

MARINE AND PORT ADVISORY COMMITTEE

Meeting Minutes

PURSUANT TO Board of County Commission Resolution No. 057-1991 the Marine and Port Advisory Committee of Monroe County conducted a meeting on **May 7, 2013** beginning at 6:34 PM at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

MARINE AND PORT ADVISORY MEMBERS:

William Hunter, Chair	Absent
Mimi Stafford, Vice Chair	Present
Phil Goodman	Present
Paul Koisch	Present
Rudy Krause	Present
Pam Martin	Present
Sandy Walters	Present
Pat Wells	Absent
Pete Worthington	Present

STAFF

Richard Jones, Sr. Administrator	Present
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COMMISSIONERS

Commissioner Sylvia Murphy	Present
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MOTIONS MADE

Motion 1

To approve the minutes of the February 5, 2013 MPAC Meeting

Motion/Second	Passed
Sandy Walters/Paul Koisch	Unanimously

Motion 2

To hold a five-minute recess for Mr. Jones to obtain the definition of “marina”

Motion/Second	Passed
Pete Worthington/Pam Martin	Unanimously

Motion 3

To reduce the “full utilization” requirement in the Marina Siting Criteria to 75 percent

Motion/Second

Failed

Pam Martin/Pete Worthington

Four to three

CALL TO ORDER

Committee Vice-Chair, Mimi Stafford, called the meeting to order at 6:34 p.m.

PUBLIC MEETING

Item 1. Approval of minutes from the February 5, 2013 MPAC Meeting

Motion: Ms. Walters made a motion to approve the minutes from the February 5, 2013 meeting. Mr. Koisch seconded the motion. There was no opposition. The motion passed unanimously.

Item 2. Nomination of new Chair and Vice-Chair

Vice-Chair Stafford postponed the nominations of Chair and Vice-Chair until the next meeting.

Vice-Chair Stafford moved Agenda Item 5 to be heard next.

Item 5. Update by Rhonda Haag on the Canal Management Master Plan

Mr. Jones introduced Rhonda Haag to give an update on the status of the Canal Water Quality Master Plan. Ms. Haag presented an overview of Phase 1 of the Canal Management Master Plan. Ms. Haag reported the County was awarded a \$100,000 grant back in March of 2012 to complete Phase 1. The objective of the Canal Management Master Plan is to provide a funding and implementation strategy for improving the canal water quality in the Florida Keys, which includes looking at the different technology alternatives, looking at the water quality in the canals and figuring out the best way to restore each canal, how to apply for grants, identification of the canal management issues, and finally public involvement. In Phase 1 staff was under a tight time frame, with only 90 days to come up with a list ranking of canals for prioritization, which was based on severity of the problem, the potential to provide improvement in the water, public benefit, different funding supports and project implementation. Ms. Haag then described some examples of restoration options, such as weed wrack gates and pumps to help increase circulation in the water. To repair a lot of the canals in the Key Largo area removal of the organic matter would be necessary and then backfilling them to make shallower canals. Examples of costs were recited.

Ms. Haag then explained Phase 2 of the project. The County received a second grant, this time from EPA. Phase 2 is looking at all 502 canals in the County. AMEC was selected to complete

that work. They are visiting every canal to measure the length, the width, the depth, and they are also looking at the water quality impairments. AMEC will also measure the muck on the bottom of those canals that have this organic matter. The canals are being named and numbered. A third grant was received related to Phase 2, which is for bathymetric studies. This grant was from DEP. Water depths will be measured in all canals and soil samples will be taken in ten canals throughout the county.

Ms. Haag then showed results of two samples collected. Many of the canals do not meet the State's minimum water quality standards. The master plan's purpose is to help improve water quality. There are some regulatory requirements why this has to be done. There are corrective actions that could be taken against the County if the County does not take actions to improve water quality. There are millions of dollars of grant funds available every year for water quality improvements as long as the canals are hooked up to the wastewater treatment system. Part of the goals of the canal restoration team is to identify all the canals and then to talk to the homeowners to see who is interested in having their canals restored. The two most important things when applying for funds is identifying which canals are in the worst shape and which canals have a partial match of funds.

Last month the Board of County Commissioners (BOCC) approved up to \$5 million for some demonstration projects for the County, which will probably be in the unincorporated areas. Five of the different technologies would be used, which include culverts, weed gates, air bubbler curtains, muck removals and backfilling of the deep canals. Ms. Haag stressed this has nothing to do with dredging for navigational purposes. AMEC was the low bidder for the demonstration project and that will go in front of the BOCC next week for approval. Ms. Haag explained that some new options of restoration are being looked into, such as the possibility of microbes eating some of the muck and using recycled crushed glass to backfill some of the deep canals in Key Largo. If AMEC is approved on May 15th, AMEC will have 90 days to go forward with a complete evaluation of all the canals and come up with five canals for each type of those projects. Hopefully by September the demonstration projects will be selected. The main reason this was done earlier than anticipated is because the County will be applying for BP Restore Act funds, and the \$5 million demonstration project can be put forward as a match for the Restore funds. Some public outreach meetings will occur to make sure the public is aware of the project.

Ms. Haag informed Mr. Goodman the information on the condition of the canals should be publicly available by September. Mr. Jones noted there is a source of information of the conditions of all the canals in the Keys currently and this project is an update of a previous study from ten years ago. Ms. Haag explained where on the County website that information can be found. Ms. Haag clarified for Mr. Koisch that the demonstration projects are not 100 percent funded by the County, but will require matching funds from homeowners.

Mr. Koisch then discussed the harm that waste from fish cleaning stations being thrown in residential canals is doing to the water quality. Ms. Walters stated the Sanctuary is aware of this problem, but the amount of funding for public education is limited. Mr. Koisch suggested an ordinance be put in place to outlaw fish cleaning stations. Ms. Walters responded that most people think the waste is biodegradable and do not understand the cumulative amounts of this waste. Ms. Walters believes the cheapest way to effectively deal with this issue is education,

which has to be a constant process. Mr. Worthington commented that proper disposal of fish cleaning waste is to put it in a plastic bag and put it in the garbage can, which brings complaints from neighbors. Cleaning fish before coming to shore is prohibited. Ms. Walters added that one of the conditions required to be a clean marina statewide is that disposal facilities must be provided at the dock for fish carcasses.

Commissioner Murphy clarified for Mr. Worthington that the \$5 million in County tax funds is literally unincorporated money, not grant money. Mr. Worthington then commented that places that have pristine canals, such as Duck Key, should be examined closely to determine what has been working naturally and take advantage of natural things that are going to have minimal maintenance once the program is finished. Mr. Krause asked how much culverts have helped the water quality in the Lower Keys. Ms. Haag responded that the culverts in Big Pine Key had filled in or sunken in the last few years and they were replaced. The citizens in this area reported a huge increase in the water quality when they replaced the culverts. Mr. Krause disagrees that all deep canals have poor water quality. Mr. Krause believes culverts, air curtains and bubblers should be used as opposed to the expensive proposition of filling canals. Ms. Walters recommended that the EPA committee consider having a workshop with local marine contractors to understand what they find and experience in these canals.

Ms. Haag estimated that 10 to 40 percent of the costs would be required from the homeowners. Mr. Worthington believes using the recycled glass is a great idea, but is concerned the labels left on the glass being recycled could render the glass not clean enough to use. Ms. Haag replied that Waste Management is currently looking into that. Mr. Krause also suggested using recycled concrete. Ms. Haag added that using the fill from digging the sewer lines in the Lower Keys is being looked into. Mr. Krause cautioned that since the fill is located next to the highway oils and other contaminants could have been washed into the dirt.

Ms. Haag explained to Ms. Martin the cost to homeowners would depend on what the problem is in their canal and what it would take to fix it. Homeowners can also apply for federal or state grants. Mr. Worthington informed Ms. Haag that the Army Corps was doing a couple of pilot projects putting culverts under US1 and there was funding in Jacksonville to continue that work. Mr. Worthington suggested looking into if that program still exists and possibly using some of that money.

Ms. Haag told Mr. Goodman that neighborhoods with no homeowners association would have to meet amongst themselves to agree on whether they want to go forward with the grant application or not. The homeowners will be responsible for maintaining the canal once it is restored. Commissioner Murphy and Ms. Haag spoke about the increased property value to homes on clean canals. Mr. Worthington believes the only way the County will be able to address this is restoration project is through a special taxing district because 50 percent of the homes in Monroe County are owned by people who live out of town.

Rich Jones mentioned that there may be fish cleaning station information available from the Extension Office, and that this may be a good topic for the committee to work on.

Item 3. Staff update on revision to the membership and duties of the MPAC

Mr. Jones reported that back in March the BOCC passed a resolution only slightly different than the draft resolution before this Committee back in February. The seventh recommended duty of making recommendations on channel markers was not approved. Staff developed an alternate seventh duty that the BOCC approved. The BOCC decided the MPAC will consist of seven members. Each Commissioner will be appointing one member to the Committee and one member will be appointed by the Sanctuary Advisory Council and one member by the Florida Keys Commercial Fishermen's Association. Mr. Jones noted that the prior discussion about fish cleaning tables could be encompassed in Duty Number 6: Providing input on the development of educational and outreach materials.

Ms. Martin passed out copies of the 1977 resolution that created the MPAC and the updated 2012 Florida Statutes which describes what Boating Improvement Funds can be spent on. Ms. Martin stated that since 1990 there were two people appointed to the MPAC by each Commissioner. Ms. Martin then pointed out in Florida Statute what can be done with Boating Improvement Funds. Mr. Jones explained that the MPAC already does what is listed in the statutes. Ms. Martin believes a large part of the MPAC's focus should be on channel marking to help the public get from Point A to Point B. Commissioner Murphy noted that channel marking is going to come to the forefront in other areas, but by other agencies other than this Committee. Vice Chair Stafford reminded Committee members that channel marking was one of the duties suggested by the Committee that went forward and was struck down. Mr. Jones commented that does not mean the County is getting away from focusing on channel markers. Commissioner Murphy stated that several members of the BOCC did not think focusing on channel markers suited this Committee, but is dealt with by other agencies, and this Committee can bring forward any subject or recommendation to the BOCC at any time.

Mr. Jones clarified that the MPAC has never had specific duties, so therefore no duty is being taken away. This Committee can discuss anything that is marine-related. Ms. Martin disagreed and stated for years channel marking was a big part of the MPAC's duties. Commissioner Murphy informed Ms. Martin that the proposed seventh duty by this Committee was too specific for the liking of the BOCC, almost putting this Committee in charge of channel marking.

Mr. Koisch commented that although the Committee members recognize the value of having fewer people to voice opinions, the Committee collectively agreed that each Commissioner should have two appointments. Mr. Koisch asked Commissioner Murphy why the BOCC would not want more of the public available to them. Commissioner Murphy responded that one of the main reasons is the inability to get a quorum. Mr. Koisch stated there were only two times that there has not been a quorum and that the Commissioners should replace their appointee if they do not attend the meetings. Mr. Worthington added that he is baffled by the decision the BOCC made reducing the Committee after the recommendation not to, but there is nothing in Florida

Statutes that says the BOCC even has to have a MPAC. Mr. Worthington stated that some Committee members are not present at the meetings where the schedule is set and, therefore, conflicts arise. Commissioner Murphy pointed out that Duty Number 7 gives the Committee even more leeway now. Mr. Jones agreed that no topic is excluded and believes the new duties make the MPAC more a part of the process. Ms. Martin believes channel marking and derelict vessels should be specified duties. Mr. Jones stated that Marine Resources addresses these two issues every day. Mr. Jones suggested since the creation of educational and outreach materials are now a duty of this Committee, that that would be a good thing for this Committee to work on. Mr. Koisch concluded by saying Mr. Jones serves as a forum for this Committee to voice any concerns they may have.

Item 4. Staff update on Marina Siting Criteria

Mr. Jones reported that since the last meeting the South Florida Regional Planning Council did send the draft Marina Siting Criteria out to all the state and federal pertinent agencies for comment. Most of the agencies had no problems with it whatsoever. The Fish & Wildlife Commission commented that they wanted to make sure that hard bottom was recognized as including hard and soft corals. That specific language has been added to the Marina Siting Criteria, and that is the only change made to the draft document since the last meeting. Mr. Jones mentioned that when the marina developer brings an application in all the criteria would need to be met, and current data would need to be provided by the applicant.

Ms. Martin asked if tidal flow and water depth are still criteria for marina development. Ms. Martin then recommended changing the 90 percent occupancy requirement (for full utilization) to 60 or 75 percent occupancy to allow time to go through the approval process. Mr. Jones explained that the four-foot depth requirement still exists. No studies of available properties with the required four-foot depth have been done. Mr. Jones clarified that site requirements are in the comprehensive plan, and that the Marina Siting Criteria consolidated and revises those requirements. He explained that the Marina Siting Plan is a guidance document that (along with the Needs Analysis) is data and analysis supporting the Marina Siting Criteria. The 90 percent number was chosen to define “full utilization”, as described in the comprehensive plan. Mr. Jones read some notes provided by Mayte Santamaria that the 90 percent proposed standard provides a predictable and meaningful standard for determining the need for new marinas and Planning staff feels that 90 percent is an appropriate standard to use. Mr. Jones reminded Ms. Martin that slips not open to the public were not included in the Needs Analysis, which would include a condominium. Mr. Jones clarified for Mr. Worthington that the Marina Siting Criteria will be for all of unincorporated Monroe County.

Mr. Worthington agrees that 90 percent is too high of a threshold to set. Mr. Jones explained that the comp plan says there shall be no new marinas until all marinas within five miles are at

full utilization, but it does not define “full utilization.” There was discussion regarding hotels that want to add slips or dock spaces. Mr. Jones stated that the project has to meet the definition of “marina.” Ms. Walters requested the Committee Members be given the definition of “marina” to be able to have a meaningful conversation.

Motion: Mr. Worthington made a motion for a five-minute recess to obtain the definition of “marina.” Ms. Martin seconded the motion. There was no opposition. The motion passed unanimously.

A recess was held from 8:21 p.m. to 8:27 p.m.

Mr. Jones reminded the Committee Members that until the Marina Siting Criteria is adopted DEP will not issue new submerged land leases for state-owned lands north of Tea Table Key. Once the criteria are developed, the moratorium on new marinas will disappear. Ms. Martin again recommended the 90 percent threshold be lowered. Mr. Jones mentioned that comments regarding full utilization provided at the recent public meetings held for the new draft comprehensive plan were wide ranging, including comment that the number was just right, it was too high and it was too low.

Motion: Ms. Martin made a motion that the occupancy level for “full utilization” be lowered to 75 percent. Ms. Martin stated the justification for the 75 percent is due to the difficult nature of the permitting process. Ms. Walters again requested the definition of “marina.” Ms. Martin withdrew the motion.

Mr. Jones read aloud the current definition of “marina.” Ms. Martin noted that a commercial fish house has the ability to receive a conditional use to become a marina. The definition of “marina” was further discussed. Ms. Walters cautioned that an unintended consequence has arisen that this current definition of “marina” would apply to a hotel the way that it is written. Mr. Jones clarified that a development including a hotel as the principal use might have a marina as an accessory use. Ms. Walters reversed her previous statements and agreed the exclusion in the definition would apply to hotels. Ms. Walters then stated a commercial fishing operation with existing slips would be a marina under either definition. Ms. Martin would like the words “commercial fishing” to be included in the definition.

Mr. Worthington pointed out that a fish house does not fall under the marina category, but falls under a processing tax code. Ms. Walters noted under the Marina Siting Plan they are a marina. Mr. Jones will speak to the Planning Department for clarification. Mr. Jones will send the Committee Members the two definitions in writing and get clarification about whether docks accessory to a land-based dwelling unit applies to a hotel with slips and whether it applies to a fish house with slips.

Motion: Ms. Martin made a motion to reduce the “full utilization” requirement to 75 percent. Mr. Worthington seconded the motion. The roll was called with the following results: Phil Goodman, No; Paul Koisch, No; Rudy Krause, Yes; Pam Martin, Yes; Sandy Walters, No; Pete Worthington, Yes; Mimi Stafford, No. The motion failed four to three.

Item 6. Discussion of channel markers and maintenance (Phil Goodman)

Mr. Goodman pointed out that Monroe County leads the State of Florida in boating accidents every year and Florida leads the nation. Mr. Goodman spoke of the dangers of shallow waters without proper channel markers. Mr. Goodman feels this is something that should be addressed. Mr. Jones responded the Coast Guard owns about half the markers in the Keys, the County owns less than half and private owners own the rest, which can be other agencies, subdivisions, hotels or resorts. Anybody can apply with the Coast Guard for channel markers.

Mr. Jones explained that 17 years ago the County hired a contract employee to write the Channel Marking Master Plan for the Florida Keys. Over about five years after that it was fully implemented. The maintenance of the markers is ongoing. In the last three years the County has increased the amount of money spent on markers, and the budget will increase from \$50,000 to \$80,000 in the next fiscal year. Mr. Jones relies heavily on the Coast Guard or the Coast Guard Auxiliary to notify him of where markers are down. Mr. Jones informed Mr. Goodman that ownership of markers can be determined very easily. Mr. Jones will send the Committee a GIS map of all of the markers in the County. Mr. Jones commented that the markers that are in the worst condition are usually privately-maintained markers.

Mr. Jones explained the Coast Guard owns and maintains markers on the reef line, Hawk’s Channel and the major crossing channels and the ICW. The Coast Guard maintains markers for commerce, including commercial traffic and ships. Counties and cities fill in the gaps by providing markers for channels for recreational boats. The County’s channel markers meet the Florida Uniform Waterway Marking Standards. Privately-owned markers are also required to meet these standards. Mr. Goodman will inform his colleagues of this information. Ms. Martin suggested new members of the MPAC be given a booklet on channel marker information.

Item 7. Committee discussion

Ms. Stafford suggested changing the date of the next MPAC meeting to accommodate the commercial fishermen on the Committee. The Committee reset the date to July 30th, 2013.

Ms. Walters commented that there is concern about private mobile pump-out providers in the Key West area being put out of business by the County’s pump-out vendor. Mr. Jones stated one

of the two responders to the County's RFQ who did not score very highly has called with the same complaint. The County's vendor, Pumpout USA, has assured staff they are not breaching the contract in any way. There is no exclusivity clause in the contract indicating that Pumpout USA cannot do additional work. Pumpout USA, under the County contract, does not pump out the Key West mooring field or boats at marinas in Key West. Mr. Jones clarified the County's comp plan does require marinas to have pump outs, but this does not apply to the City of Key West. The comp plan states any marina with ten slips or more, or one live-aboard slip, shall have a pump-out facility. This is anticipated to be amended to the land development regulations subsequent to adoption of the new comp plan.

Mr. Jones updated the Committee Members that educational and outreach information and law enforcement have been implemented in the lower Keys for the Pilot Program anchoring ordinance.

Item 8. Adjournment

The Marine and Port Advisory Committee meeting was adjourned at 9:25 p.m.