

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 3, 2016**, beginning at 6:00 PM at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

MARINE AND PORT ADVISORY MEMBERS

David Makepeace, Chair	Present
Bill Kelly, Vice Chair	Present
James Fitton	Present
Phil Goodman	Present
Paul Koisch	Present
Lynda Schuh	Present
Mimi Stafford	Present

STAFF

Richard Jones, Sr. Administrator	Present
Celia Hitchins, Marine Biologist	Present
Peter Morris, Assistant County Attorney	Present

MOTIONS MADE

Motion 1

To approve minutes of February 2, 2016

Motion/Second	Passed
Phil Goodman/Lynda Schuh	Unanimously

Motion 2

To adjourn

Motion/Second	Passed
Paul Koisch/Lynda Schuh	Unanimously

NOMINATIONS MADE

Chair

To elect David Makepeace to continue serving as Chair – Passed Unanimously

Vice-Chair

To elect Bill Kelly to continue serving as Vice-Chair – Passed Unanimously

CALL TO ORDER

Chair Makepeace called the meeting to order at 6:00 p.m.

PUBLIC MEETING

Item 1. Approval of draft minutes from February 2, 2016 MPAC Meeting

Motion: Mr. Goodman made a motion to approve the minutes from the February 2, 2016, MPAC meeting. Ms. Schuh seconded the motion. There was no opposition. The motion passed unanimously.

Mr. Jones stated the Planning Director had inquired into why the MPAC always meets at night and asked to have the Committee Members give their thoughts on meeting during the day. Mr. Jones explained that during the day all staff and their resources are available. All of the other Planning Department committees meet during the day. Mr. Morris noted there is no statutory requirement as to a specific day or time the MPAC should meet. Staff can advertise a meeting at any time convenient for everybody on a meeting-by-meeting basis. Mr. Jones confirmed that staff would definitely prefer a daytime meeting. All Committee Members agreed that they could attend a daytime meeting. Mr. Koisch feels the meetings should be held at night to allow for more public input and questioned why the other committees do not meet at night for the same reason. Mr. Morris replied that Florida Statutes require that most of the development approvals contemplated by the Planning Commission have to be heard at specific designated times during the day. Ms. Stafford feels a fairly consistent schedule would be less confusing for the public. Mr. Jones pointed out that there are a lot of members of the public that attend BOCC meetings that are always held during the day. Chair Makepeace suggested considering having a meeting at a time more available to the public when there are topics of particular interest to the public. Ms. Hitchins noted the draft meeting schedule for 2016 published on the website will need to be revised. Mr. Goodman asked that the daytime meetings be held in the morning as opposed to the middle of the day. Ms. Hitchins confirmed that the meeting room is available for both of the next dates for 2016. Chair Makepeace commented there will be no conflicts with the SAC meetings. The Committee Members agreed that 10:00 a.m. is a convenient time to meet. Mr. Jones will check with the Planning Director and see if the time change can be implemented for the next meeting.

Item 2. Nomination of Chair and Vice-Chair

Ms. Hitchins explained the procedure for nominations. Chair Makepeace asked for nominations for Chair. Mr. Koisch nominated David Makepeace. Chair Makepeace accepted the nomination. Chair Makepeace asked for other nominations. There were none. All Committee Members voted in the affirmative. Chair Makepeace asked for nominations for Vice Chair. Mr. Goodman nominated Bill Kelly. Mr. Kelly accepted the nomination. Chair Makepeace asked for other nominations. There were none. All Committee Members voted in the affirmative.

Item 3. Discussion on Fisheries Management (Bill Kelly)

Mr. Kelly provided written information of the fisheries management government branches as a reference point for future discussion. Mr. Kelly explained the fisheries management jurisdictions consist of the state, federal and national marine sanctuaries, as well as some other agencies. Primarily fisheries are governed by the State of Florida Fish & Wildlife Commission with a three-mile jurisdiction on the Atlantic side and nine miles on the Gulf, and the National Marine Fisheries Service in excess of nine miles to 200 miles on the Gulf side and three miles out to 200 miles on the Atlantic side. The rules and regulations that govern the federal zone are described in the Magnuson-Stevens Act and the various rules and regulations of the State of Florida Fish &

Wildlife Conservation Commission for the State's jurisdiction. After some efforts by the Sanctuary and Biscayne National Park to involve themselves in fisheries management issues in recent years FWC authorities made it clear that FWC has no intention of relinquishing their authority in any of the sanctuary or state waters on federal or state fisheries management issues. Recently there was some effort by the State of Florida to establish regional management in some areas because of the different species fished in different areas of the state. An interdisciplinary planning team was developed. Unfortunately that coordination evolved into a power struggle for federal versus state jurisdiction. A big concern fisheries management has is the lack of sufficient law enforcement, considering the tens of thousands of miles encompassed by the sanctuary.

Mr. Kelly stated it would not be appropriate for the MPAC to get involved in fisheries management, but should address issues and activities promulgated that may conflict with fishing concerns locally. There are significant complexities in dealing with fisheries management and it extends all the way up to the Department of Commerce. Mr. Morris clarified that this Committee's recommendations over fisheries management would render the County liable for a potential impairment of contract and tortious interference claims. Recommendation to the BOCC to expand the MPAC's duties to include that subject matter would render the County liable as well. There is nothing to preclude any Committee Member from appearing at public meetings and speaking in their private capacity. There would have to be a sufficient enough nexus between the subject matter upon which this Committee contemplated taking action and the Committee duties for any recommendation made to the BOCC. Chair Makepeace encouraged the Committee Members to bring forward any item for discussion with the understanding no action will be taken by the committee if it is not covered by the seven duties of this Committee.

Mr. Kelly explained for Mr. Koisch that although the federal jurisdiction extends out 200 miles, between the U.S. and Cuba and the Bahamas the difference is split equally right down the middle, which is an international standard. Chair Makepeace asked about the chances of the state and the federal authorities to start working together regarding the overlap of jurisdictions. Mr. Kelly explained that the interdisciplinary team put together has been put on a back burner because the federal councils were not anticipating the state effort to control certain species. The regional councils get money allocated to them based on the amount of fisheries management plans that they control or enact. The state push for jurisdiction is a very highly contentious issue and has involved a number of federal lawsuits. Fisheries in Monroe County on the Gulf side are so dissimilar to what is targeted in the major portions of the Gulf of Mexico that a gentlemen's agreement exists to stay out of each other's business. Chair Makepeace voiced how impressed he has been with how cooperative and collaborative all the different commercial fishing entities have been over the years within the process. Mr. Kelly commented that the commercial fishing industry in the United States is one of the most highly regulated industries in the nation. This industry provides a valuable service to the country, as well as an enormous economic value to Monroe County and to the State of Florida. Mr. Kelly agreed that there is a very high level of cooperation that takes place between the charter-for-hire and recreational and commercial fishing industries in the Keys. Mr. Jones provided the point of clarification that the cities and the county do not regulate lobstering, but do regulate snorkeling and diving during lobster season.

Item 4. Discussion of Shallow Water Boating Impacts (David Makepeace)

Chair Makepeace informed the Committee that at the last SAC meeting Curtis Krueer gave a historical presentation of seagrass and prop scarring with aerial images from 25 years ago to today comparing habitat protected areas and marine protected areas. There has been a 60 to 80 percent recovery of those areas that had received protection. The 80 markers that this Committee has helped put back out around the Whale Harbor Channel is currently making a difference in this area.

Item 5. Update on County Pumpout Program

Ms. Hitchins presented a slide of the quarterly number of pumpouts. Ms. Hitchins reported that the vendor is continuing to exceed the monthly quota and that the number of gallons removed is also successful. Mr. Jones further reported that the pumpout program is going very well. In this year's legislative session the Legislature and the Governor approved \$500,000 to be appropriated from the state to Monroe County's pumpout program in the next state fiscal year, which starts July 1st. That money is going to fund the lion's share of the pumpout program for the next year. Mr. Fitton asked to have the prior year's comparable months shown on the slide presentation as well for comparison purposes. Mr. Kelly asked if there is consistency in the amount of people using this service. Mr. Jones explained the program has grown over the last three years and four months. Awareness of this program is created through the internet, the media, radio and newspapers.

Item 6. Update on Derelict Vessel Program

Ms. Hitchins reported that derelict vessel removals are tracking along as usual. Staff anticipates receipt of the signed agreement for last year's FWC grant application shortly. The application asked for \$54,000 in reimbursement for removals accomplished and also includes money for eight more removals of vessels still out on the water. Mr. Koisch asked Ms. Hitchins about the vessel at Bahia Honda State Park. Ms. Hitchins replied that vessel has already been referred to Marine Resources. It went through an FWC investigation and they were not able to contact the owner. It should be removed in the next week. Ms. Hitchins further reported that Chair Makepeace provided staff with a letter of support that was included in this year's application for \$133,000 in grant money.

Item 7. Update on Boat Ramps

Ms. Hitchins reported that contractors have been hired and work is beginning soon on both the Harry Harris deck reconstruction and the boat ramp on Little Torch. Preconstruction meetings are being held currently with the contractors hired for that work. Permits have been received for the Big Coppitt boat ramp and the bid process is beginning now. Ms. Schuh asked about the progress on the access dock at Blimp Road. Ms. Hitchins stated she is unaware of what Project Management is doing on that currently, but will follow up with Project Management in that regard. Mr. Jones noted that Project Management is striving to eventually get that done.

Item 8. Legislative Update from 2016 Session

Mr. Jones reported that at this year's legislative session, for the first time in quite a few years, the state has appropriated \$1.4 million statewide for derelict vessel removals separate and apart from the Boating Improvement Program grants. Like any other grant, the County will have to apply for the money. Mr. Jones feels this is the most aggressive Monroe County and FWC have been

in not just removing derelict vessels brought to their attention, but in seeking out those derelict vessels and the funding sources. Mr. Jones continued to report that the legislative bills discussed at the last MPAC meeting were approved by the Legislature and signed off by the Governor. The At Risk Bill makes it a civil offense to have a boat that is at risk of becoming derelict. Currently the At Risk Program is voluntary, but as of July 1, 2016, it will actually be against the law to have that vessel and violators will be fined. Mr. Koisch asked how boaters become aware of the rules. Mr. Jones replied that boating regulations are contained in the Florida Statutes. Mr. Koisch asked that this Committee consider asking the County to send a copy of these rules to marina owners and to notify the newspapers in order to educate the public. Mr. Kelly believes it is the responsibility of boaters to be aware of the laws that govern in the state in which they carry out their activities. Ms. Stafford agrees that the MPAC should try to educate boaters so they can be responsible. Mr. Fitton pointed out that responsible boaters do not let their boats get in any of these "at risk" conditions and that it is common sense to maintain a vessel in good condition. Mr. Jones explained a violation would result in a \$50 citation. If the citation is not paid or resolved, then it goes through a stepped system of increasing fees and could result in a second degree misdemeanor. Mr. Jones suggested putting the information on the County's website, but pointed out this is not a County regulation, but a State statute. Chair Makepeace suggested for staff to consider creating a public service announcement outlining the legislative efforts that are going to affect the local citizenry. Mr. Jones feels the County should talk to FWC, a state agency, about their plans for advertising this information. Mr. Goodman believes FWC would already have something planned in that regard. Mr. Jones clarified that none of these bills being discussed today came from FWC, but all came from the Legislature.

Mr. Jones then explained the Probable Cause Bill. The State has now established a system so that enforcement officers can do a safety check on a vessel for safety equipment, then upon passing that inspection the vessel will have a sticker affixed to it showing it has passed inspection. The safety check does not have anything to do with inspecting the vessels for anything other than safety items. It is very similar to the Coast Guard Auxiliary inspections, but the safety inspection is performed by an enforcement officer. Subsequently an officer would have to have 'probable cause' to board the vessel for safety inspections. Mr. Jones further explained multiple agencies will be involved with this. Currently the bill does not include expiration times.

Mr. Jones stated another bill passed this year was the Anchoring Restriction Bill, which was very controversial. This bill does not include Monroe County, but County staff is paying attention to it because of a precedent that may be set as a result from this bill. Mr. Jones explained there are three or four sites within Miami-Dade and Broward Counties which will not allow overnight anchoring come July 1, 2017. The bill will sunset July 1, 2017, if and when FWC comes back to the Legislature next session with anchoring regulations that would be statewide. It is staff's understanding that the sunset date was chosen to coincide with the date that statewide anchoring regulations, if any, will go into effect. Mr. Jones explained the last bill, the EPIRB Bill, which encourages boaters to have an EPIRB, and/or a personal location device, on board for safety purposes and those boaters who do will receive a fee decrease on their registration every year.

Mr. Jones informed the Committee Members that staff will be developing a list in the next four to six months of legislative recommendations. Staff will likely be proposing stored vessel time

limits, Keys-wide proof of pumpout and freezing titles on vessels that are derelict. One of the reasons why these proposals did not gain any support this past session was because the Legislature was aware that the Pilot Program is still underway and they did not want to put something forward until FWC evaluates how well, or not, the Pilot Program went. The County and FWC hopes to replace the Pilot Program with boating regulations that are proven to be good and successful through the Pilot Program and additional regulations. Mr. Jones believes time limits on stored vessels would have the greatest impact on reducing derelict vessels in the future. Mr. Kelly voiced concern with the safety inspections may exclude the ability for law enforcement to inspect for potential poaching issues or possible BUIs.

Item 9. Committee discussion

Mr. Koisch discussed the desire of some stakeholders in the Upper Keys to start a ferry service to reduce congestion on US-1. Mr. Morris confirmed that topic would not be an item of consideration for the MPAC. Ms. Schuh brought up the fact that a catamaran moored near the Shark Key boat ramp is being used to advertise charters and watercraft rentals. Ms. Hitchins stated that DEP regulates a lot of activities that happen on sovereign submerged lands, which this would be. Ms. Hitchins mentioned if this operation is a commercial enterprise they might need a lease from DEP. The mooring device being used would require State and Federal permits. FWC's anchoring survey last year addressed the concept of having setbacks to marine infrastructure such as public boat ramps, but that has not been approved yet. Chair Makepeace noted that there is another vessel being used to advertise in Lake Surprise as well. Ms. Stafford pointed out that Funland, a recreational operation near Shark Key, has applied for a minor conditional use and the vessel could possibly be part of that operation. Ms. Stafford asked if anybody is investigating the fact that there used to be mangroves around this area. Mr. Jones replied that Marine Resources is not involved with that. FWC is going to be addressing anchoring in proximity to boat ramps and DEP is the agency to discuss the mooring issue. Mr. Morris noted that there is no regulatory jurisdiction for code enforcement with respect to the sign. Mr. Jones emphasized that as the Marine Resources manager the bigger concern is the trend going on there with more and more boats coming in and permanently anchoring.

Ms. Hitchins provided an update on Monroe County's Vessel Turn In Program (VTIP). The County is moving forward in the development of ideas, but has not gone under any contracts yet. Ms. Hitchins explained that the program was created when FWC applied through DEP for creation of a pilot program that would last five years and would be funded federally through NOAA to have a vessel turn-in program in Monroe County. It essentially would be free disposals of vessels that were eligible under the program. All the eligibility requirements are yet to be developed or finalized. This is another effort towards prevention of derelict vessels. Staff is enthused that if this program is effective it will not only reduce possible derelict vessel inventories, but it will result in behavioral changes of vessel owners. This is already a statewide program in three other states and a couple of states are developing their own programs also. Vessels that have already been declared derelict would not be eligible to be turned in. Because of the amount of money available, to begin with boats that are on the water will be targeted rather than trailered boats. Some of the education outreach of the program can hopefully provide information to owners of trailered vessels on how to dispose of their vessel properly. Mr. Jones noted that this is an area where marketing and advertising and informing the boaters is critical because many boaters do not currently know that there is a very inexpensive option for disposing

of their boat rather than taking the option of abandoning it. It is a comprehensive project with multiple elements, but the funding for the removals is a small part of the project. That is why staff wants to focus on marketing and behavioral changes and informing the boaters of what their options are.

Item 10. Adjournment

Motion: Mr. Koisch made a motion to adjourn. Ms. Schuh seconded the motion. There was no opposition. The motion passed unanimously. The MPAC meeting was adjourned at 7:37 p.m.