

## AGENDA

### MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

Any person who wishes to be heard shall provide the Clerk with his or her name and residence and the agenda item on which he or she wishes to be heard. Such information shall be on a card provided by the County. Once public input begins, there will be no further speaker cards allowed to be submitted to the Clerk for that subject. An individual has three minutes and a person representing an organization has five minutes to address the Board (except that individuals wishing to speak during public hearings pertaining to land use issues will have five minutes). The first person representing the organization will be allowed the five minutes. Subsequently, all other speakers on behalf of that organization have three minutes to address the Board. Once an individual has addressed the Board, he or she will not be permitted to return to the podium for follow-up comments, unless the issue involved is quasi judicial in nature. In that case, the applicant may return to the podium to conclude his or her position at the end of the public hearing.

***ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".***

**Please note that all time approximate items are listed in bold.**

Thursday, July 26, 2012  
The Harvey Government Center  
at Historic Truman School  
1200 Truman Avenue  
Key West, Florida

#### TIME APPROXIMATE

#### SPECIAL MEETING

10:00 A.M. CALL TO ORDER  
INVOCATION  
SALUTE TO FLAG

- A. ADDITIONS, CORRECTIONS, DELETIONS
- B. DIVISION OF GROWTH MANAGEMENT

- 1. Discussion And Direction To Approve Minor Revisions To The Pilot Program Anchoring Ordinance, Including 1) Technical/Organizational Revisions And 2) A Revision To The Geographic Extent Of The No-Anchoring Buffer Zone For The Seaplane Basin, Based On Comments From Florida Fish & Wildlife Conservation Commission (FWC) Internal Review Provided On June 20, 2012 And Comments From The Ordinance Public Meeting Held By FWC On July 11, 2012.

Documents: [B1.PDF](#)

- C. FISCAL YEAR 2013 BUDGET PRESENTATION

- 1. Presentation By County Administrator Roman Gastesi

- D. DISCUSSION OF FISCAL YEAR 2013 BUDGET REQUESTS

- 1. Constitutional Officers  
Clerk of Court

Property Appraiser  
State Attorney  
Public Defender  
Judicial  
Supervisor of Elections  
Sheriff

2. Tourist Development Council
3. Health Department
4. Land Authority
5. Medical Examiner
6. Guardian Ad Litem
7. County Attorney
8. Emergency Services
9. Lower & Middle Keys Fire & Ambulance District Board Of Governors
10. Employee Services
11. Engineering/Public Works
12. Growth Management
13. Airport Services  
Key West & Marathon Airports
14. Social Services
15. Extension Services
16. Libraries
17. Veteran's Affairs
18. Technical Services
19. Office Of Budget & Management
20. County Administrator



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**ORDINANCE NO. \_\_\_\_\_ - 2012**

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 26 OF THE MONROE COUNTY CODE (WATERWAYS) TO PROVIDE FOR “ARTICLE V ANCHORING AND MOORING RESTRICTED AREAS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR FILING AND AN EFFECTIVE DATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EXPIRATION DATE.**

**WHEREAS**, in 1992 the Monroe County Department of Marine Resources prepared *The Boating Impacts Management Plan Final Report* which documented liveaboard vessel impacts associated with unmanaged anchorages throughout the Keys; and

**WHEREAS**, in 2002 the Monroe County Department of Marine Resources prepared a *Keys-Wide Mooring Field System Preliminary Planning Document* which included an evaluation of anchorages throughout the Keys including Sunset Cove, Boca Chica Harbor, Cow Key Channel, and Key West Harbor (i.e. Wisteria Island/Fleming Key area) and recognized the need to address negative boating impacts associated with those unmanaged anchorages; and

**WHEREAS**, in 2008 the Monroe County Marine Resources Office prepared the *Development of a Boating Management Plan for the Boca Chica Harbor Area* which evaluated a variety of boating impacts in that anchorage area and provided options for managing anchoring activity, but recognized the lack of authority (at that time) provided to the County to regulate vessels other than liveaboard vessels; and

**WHEREAS**, in 2009 the Florida Legislature directed the Florida Fish & Wildlife Conservation Commission (FWC), in consultation with the Florida Department of Environmental Protection, to establish a Pilot Program to explore potential options for regulating the anchoring or mooring of non-liveaboard vessels outside the marked boundaries of public mooring fields (327.4105 F.S.); and

47 **WHEREAS**, the goals of the Pilot Program are to encourage the establishment of  
48 additional public mooring fields and to develop and test policies and regulatory regimes  
49 that: promote the establishment and use of mooring fields, promote public access to  
50 waters of the state, enhance navigational safety, protect maritime infrastructure, protect  
51 marine environment, and deter improperly stored, abandoned or derelict vessels; and  
52

53 **WHEREAS**, in November 2009 Monroe County sent a Letter of Interest to FWC to  
54 participate in the Pilot Program in partnership with the Cities of Marathon and Key West,  
55 each of which operate public mooring fields; and  
56

57 **WHEREAS**, the Monroe County Board of County Commissioners entered into Inter-  
58 local Agreements with the Cities of Marathon and Key West on February 17, 2010  
59 providing for coordinated partnerships in the FWC Pilot Program; and  
60

61 **WHEREAS**, the Monroe County Marine Resources Office retained consultants to  
62 complete vessel surveys inside and outside of public mooring fields at Key West and  
63 Marathon and in the anchorage at Boca Chica basin, and conducted stakeholder  
64 workshops to take public input on anchoring and mooring issues and potential regulatory  
65 regimes, in accordance with the criteria of the FWC Pilot Program; and  
66

67 **WHEREAS**, during the stakeholder workshops residents in the Sunset Cove area  
68 requested that the adjacent anchorage area be included in any potential regulations; and  
69

70 **WHEREAS**, FWC staff evaluated Monroe County's vessel surveys, considered public  
71 input provided at stakeholder workshops, and provided a recommendation to the FWC to  
72 approve Monroe County for participation in the Pilot Program; and  
73

74 **WHEREAS**, at its February 2011 meeting the FWC approved Monroe County as one of  
75 five local governments in the state to participate in the Pilot Program, including St.  
76 Petersburg, Sarasota, St. Augustine and Martin County; and  
77

78 **WHEREAS**, the Monroe County Marine and Port Advisory Committee and the Monroe  
79 County Board of County Commissioners held numerous public meetings from 2009 to  
80 the present to discuss, and take public input on FWC Pilot Program objectives, anchoring  
81 impacts in unmanaged Keys anchorages, and viable solutions to address those anchoring  
82 impacts; and  
83

84 **WHEREAS**, the Monroe County Board of County Commissioners provided direction at  
85 its September 21, 2011 meeting for staff to draft an anchoring ordinance to provide for  
86 managed anchoring zones with accompanying regulations, and to coordinate with the  
87 Cities of Marathon and Key West for the inclusion of ordinance language providing for  
88 anchoring regulations in association with their respective mooring fields; and  
89

90 **WHEREAS**, at the September 21, 2011 Monroe County Board of County  
91 Commissioners meeting the Board received a request from a representative of Wisteria

92 Island to have Key West harbor included as a managed anchoring zone, and the Board  
93 approved the inclusion of that area as a managed anchoring zone; and  
94

95 **WHEREAS**, the Monroe County Board of County Commissioners provided additional  
96 direction at its January 19, 2012 meeting for the anchoring ordinance to provide for four  
97 managed anchoring zones, and revised the regulations for development to be applied  
98 within those zones; and  
99

100 **WHEREAS**, the Monroe County Board of County Commissioners at its April 18, 2012  
101 meeting accepted a request by the City of Marathon to include the greater Boot Key  
102 Harbor area as a fifth managed anchoring zone, heard concerns from the Navy, and  
103 directed staff to include a prohibition on vessels within managed anchoring zones that  
104 exhibit conditions known to precede a derelict vessel condition, eliminate floating  
105 structures language and eliminate USCG Auxiliary Vessel Safety Check language  
106 pending a recommendation from the USCG; and  
107

108 **WHEREAS**, the Monroe County Board of County Commissioners at its May 16, 2012  
109 meeting accepted a request by Naval Air Station Key West to make areas of Boca Chica  
110 basin, encompassed by the Navy Accident Potential Zone and baybottom, a no anchoring  
111 zone to ensure the safety and security of the public; and  
112

113 **WHEREAS**, the Monroe County Board of County Commissioners has indicated that the  
114 anchoring ordinance should not be over-reaching and not overburden transient boaters;  
115 and  
116

117 **WHEREAS**, it is the intention of the Monroe County Board of County Commissioners to  
118 optimize the incentive for vessel owners, who contribute to Boating Improvement Funds  
119 through vessel registration fees and contribute to DEP Clean Vessel Act Program funds  
120 through marine fuel taxes, to properly pumpout and comply with existing sewage  
121 discharge regulations within the federal No Discharge Zone in the Keys, by providing  
122 free pumpout service to vessels located in managed anchoring zones and which are  
123 served by the County pumpout program; and  
124

125 **WHEREAS**, Monroe County staff is negotiating a contract with the National Marine  
126 Waste Foundation to provide free pumpout service to vessels anchored in unincorporated  
127 areas of the Florida Keys and to provide for a registration process, with accompanying  
128 participation stickers or tags to be displayed on vessels indicating proof of regular  
129 pumpouts; and  
130

131 **WHEREAS**, because the anchoring ordinance is a test program the Monroe County  
132 Board of County Commissioners desires that vessel owners be provided warnings by  
133 enforcement officers prior to the issuance of citations, to allow every opportunity for the  
134 vessel owner to comply with the described regulations; and  
135

136 **WHEREAS**, the anchoring ordinance shall provide for the regulation of both liveaboard  
137 and non-liveaboard vessels; and

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**WHEREAS**, the Monroe County Board of County Commissioners encourages FWC to fully implement the agency’s At Risk Program in designated managed anchoring zones as a tool to identify vessels which exhibit conditions known to precede a derelict vessel condition; and

**WHEREAS**, the regulations established in the anchoring ordinance are consistent with the municipal codes of the City of Marathon and the City of Key West; and

**WHEREAS**, the Monroe County Board of County Commissioners will transmit the approved anchoring ordinance to FWC for consideration and approval prior to adoption of the ordinance by the Board of County Commissioners;

**NOW, THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS:**

**Section 1.** Chapter 26 of the Monroe County Code is amended as follows:

Chapter 26  
WATERWAYS

ARTICLE V  
ANCHORING AND MOORING RESTRICTED AREAS

Sec. 26-100. Purpose. It is the purpose of this section of this Code to provide for anchoring and mooring restricted areas where unmanaged anchoring and/or mooring and associated environmental and navigational impacts exist. These areas and restrictions are created in accordance with F.S. § 327.4105, and by approval of the Florida Fish and Wildlife Conservation Commission which has been directed by the Florida State Legislature to establish a Pilot Program to explore potential options for regulating the anchoring or mooring of non-liveaboard vessels outside the marked boundaries of public mooring fields. These restrictions are deemed to be necessary to protect the public health, safety and welfare. These restrictions also include the regulation of liveaboard vessels and floating structures, as provided for in F.S. § 327.60(3).

Sec. 26-101. Definitions.

Proof of pumpout means an acceptable form of proof that a vessel has had its vessel sewage legally pumped out, or disposed of (in the case of a Porta-Potti or other portable toilet). Acceptable forms of proof include a pumpout registration sticker or tag issued by the City of Key West, City of Marathon or Monroe County pumpout programs indicating that the vessel receives routine pumpouts, or a pumpout receipt from a pumpout facility (including portable toilet dump stations) or pumpout vessel within the past ten (10) days.

184 Derelict Vessel means any vessel, as defined in F.S. § 327.02, that is left, stored, or  
185 abandoned:

- 186 (a) In a wrecked, junked, or substantially dismantled condition upon any public  
187 waters of this state.  
188 (b) At any port in this state without the consent of the agency having jurisdiction  
189 thereof.  
190 (c) Docked or grounded at or beached upon the property of another without the  
191 consent of the owner of the property

192  
193 Sec. 26-102. Anchoring and Mooring Restricted Areas.  
194

195 (a) Managed Anchoring Zones. Managed Anchoring Zones are established for the  
196 purpose of protecting the marine environment, enhancing navigational safety, and  
197 detering improperly stored, abandoned, or derelict vessels. Managed Anchoring  
198 Zones are created as a tool to regulate anchoring activity in currently unmanaged  
199 anchorage.

200  
201 (1) Managed Anchoring Zones shall be established in the following described  
202 geographic areas. Maps delineating the Managed Anchoring Zones are  
203 attached hereto as Attachment A, and are incorporated herein by reference and  
204 will be made available in the Marine Resources Office.  
205

- 206 a. Boca Chica Basin: To include the body of water occurring between Stock  
207 Island and Boca Chica Key (excluding the Navy Accident Potential Zone  
208 (APZ), restricted areas, and bay bottom) south of U.S. Highway 1, west of  
209 the western edge of the arc of the NAS Key West Accident Potential Zone  
210 (APZ), west of a line intersecting the APZ at 24° 34.10' N 81° 43.35' W  
211 and running south to 24° 33.63' N 81° 43.35' W, south of a line running  
212 east-west from 24° 33.63' N 81° 43.35' W to 24° 33.63' N 81° 43.15' W,  
213 west of the western edge of Boca Chica Channel running southwest from  
214 24° 33.63' N 81° 43.15' W to 24° 33.45' N 81° 43.24' W, north of latitude  
215 24° 33.45' N (approximately at the location of Boca Chica Channel  
216 marker 7), east of a line running north-northwest from 24° 33.45' N 81°  
217 43.38' W to 24° 33.82' N 81° 43.46' W and continuing along the Stock  
218 Island shoreline.  
219 b. Sunset Cove: To include the body of water in Buttonwood Sound  
220 occurring southeast of the Intracoastal waterway and bounded by the Key  
221 Largo shoreline.  
222 c. Key West Harbor: To include the body of water occurring west of  
223 Fleming Key and Key West (excluding Navy restricted areas), south of a  
224 line running east-west at latitude 24° 35.19' N, east of a line running from  
225 the northwest tip of Pearl Bank to the north side of Tank Island (Sunset  
226 Key), and north of a line running east-west at latitude 24° 33.84' N.  
227 d. Cow Key Channel: To include the body of water occurring between Key  
228 West and Stock Island, south of U.S. Highway 1, and north of a line  
229 running east-west at latitude 24° 33.44' N (approximately at the location  
230 of Cow Key Channel marker 5).

- 231 e. Boot Key Harbor: To include the area of Boot Key Harbor (excluding the  
232 permitted public mooring field and No-Anchoring Buffer Zone) occurring  
233 south of the Vaca Key shoreline, east of Boot Key Harbor main channel  
234 entrance marker 7 located at position 24° 42.13' N 81° 06.84' W, north of  
235 the Boot Key shoreline, and west of the far eastern side of Boot Key  
236 Harbor at position 24° 42.54' N 81° 04.99' W, and including the entirety  
237 of Sisters Creek south to marker 4 at the entrance of Sisters Creek, and  
238 including the area occurring from Sisters Creek marker 4 at position 24°  
239 41.35' N 81° 05.26' W running east to the shoreline of Vaca Key at  
240 position 24° 41.43' N 81° 04.93' W and running north along the shoreline  
241 of Vaca Key and continuing to the west along the shoreline of Sombrero  
242 Beach.

244 (2) The following regulations shall apply within Managed Anchoring Zones:  
245

- 246 a. Prohibition of vessels exhibiting pre-derelict vessel conditions. Vessels  
247 determined to exhibit conditions known to precede a derelict vessel  
248 condition are prohibited, including:  
249 1) Vessel is not able to be used for navigation.  
250 2) Vessel is listing.  
251 3) Vessel is aground.  
252 4) Vessel is in danger of breaking its mooring.  
253 5) Vessel is sinking.  
254 6) Vessel is dragging anchor.  
255 7) Vessel has broken its mooring and has been secured for the protection  
256 of the health, safety and welfare of the citizens.

- 257 b. Prohibition of derelict vessels. Vessels determined to be derelict in  
258 accordance with F.S. § 823.11 are prohibited.

259 ~~b.c.~~ Proof of pumpout required. Vessels anchored or moored for more than ten  
260 (10) consecutive days, and which are required to have a marine sanitation  
261 device in accordance with F.S. § 327.53, must provide proof of pumpout.  
262 Vessel owners may utilize a pumpout service which may be provided by the  
263 City of Key West, City of Marathon, Monroe County pumpout programs, or  
264 other authorized vessel pumpout facility or vendor. The municipal and  
265 County pumpout services are structured to provide ongoing pumpouts for  
266 vessels located within managed anchoring zones, and may provide a  
267 registration process by which vessel owners sign up for regular pumpouts at a  
268 frequency based on anticipated need, with a minimum of one pumpout per  
269 month. A monthly, color coded, registration sticker or tag may be provided  
270 which vessel owners may display on their vessel, indicating participation in  
271 the municipal or County pumpout program, and which will be considered  
272 proof of pumpout. The municipal and/or County pumpout programs shall  
273 maintain registration documentation and pumpout logs throughout the  
274 duration of the Pilot Program (ending July 1, 2014), which shall be available  
275 for review by any law enforcement officer. If a vessel owner utilizes another  
276 vessel pumpout provider the vessel owner is required to maintain

277 documentation and pumpout logs to demonstrate use of pumpout to FWC,  
278 MCSO or other law enforcement officers.

279 ~~e. Prohibition of derelict vessels. Vessels determined to be derelict in~~  
280 ~~accordance with F.S. § 823.11 are prohibited.~~

281  
282 (b) No-Anchoring Buffer Zones. No-Anchoring Buffer Zones are established outside  
283 of, and immediately adjacent to, permitted public mooring fields for the purpose  
284 of protecting maritime infrastructure, enhancing navigational safety and  
285 promoting public access and the use of public mooring fields.

286  
287 (1) No-Anchoring Buffer Zones shall be established in the following described  
288 geographic areas. Maps delineating the No Anchoring Zones are attached  
289 hereto as Attachment B, and are incorporated herein by reference and will be  
290 made available in the Marine Resources Office.

291  
292 a. Boot Key Harbor: To include a fifty foot (50') wide area immediately  
293 adjacent to, and outside of, the perimeter of the east and west mooring  
294 fields and the leased anchoring area.

295 b. Seaplane Basin: To include the area of Garrison Bight known as the  
296 Seaplane Basin and as described in the Florida Department of  
297 Environmental Protection Management Agreement for the Key West  
298 mooring field and Key West Ordinance No.00-32 (excluding Navy  
299 restricted areas), occurring north of the Key West shoreline, east of the  
300 Fleming Key shoreline, south of ~~the Shark Drop Zone deep cut line and its~~  
301 ~~westerly extension~~ a line running east-west 50' north of the Garrison Bight  
302 mooring field boundary markers C and D, and west of Sigsbee Park.

303 c. Boca Chica Basin: To include the body of water occurring between Stock  
304 Island and Boca Chica Key (excluding Navy restricted areas) south of  
305 U.S. Highway 1, east of the western edge of the arc of the NAS Key West  
306 APZ, east of a line intersecting the Navy APZ at 24° 34.10' N 81° 43.35'  
307 W and running south to 24° 33.63' N 81° 43.35' W, north of a line  
308 running east-west from 24° 33.63' N 81° 43.35' W to 24° 33.63' N 81°  
309 43.15' W, and west of the western edge of Boca Chica Channel and the  
310 Navy restricted area (which includes Boca Chica Channel and the Navy  
311 mooring field basin).

312  
313 (2) The following regulations shall apply within No-Anchoring Buffer Zones:

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315 No anchoring or mooring of any kind (vessels or floating structures) except  
316 for vessels mooring within established permitted public mooring fields by  
317 permission of the mooring field owner or manager, vessels within a leased  
318 anchoring area associated with a mooring field, commercial vessels (e.g.  
319 barges) engaged in marine related work, military operations, vessels anchored  
320 for the purpose of fishing or other recreational activities (but not overnight),  
321 or in the case of an emergency (e.g. weather, mechanical, medical) causing the  
322 need for a vessel to temporarily anchor.

323

324 Sec. 26-103. Enforcement. Regulations described in this Article may be enforced by law  
325 enforcement officers of the City of Marathon or City of Key West (within their areas of  
326 jurisdiction), Monroe County, or FWC or any other law enforcement officer.

327  
328 Sec. 26-104. Penalties.

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330 (a) Any person cited for a violation of this article shall be charged with a noncriminal  
331 infraction. A written warning shall be issued to provide the vessel owner 30 days  
332 for corrective action or removal of the vessel. If corrective action or removal is  
333 not accomplished, a Uniform Boating Citation may be issued for violations of this  
334 ordinance pursuant to F.S. § 327.74 by any law enforcement agency authorized to  
335 issue such citations. Vessel owners will be provided thirty (30) days between  
336 issuance of citations. Fines associated with citations are established as follows:

337 (1) First offense- \$50

338 (2) Second offense- \$100

339 (3) Third offense- \$250

340 (4) Fourth or subsequent offenses- \$250 and FWC will request that the owner  
341 remove the vessel from the Managed Anchoring Zone or No-Anchoring  
342 Buffer Zone

343  
344 (b) Any person who fails to properly respond to, ~~or contest a~~, Uniform Boating  
345 Citation issued for a violation of this article shall, in addition to the charge  
346 relating to the violation of the boating laws of this County, be charged with the  
347 offense of failing to respond to such citation and upon conviction be guilty of a  
348 misdemeanor of the second degree punishable as provided in F.S. § 775.082 and  
349 F.S. § 775.083.

350  
351 (c) If a law enforcement officer determines that a vessel is derelict, the violation shall  
352 be processed in accordance with F.S. § 823.11

353  
354 (d) Allowance shall be provided for vessels in need of safe harbor due to severe  
355 weather conditions or temporary mechanical issues which may otherwise prohibit  
356 a vessel from safely departing a managed anchoring zone ~~within the timeframe~~  
357 stipulated.

358  
359 Sec. 26-105. Exemptions. The following exemptions are provided:

360  
361 (a) Vessels equipped with only incinerating or composting toilets are not required to  
362 provide proof of pumpout, as those types of toilets are not designed to be pumped  
363 out. However, effluent from those toilets is not allowed to be disposed of in the  
364 waters of the No Discharge Zone within the Florida Keys.

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367 (b) Stored vessels are not required to provide proof of pumpout.

368  
369 **Section 2.** Severability. If any section, paragraph, subdivision, clause, sentence or  
370 provision of this ordinance shall be adjudged by any court of competent jurisdiction to be

371 invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this  
372 ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision,  
373 clause, sentence, or provision immediately involved in the controversy in which such  
374 judgment or decree shall be rendered.  
375

376 **Section 3.** Repeal of Inconsistent Provisions. All ordinances or parts of ordinance in  
377 conflict with this ordinance are hereby repealed to the extent of said conflict. The repeal  
378 of an ordinance herein shall not repeal the repealing clause of such ordinance or revive  
379 any ordinance which has been repealed thereby.  
380

381 **Section 4.** Filing and Effective Date. This ordinance shall be filed in the Office of  
382 the Secretary of the State of Florida and shall become effective as provided by law.  
383

384 **Section 5.** Codification. The provisions of this ordinance shall be included and  
385 incorporated into the Code of Ordinances of Monroe County, Florida and shall be  
386 numbered to conform with the uniform numbering system of the Code.  
387

388 **Section 6.** Expiration Date. The FWC Pilot Program is scheduled to expire on July  
389 1, 2014, unless extended by the Florida State Legislature. This ordinance shall expire or  
390 be extended concurrently with the FWC Pilot Program.  
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396 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County,  
397 Florida at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2012.  
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Mayor

Mayor *pro tem*

Commissioner

Commissioner

Commissioner

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**MONROE COUNTY BOARD OF COUNTY COMMISSIONERS**

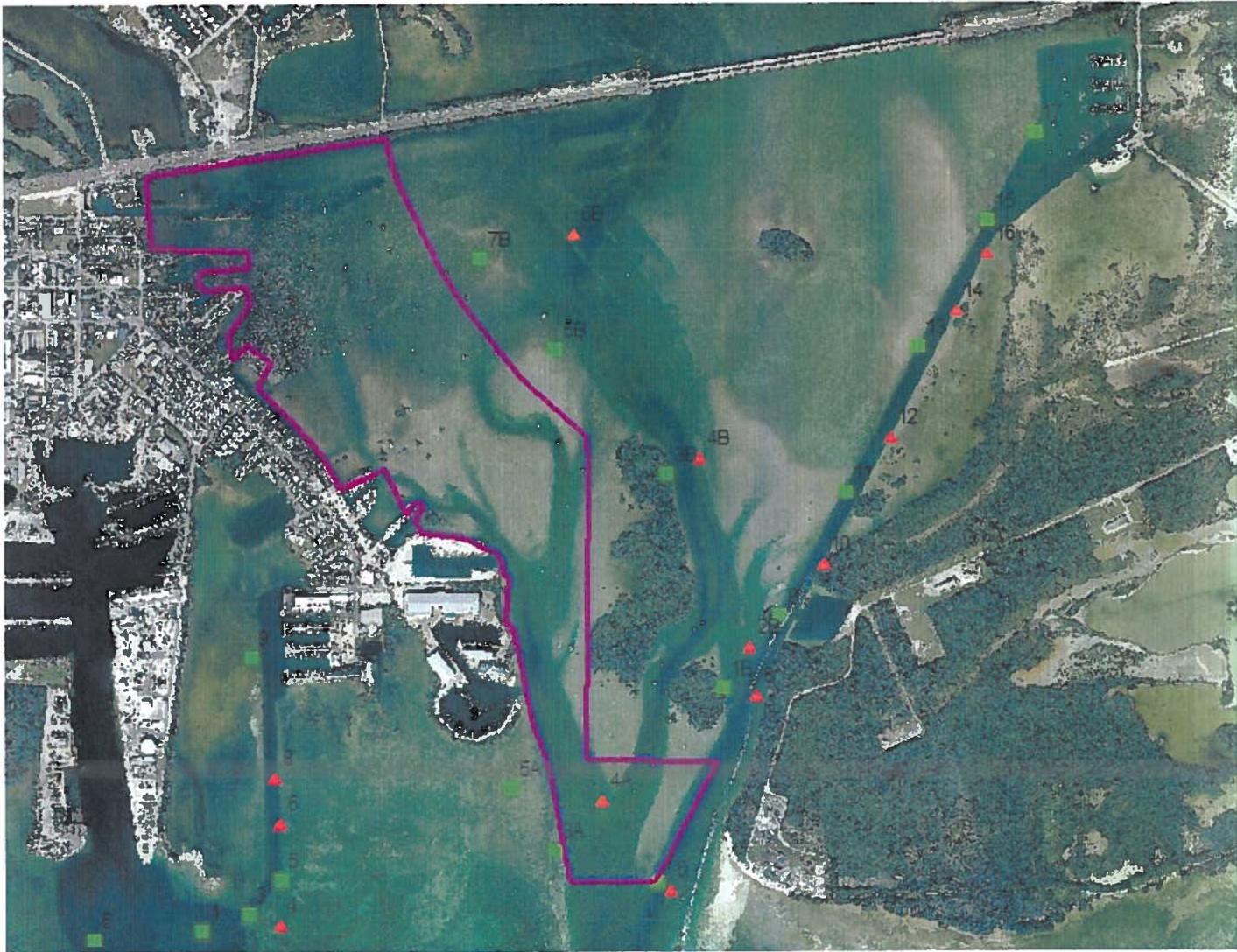
Attest: DANNY L. KOLHAGE, CLERK

By \_\_\_\_\_  
Deputy Clerk

By \_\_\_\_\_

**Attachment A- Maps of Managed Anchoring Zones**

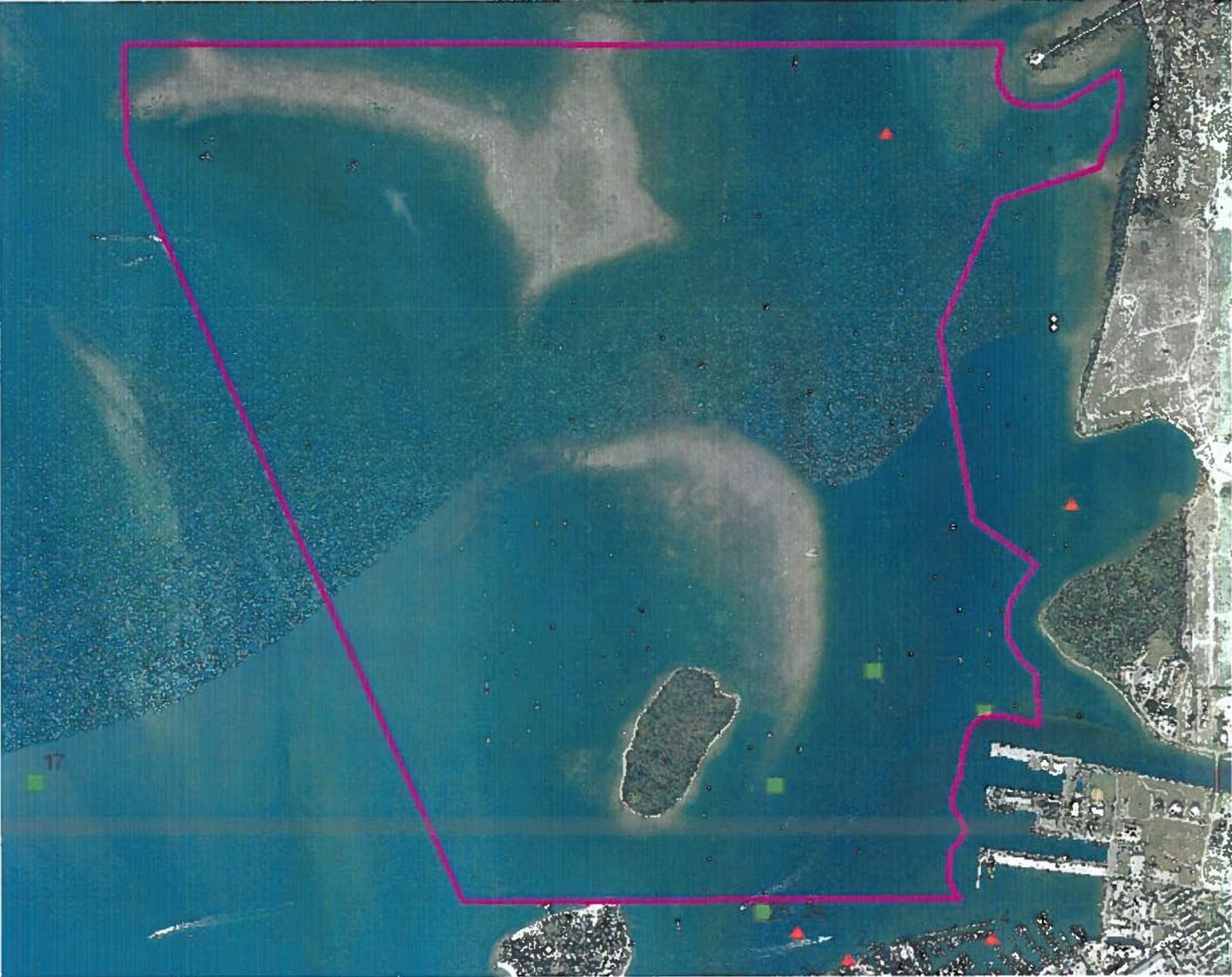
**Boca Chica Harbor**



Sunset Cove



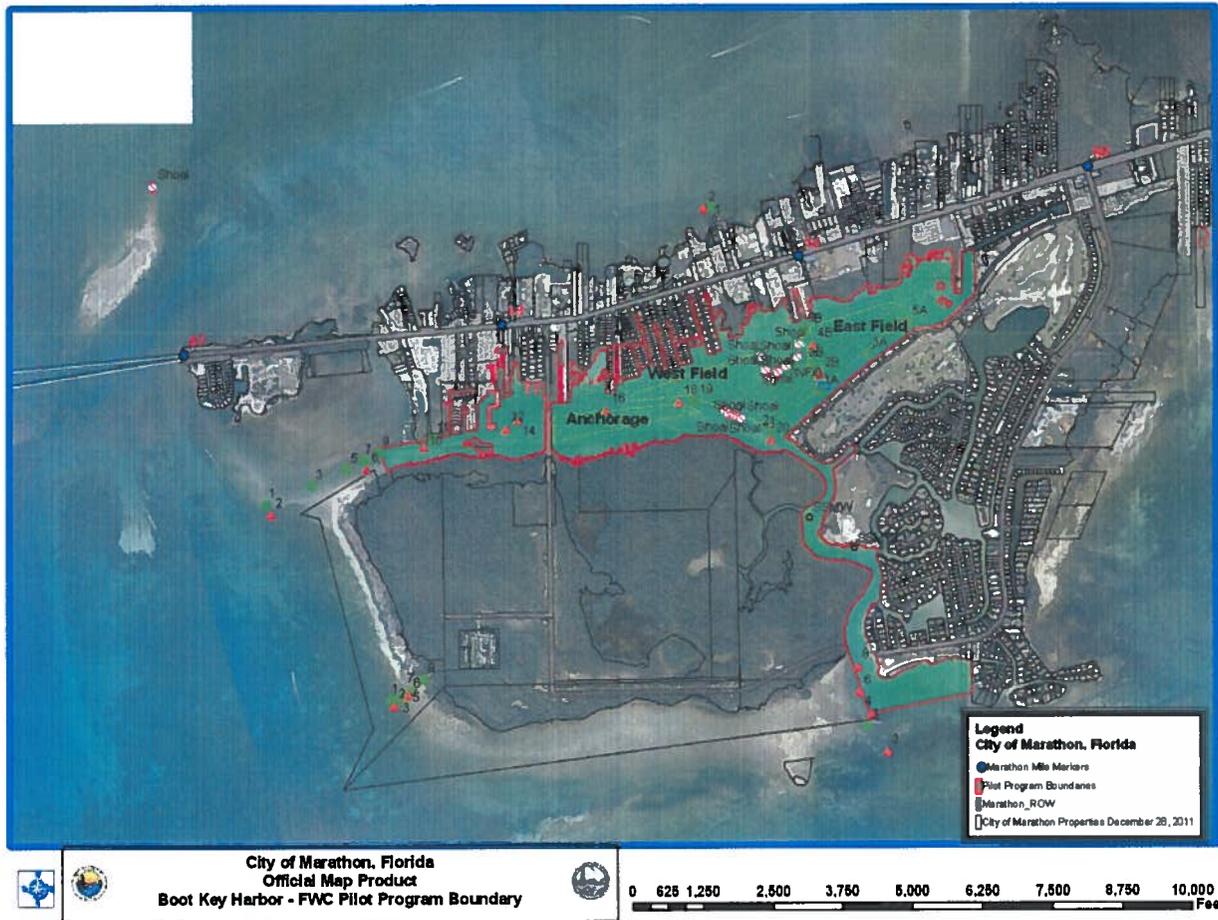
Key West Harbor



Cow Key Channel

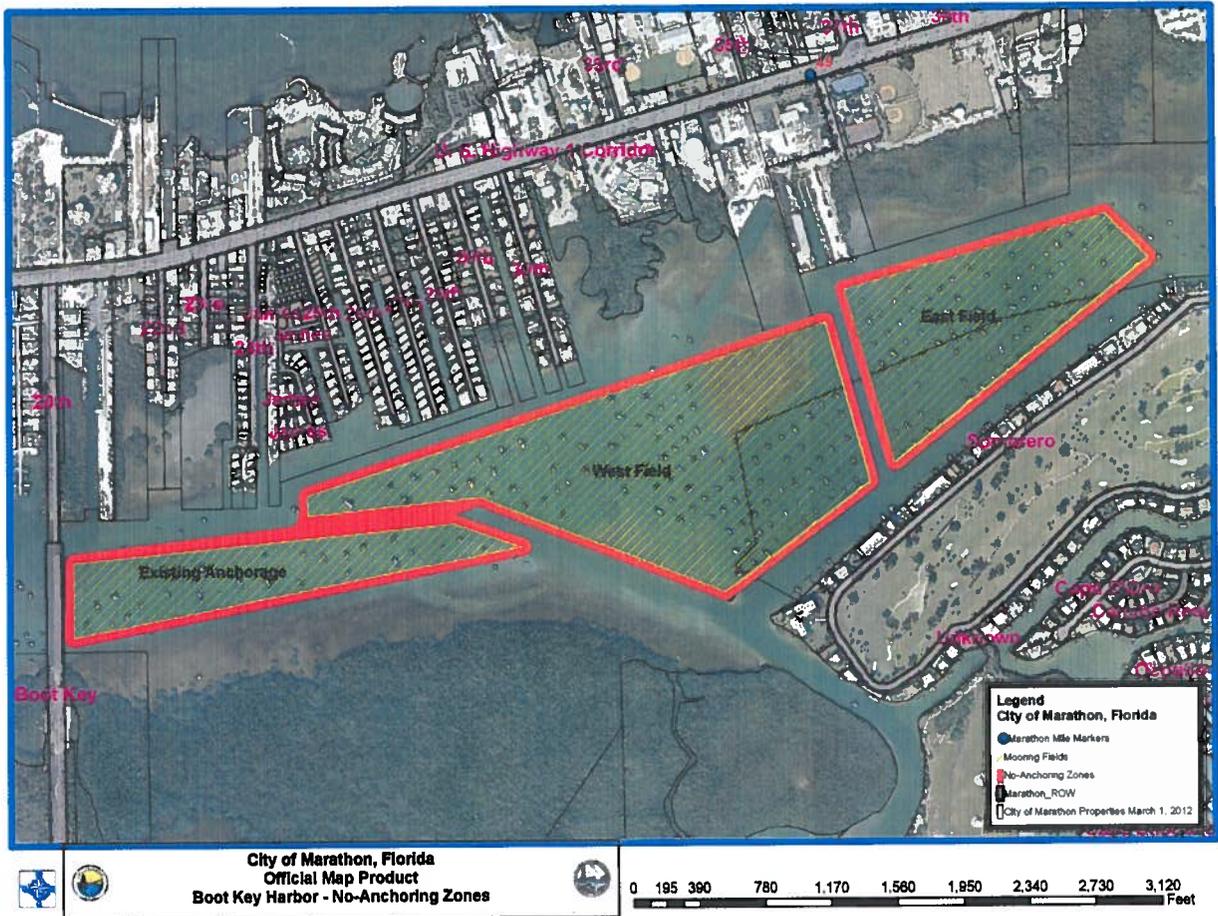


# Boot Key Harbor



# Attachment B- Maps of No Anchoring Buffer Zones

## Boot Key Harbor



Key West Mooring Field/Seaplane Basin



Key West Mooring Field/Seaplane Basin



Boca Chica Basin



**MEMORANDUM**  
**MONROE COUNTY GROWTH MANAGEMENT DIVISION**

*We strive to be caring, professional and fair*

To: Board of County Commissioners  
From: Richard Jones, Marine Resources Senior Administrator  
Date: July 16, 2012  
RE: Revisions to Pilot Program anchoring ordinance



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The purpose of this memo is to describe the need for minor revisions to the anchoring ordinance previously approved by the BOCC.

**Background:**

The BOCC approved an anchoring ordinance, in association with the Florida Fish & Wildlife Conservation Commission (FWC) Pilot Program for anchoring and mooring, at its May 16, 2012 regular meeting. Subsequent to approval, the ordinance was submitted to FWC.

In accordance with F.S. 327.4105 the FWC provides consultation and technical assistance to the participants in the Pilot Program. An element of that assistance is a review of anchoring ordinances submitted to FWC for approval. FWC performed a review of Monroe County's May 16, 2012 anchoring ordinance and provided comments to County staff on June 20, 2012. Those comments were technical in nature and included language, wording, and organizational recommendations. Staff provided a response to the comments (see attached FWC Review/Comments to BOCC Approved Anchoring Ordinance).

Subsequent to FWC staff's review of the anchoring ordinance, FWC held an Ordinance Public Meeting in Tallahassee on July 11, 2012 to take comment on the Monroe County anchoring ordinance from agencies, organizations and the general public. Marine Resources staff attended the meeting, described the structure and elements of the ordinance, and fielded questions from the participants. Agency and organization representatives provided numerous comments during the meeting. Several meeting participants commented on the excessive size of the no-anchoring zone for the Seaplane Basin, particularly to the north. County staff explained that the scope of the zone was based on an existing Key West ordinance and associated DEP management agreement requiring a no-anchoring zone. DEP staff indicated during the meeting that the management agreement expired in 2010 and DEP anticipates replacing the management agreement with a lease which will likely reduce the size of the required no anchoring zone. County staff suggested that the northern boundary of the no-anchoring zone could be moved slightly south and still provide necessary protection to the mooring field, but that the proposed no-anchoring area to the east of the mooring field needs to remain. That suggestion was met with general acceptance from the participants, including DEP.

Also, several organization representatives (Boat U.S., Seven Seas Cruising Association, Marine Industries Assoc. of Florida) voiced opposition to the proposed managed anchoring zone at Sunset Cove, citing the intention of the Statute being to only regulate areas within close proximity to a mooring field. County staff explained that the Statute language does not limit where regulatory zoning is to take place, and also recognized several small mooring fields (Pennekamp State Park and Lignumvitae Key State Park) in proximity to Sunset Cove. The organization representatives indicated that they would likely request the FWC Commission to delete the Sunset Cove managed anchoring zone from the Monroe County anchoring ordinance. Additional comments submitted to FWC by organizations attending the meeting are attached. FWC's public comment period for the Monroe County anchoring ordinance is open until July 23, 2012. No further comment submissions were made available at the time of submission of this agenda item documentation.

### **Recommended Revisions:**

Comments provided by the FWC review and the Ordinance Public Meeting helped identify possible issues with the anchoring ordinance, and provide the opportunity for Monroe County to respond to those issues prior to the ordinance being submitted to the FWC Commission for consideration and approval.

Staff recommends the following minor technical revisions to the ordinance (indicated in ordinance as ~~red strikethrough~~ and double underline).

#### **Based on the FWC review:**

- 1- Sec. 26-102(a)(2): Move *Prohibition of derelict vessels* section above *Proof of pumpout required* section.
- 2- Sec. 26-102(a)(2): Delete language '*ending July 1, 2014*'.
- 3- Sec. 26-104(b): Delete language '*or contest a*'.
- 4- Sec. 26-104(d): Delete language '*within the timeframe stipulated*'.

#### **Based on the Ordinance Public Meeting:**

- 1- Revise Attachment B- p.2: Modify the Seaplane Basin no-anchoring buffer zone map by moving the northern boundary southward to a location 50' north of the northern mooring field boundary markers C and D. This modification has met the approval of officials at the City of Key West.
- 2- Sec. 26-102(b)(1)(b): Revise the geographic description of the Seaplane Basin no-anchoring zone to reflect the modification to the associated map.

Upon approval of the revisions to the ordinance, staff will submit the ordinance to FWC. FWC staff will then prepare its recommendation to the FWC Commission. The ordinance is anticipated to be scheduled for the September 5-6, 2012 FWC Commission agenda for discussion and approval.

## FWC Review/Comments to BOCC Approved Anchoring Ordinance

The following is a copy of an e-mail from Capt. Tom Shipp with FWC, providing comment to the County's anchoring ordinance approved by the BOCC on May 16, 2012. Upon receipt of the ordinance FWC staff conducted an internal review and the comments are a result of that review. County Staff responses to each comment are provided in *red italics*. Staff responses recommending changes, primarily technical in nature, are provided in *bold red italics*.

Richard Jones

From: Shipp, Thomas [thomas.shipp@MyFWC.com](mailto:thomas.shipp@MyFWC.com)  
Sent: Wed 6/20/2012 1:57 PM  
To: Jones-Rich  
CC: Hurley-Christine  
Subject: RE: Internal Review

Hi Rich,

I hope you had a good vacation.

I am planning on having the Anchoring & Mooring public meeting for the Monroe Co. ordinance on Wednesday, July 11<sup>th</sup> from 8:30 am till 12:30 pm, here in Tallahassee, like we had discussed. I haven't heard back from Stuart/Martin Co. about their ordinance development so I am currently planning on just the half day meeting to cover Monroe's ordinance. I wanted to make sure there would be time for you to meet with your BOCC at their July meeting if you needed to alter any wording of the ordinance, based either on comments from the public meeting or FWC's consultation/technical assistance.

Some of FWC's comments on the current wording of the ordinance dealt with arrangement issues. Examples of these are below;

- Moving lines 277-278 (c) Prohibition of derelict vessels. Vessels determined to be derelict in accordance with F.S. § 823.11 are prohibited, so it would come before the current (b) Proof of pumpout required paragraph. This would allow the derelict prohibition to follow the prohibitions of vessels with pre-derelict conditions.  
*County Staff- this would be a non-substantive structuring change that would help with the flow and sequence of the regulations. Staff recommends making this change.*
- Moving lines 356-364 "Sec. 26.105 Exemptions to the proof of pumpout" to or near the proof of pumpout paragraph starting on current line number 257. That way anyone reading the pumpout requirements would also see the exemptions without needing to go further down the document.  
*County Staff- this would be a non-substantive structuring change. However, exemptions to regulations in Monroe County ordinances typically are stipulated in a separate 'Exemptions' section. Staff prefers to leave this section as is (if it is later determined that additional exemptions need to be added, then we have an existing section in which to put those items). We anticipate providing education during the implementation process for the regulations to make sure boaters fully understand the requirements.*

We did have other comments about language issues. Examples would be;

- Lines 252 and 255. Would you want to combine the indicators 4 and 7 for vessels that have broken or in danger of breaking loose from their mooring or anchoring systems? It would provide the same coverage and intent, simplify the language, and not incur undue liability.  
*County Staff- this would be a non-substantive structuring change. However, staff prefers to keep the two regulatory items separate rather than combined.*
- Line 272, the wording “(ending July 1, 2014),” given that the pilot program could be extended by the Legislature, did you want to keep this language? If it stays, and the Legislature did extend the program, Monroe Co. would need to change the ordinance and possibly go through the FWC Commission to approve the change.  
*County Staff- this would be a technical revision that would enable Monroe County to continue with the ordinance if the State Legislature extends the Pilot Program. Staff recommends deleting ‘ending July 1, 2014’.*
- Line 337-339, “and FWC will request that the owner remove the vessel from the Managed Anchoring Zone or No-Anchoring Buffer Zone” If your intent is to have the vessel removed, would you want to require a mandatory court appearance? The judge could make the determination, based on individual circumstances of each case, requiring a vessel owner to remove their own vessel from the zone.  
*County Staff- the County does not desire to revise the language to require a mandatory court appearance.*

We also went over questions about the wording of parts of the ordinance to better our understanding of your intent. Some examples of these are;

- Line 328, did a written warning need to be issued before a citation for each violation of the ordinance, or was a warning for any part of the ordinance sufficient to meet this requirement of a warning before citation?  
*County Staff- the intent is to provide a warning prior to issuance of a citation for any specific violation of the ordinance.*
- Line 332-333, the thirty days between citations. If someone violates the ordinance and is cited, does there need to be a thirty period before they are cited for a different violation of the ordinance?  
*County Staff- the intent is to provide 30 days between citations for any specific violation of the ordinance. There does not need to be a 30 day period to cite a vessel for different violations.*
- Line 341, “Any person who fails to properly respond to, or contest a” is based on, but different than, Florida Statute language “Any person who fails to appear or otherwise properly respond to a”. Was there a reason for the change? If someone appears, wouldn’t that constitute a proper response.  
*County Staff- this was a change to the last revision based on comments by the County attorney. Staff recommends revising the ordinance language to be consistent with established Florida Statute language- ‘Any person who fails to appear or otherwise properly respond to a...’*

- o Line 353-354, within the timeframe stipulated. What timeframe is this language referring; after warned, cited, or after the 4<sup>th</sup> offense? Or some other timeframe?

*County Staff- this language was pertinent to a previous ordinance version which provided for 30 days within a Managed Anchoring Zone before a vessel was required to have a pumpout or obtain a USCG Aux. VSC decal. Staff recommends deleting the language 'within the timeframe stipulated'.*

So, we covered questions, arrangement issues, and a couple of technical language issues. I think some of these will come up during the internet posting and public meeting. A lot of our comments/questions are geared to prepare you or your representative for the public questions, meetings, and FWC Commission meeting. If you or Ms. Hurley have any questions you are always welcome to call me so we can discuss.

**Tom**

**Captain Tom Shipp**

*FWC / DLE / Boating and Waterways*

*620 South Meridian Street*

*Tallahassee, FL 32399-1600*

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**Patrol, Protect, Preserve**



July 12, 2012

## Comments of the Seven Seas Cruising Association

### On the Proposed Mooring and Anchoring Ordinance of Monroe County

The SSCA was founded in 1952 and is incorporated in Florida as a 501 (c) 7 not for profit corporation. The focus of our members is to cruise by boat both locally and worldwide, and to share cruising information with the membership. Our "Leave a Clean Wake" motto emphasizes good seamanship, courtesy to fellow boaters, and a respect for local customs so that those who follow in our wake will be warmly received. With a membership of nearly 7000, many of whom are currently cruising the world, the SSCA is recognized as a major voice worldwide for the cruising community.

Many of our members and other cruisers from around the world visit the Florida area every year. During the boating season visiting boaters have a positive impact on Florida communities and participate in tours, shop, dine in local restaurants and attend artistic events, and celebrations.

SSCA was pleased when Florida state officials enacted legislation which established the Anchoring Pilot Program. SSCA believes we have a responsibility to actively participate in Florida's efforts to develop ordinances which can be unique to a specific municipality's concerns, yet consistent and concise enough to be understood by national and international boaters. SSCA is hopeful these efforts will yield good ordinances, but more importantly, we hope these principles and practices will be consistently applied to the development of future ordinances.

SSCA appreciated the opportunity to hear Mr. Richard Jones present the proposed Monroe County ordinance on 11 July 2012. SSCA also appreciated Mr. Jones familiarity with the proposed ordinance, and the areas for which they are intended to apply. He was able to answer many of our questions clearly and with sufficient detail to resolve some of our initial concerns.

The following are SSCA's observations and concerns regarding Monroe County's proposed ordinance.

1. In section 26-102, A. Managed Anchoring Zones, Part 1b, Sunset cove, the County presented this anchorage as close to a mooring field (about 3 miles as the crow flies). While it is only 3 miles away, this anchorage is almost 50 miles away when navigated by boat. SSCA believes controlling this anchorage does not meet the intent of FWC's ordinance pilot program.
2. In section 26-102, B. No-Anchoring Buffer Zones, Part 1c, Boca Chica Basin, SSCA understands the Navy's desire to prevent anchoring in this area and suggest they file separately to incorporate an CFR 336 like exclusion zone for their specific reasons. SSCA believes the Navy specified area also does not meet the intent of the pilot program should be removed from this ordinance.

**Seven Seas Cruising Association**  
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3. In section 26-102. B. No-Anchoring Buffer Zones, 1b, Seaplane Basin. SSCA believes this area excludes an excessive amount of the basin from anchoring and suggests that only the area below the privately maintained day markers "C" and "D" be included.
4. SSCA accepts the safe harbor definition is adequate as written, the vessel's captain determines if he requires safe harbor, the county officials should include procedures on how they intend to honor such a request and for how long.
5. SSCA encourages the establishment of "special anchorages" and codifying such anchorages in CFR 110 regulations.
6. SSCA recommends that an implementation and communication plan be specified and that appropriate signage be defined and included in the ordinance.

The above list is not all inclusive as there were many good discussions which were hopefully captured in the minutes of the meeting.

SSCA appreciates all the efforts involved in developing these ordinances and stands ready to work with state and local governments to produce safe and helpful boating regulations which encourage maritime recreation.

A handwritten signature in black ink, appearing to read "P. Johnson", written over a horizontal line.

Philip Johnson

Chairman, Concerned Cruisers Committee