost.

SUMMARY:

The motion authorizes the City Manager or designee to execute all property instruments provided the property interests are dedicated to the City at no cost and accept legal maintenance responsibility for the Michael J. Ellis Seawall.

BACKGROUND AND FINDINGS:

A project was approved in the FY 2024 CIP and TIRZ#2 Project Plan to make repairs to the Michael J. Ellis Seawall with a total budget of \$15M. The seawall was originally built in the late 1960's by the Padre Island Investment Corporation (PIIC). Although privately owned and maintained, public access to the seawall is guaranteed by a past judgement against PIIC and subsequent legislation. This creates the impression that the seawall is a public amenity that is in a poor state of repair. The Micheal J. Ellis Seawall and Beach is a popular destination for both tourists and locals.

The seawall was severely damaged by Hurricane Allen in 1980. Since it was privately owned, repairs were not eligible for FEMA Public Assistance (PA). The adjoining owners had to assess themselves to make the needed repairs.

Part of this action would satisfy one of the requirements for FEMA PA eligibility. By passing a resolution accepting "Legal Responsibility", staff believes that the seawall would become eligible for FEMA PA grants in the event of damage from a presidentially declared disaster. Additional steps will also be taken to help avoid some of the delays and confusion that the city experienced with FEMA funding for the Packery Channel Restoration.

Prior to bringing this action, staff have sought letters of intent to convey the necessary easements from each of the 15 tracts fronting the seawall. There are 12 separate owners. Letters of intent to convey easements have been received by 10 of the 12 separate owners. The four condominium complexes have all submitted letters of intent through the designee for the POA. The letter of intent language was negotiated between legal staff and attorneys for the property owners. The main concern of the property owners was ensuring the future seawall construction and use not diminish or interfere with their use and enjoyment of the seawall and beach.

The four tracts with outstanding Letters of Intent are undeveloped and owned by two institutional investors, Axys Capital Credit Fund LLC and Padre Island North LLC. Staff have had multiple conversations with the owners' representatives and neither has expressed an unwillingness to grant the easements and both are working with their attorneys on the Letter of Intent language.

The action accepting legal responsibility is conditioned on the receipt of easements from all properties fronting the seawall.

ALTERNATIVES:

Council can choose not to proceed with the project.

FINANCIAL IMPACT:

No financial impact to approving this resolution.

RECOMMENDATION:

Staff recommends approval of motion to acquire easements for the North Padre Island Seawall Improvements project and acceptance of legal maintenance responsibility for the seawall.

LIST OF SUPPORTING DOCUMENTS:

CIP page
Letter of Intent
Presentation