

Comments in red below made by Bob Naegele, President of Pelican Bay Property Owners Association, submitted on 5/14/16

Collier County Staff:  
Local Rule Review Committee  
Re: Clam Bay Proposed Manatee Speed Zones

**The Seagate Property Owners Association represents the interests of over 80 waterfront properties located directly on the Clam Bay waterway.**

We the Board of Directors and Members of the Seagate Property Owner's Association appreciate the opportunity to voice our views on the issues facing the Clam Bay Estuary. Seagate is one of the primary stakeholders who share in the enjoyment of this public waterway and this is an issue of extreme importance to our community.

Despite being a primary stakeholder, It has only recently come to our attention that Collier County has appointed a Local Rule Review Committee (LRRC) to consider recommending to Florida Fish and Wildlife that the entire Clam Bay estuary be added to the list of Collier County waterways to be considered for speed zones specifically for manatee protection.

- The Seagate Property Owner's Association and its members strongly oppose the addition of the Clam Bay Estuary to the list of speed zones for manatee protection, mainly due to the lack of sightings of manatee in the waterway.

Contradicted by references previously cited in comments by Susan O'Brien at 4-22 LRRC meeting:  
"From the Florida Fish and Wildlife Conservation Commission's (FWC) report published in January 2016, we know the following:

- The manatee aerial survey data for 2006-08 recorded that the Wiggins Pass/Cocohatchee River and Clam Bay zones had significantly higher densities of manatees than the other three zones in Northern Collier County. (Page 6 and Table1)
- The Manatee PTT Telemetry Data from 1991-2008 recorded three manatees in Clam Bay which was the same number of manatees recorded in Moorings Bay. (Figure 20)
- The Manatee aerial survey data from 2006-2008 recorded five manatees in Clam Bay. (Figure5)

The above data confirm the presence of manatees in Clam Bay. These data are supplemented by recent manatee sightings reported by residents and Conservancy volunteers who conduct Thursday morning nature walks in Clam Bay."

As background, the community of Seagate was developed in the 1960's and is the only single family neighborhood located directly on the waterway. We have navigated the waterway with motorized vessels for over 50 years. Our only access to the Gulf of Mexico via motorized and non-motorized vessels, is via Outer Clam Bay, through the Coast Guard regulated drawbridge then via the main channel to the Clam Pass Inlet. Some residents also access middle and upper Clam Bay with motorized vessels for fishing and general recreation.

Approximately 2 months ago we contacted Florida Fish and Wildlife to inquire whether the Clam Bay waterway was being considered for Manatee protection. Florida Fish and Wildlife Commission stated that the agency was not considering the Clam Bay as an area in need of speed zones for

manatee protection.

- Accordingly, the Florida Fish and Wildlife Commission report entitled “Collier County Manatee Protection Rule Review Preliminary Identification of Areas for LRRC Review” dated March 2016 excludes Clam Bay from Potential zone changes: North Region (Page 3, paragraph 6)

The Florida Fish and Wildlife representative stated that the agency was not considering Clam Bay as an area in need of protection for the following reasons.

1. There was little if any concrete data confirming the presence of manatees in the waterway.
2. There was not a single reported incident of a boat striking or harming a manatee in the waterway.
3. The waterway is so restricted that it was not considered a favorable area for manatees to frequent.

The Seagate Property Owners Association wholeheartedly agrees with the initial assessment and impression of the Florida Fish and Wildlife Conservation Commission.

In fact, due to the lack of maintenance of problem shoals, motorized vessels are currently required to travel “on plane” at various tidal phases to even get across the neglected problem shoals.

- As a direct result of the current Collier County Clam Bay management strategy, it would be unsafe for boaters to travel at slow or idle speed in many sections of the waterway, because they (as would a manatee) will run aground on the neglected shoals.

For many years, boats were required to traverse the Clam Bay system including Outer Clam Bay at idle speed/no wake, which was accomplished without incident. Now we see frequent high-speed boating use in Outer Clam Bay that is detrimental to the habitat and conservation purposes of the preserve. The “neglected” shoals are natural conditions.

- Seagate would support real restoration effort to improve water flow and flushing in Outer Clam Bay, in an effort to increase the biodiversity of the waterway. Unfortunately this is not the direction currently taken by the small group of individuals on the Pelican Bay Services Division, which has been appointed by the Collier County Commissioners to make management decisions funded with taxpayer money in the Clam Bay system. Ironically the very same group that supports a restricted less healthy waterway, is currently trying to establish speed zones to protect a species they have blocked from entering the waterway itself.

Biodiversity is not an issue and there is extensive documentation of the existing biodiversity, as well as high water quality documented by regular monitoring throughout the system. With the Army Corps’ recent approval of a 10-year maintenance dredging permit there will be regular maintenance of the connection to the Gulf for purposes of ecosystem health.

In addition, we strongly suspect that the primary supporters of a manatee protection area for Clam Bay, are the same individuals and entities that have repeatedly attempted to block historical safe navigation in the waterway. This is evidenced by the fact that the same persons blocked the placement of navigational markers, that Seagate views as a critical components of the original Clam Bay Restoration and Management Plan. The requirement for Coast Guard approved aids to navigation was incorporated into the original management plan to protect resources, and to ensure the safety of boaters, swimmers, and fisherman.

Boating has never been prohibited in Clam Bay in recognition of Seagate community's use of boats to access the Gulf through Clam Pass. In the past, signage has required idle speed/no wake however.

The attempt to establish a new manatee protection zone for Clam Bay is simply a means to implement speed zones to further restrict navigation with motorized vessels. The same persons supporting the manatee zones have done everything in their power to restrict boating access in Clam Bay. In fact, the current management decisions made by those seeking to implement new speed zones have significantly limited dredging of the Clam Pass Inlet, and the channel leading to Outer Clam Bay. These management decisions are directly responsible for creating the conditions that prevent manatees from accessing the waterway. Dredging for navigation is not permitted under the terms of the USACE permit originally approved for development of the Pelican Bay PUD over 30 years ago.

- The only recent verified manatee sighting, was a manatee that had beached itself on the large Clam Pass ebb shoal, while attempting to travel down the coast (outside of Clam Pass). Not true, see reports of sightings within past year by Conservancy tour leaders and sighting as recently as April 29 recorded in photo by environmental consultant working in Outer Clam Bay vicinity.

Due to the poor circulation and declining water in Outer Clam Bay, and the recent management decisions leading to lack of channel maintenance, the submerged resources that once existed in Outer Clam Bay have died off. During the recent Seagate Property Owners Association lawsuit against the Florida Department of Environmental Protection (FDEP), Seagate attempted to force Collier County to place the required navigational markers. Seagate dropped the case after the FDEP attorney stated that the agency had done its own "ground-truthing" of the waterway, and had found that there were no submerged resources remaining that needed signage for protective purposes.

Water quality is not declining in Outer Clam Bay. There is ample documentation of presence of seagrasses in Clam Bay, with regular mapping since 1994. Seagrasses have diminished, however, in those areas marked by intensive inappropriate boating use, such as wave runners and water skiing in Outer Clam Bay, that create turbidity damaging to seagrasses and wildlife. Navigational markers were determined to be unsuitable for Outer Clam Bay because there is no defined channel to be marked.

The FDEP attorney stated that the agency was "prepared to go to court and testify that boaters could run aground on the mud all day and would not cause any harm." Hearsay. Seagrasses have been monitored and documented for over 20 years.

In summary, the Seagate Property Owners Association must remind you that Seagate boaters, and the public, currently have a legal right to recreate safely and responsibly using motorized vessels within the Clam Bay waterway. Only limited recreational use suitable to the main purpose of conservation is allowed by the deed restrictions governing the Clam Bay system.

- In addition, recent attempts to implement speed zones in Clam Bay, by the same individuals and groups supporting the creation of a Clam Bay manatee zone, were rejected by permitting agencies due to lack of need to protect safety or the environment. Not true. The current effort to have the Clam Bay system designated as a manatee protection zone requiring idle speed/no wake restrictions is the first such effort since the former idle speed/no wake restrictions were invalidated by 2009 changes in state law. There has been no submission

that was rejected by permitting agencies.

- Also, the Clam Bay Subcommittee of the Pelican Bay Services Division minutes demonstrate that the committee recently directed their paid consultant to investigate whether the entire waterway could be converted to a motorized vessel exclusion zone. **Not true – no such direction was ever given.**

Any attempt or recommendation to establish of a manatee protection zone for Clam Bay, is simply a continuation of past attempts to limit navigation with motorized vessels within the public waterway. Due to these facts, the Seagate Property Owners Association will vehemently oppose any recommendation for the establishment of a manatee zone within the publicly owned Clam Bay waterway.

- Please remember that a condition of the Pelican Bay PUD was the requirement that Pelican Bay residents forfeit all rights to utilize motorized vessels in the waterway. **A non-issue**
- Seagate has recreated on the waterway operating motorized vessels at a variety of speeds and has a flawless 50+ year safety record. **Previous signage required idle speed/no wake and this restriction should be restored to protect the intended conservation use of the system.**

Thank you for considering our thoughts,

Sincerely,

Seagate Property Owners Association  
Seagate Property Owners Board of Directors.