

**MINUTES
OF THE COLLIER COUNTY
LOCAL RULE REVIEW COMMITTEE**

April 29, 2016
Naples, Florida

LET IT BE REMEMBERED that the Collier County Local Rule Review Committee (“LRRC”), having conducted business herein, met on this date at 1:00 PM in **REGULAR SESSION** at the Collier County Growth Management Department Building, in Conference Room #609-610, 2800 N. Horseshoe Drive, Naples, Florida, with the following Members present:

Chairman: James Kalvin
Vice Chair: Marilyn Tempest

Members: Nancy J. Anderson
David C. Boesche
Michael Crofton
Joshua Maxwell
Susan L. Snyder
Jeremy Sterk

Conference Call: Cliff Holland

Excused: Nancy J. Richie

Non-Voting Members:

Captain David Baer, City of Marco Island Police Department
Roger Jacobson, Harbor Master, City of Naples.
Chris D’Arco – Sr. Environmental Specialist – Coastal Zone Management

ALSO PRESENT:

Scott Calleson, Environmental Specialist, Florida Fish & Wildlife (“FWC”)

I. CALL TO ORDER:

Chairman James Kalvin called the meeting to order at 1:10 PM and a quorum was established.

The Committee membership consists of advocates for Manatees as well as boaters and representatives from the commercial community (fishermen/tours).

II. APPROVAL OF MINUTES – APRIL 22, 2016:

(It was noted the Minutes from the April 22, 2016 meeting were not available.)

Roger Jacobson (non-voting member) questioned whether or not the letter from the SeaGate, community should be included as part of the April 8th minutes.

Chairman Kalvin replied since the letter was received after the meeting had ended, it would be included with the documents from the April 29th meeting as part of “Public Comment.”

He noted corrected Minutes will be posted on the County’s website.

III. DISCUSSION:

(1) WIGGINS PASS

Susan Snyder prepared a document entitled, “Wiggins Pass and Inshore of Wiggins Pass,” in which she identified several areas of concern:

- **Signage:**
 - Speed, according to FWS, should be “Slow Speed” shore-to-shore
 - Upon entering the Pass, a sign states “Slow Speed/Minimum Wake” (follows east)
 - The sign heading toward the Pass from the east states “Idle Speed/No Wake”
 - There is no signage between the two – speeds differ depending on direction
 - From North to South, the signage is “Slow Speed/Minimum Wake” while from South to North, it is “Idle Speed/No Wake”
- **Shoals:**
 - Pass is shallow and inshore portions are very constricted.
 - Shoaling constantly changes the position of the channel.
 - Dredging would help eliminate this problem.
- **Boat mooring (neighboring beaches):**
 - Barefoot Beach County Park (north) allows boat mooring
 - Delnor-Wiggins State Park (south) allows tour boats to drop-off beach walkers
 - Too many boats are trying to use the Pass; stationary boats make access more difficult
- **Usage/High Potential for Manatee-Boat Collusions:**
 - Wiggins Pass is the most used pass in North Naples
 - Wiggins inshore is the most used water intersection in North Naples
 - Wiggins Pass is the only entry/exit point for manatees and boats to/from Cocohatchee River to the Gulf

Suggested solution:

- Designate Wiggins Pass as a “Manatee Protection Area – Idle Speed/No Wake” – include the inshore portion of Wiggins Pass and the four-way intersection of the Cocohatchee River.
- Signage must be updated ASAP to eliminate confusion.

Josh Maxwell stated the recommendation to the State would be to adopt the County’s “Idle Speed,” currently on the inland side of the Pass, and extend it all the way to the outside, on year-round basis.

Ms. Snyder concurred, noting recent sightings of manatees showed them mating near the docks and bearing scars.

Susan Snyder moved to approve recommending that the area from Wiggins Pass to the inshore portion of the Pass, including the four-way intersection of the Cocohatchee River, be designated as an “Idle Speed/No Wake Manatee Protection Zone” on a year-round basis.

Nancy Anderson offered a Second in support of the motion.

Discussion:

- **Michael Crofton** noted the County’s speed Ordinance, adopted in 1991, stated it was an “Idle Speed” zone.
- **Susan Snyder** replied enforcement was difficult – neither the Sheriff’s Department nor the FWC could enforce it due to the confusion. Two signs need to be changed.
- **Chris D’Arco** noted the County’s Ordinances were being reviewed. The Boater Safety Ordinances, in particular, will be examined and may be combined into one Ordinance that will cover all boater safety areas, using the State’s guidelines as the basis to determine what qualifies as “Idle” and what qualifies as “Slow.”

Question: Can the signage not be changed until the County’s Ordinances have been reviewed?

Chris D’Arco: It is “Idle” now and if we were to leave it as “Idle” – the issue is the State has “Slow” – Susan’s motion is to make it all “Idle.” The changes have to be permitted.

Scott Calleson explained the FWC’s time table. A draft of recommendations will be presented to the Commissioners at either the September or November meeting. A final rule may not be approved until Spring 2017.

There was a discussion of other options to change the signs, including contacting the Office of Boating and Waterways regarding changing the signs.

Roger Jacobson stated, from his experience, if there is an existing sign with an existing Ordinance that is good and the FWS recognizes it, FWC-Boating and Waterways will get back to you within 30 days that it is under review. Changes could be effective within 90 days.

Chairman Calvin noted the Pass has always been treacherous. “Idle” speed is not safe for larger boats because there is not enough water running across the hull to make a safe passage.

It is not only a manatee safety issue it is also a human safety issue. He stated he would question running it all the way out to the Pass. He would support changing at the intersection because boats are coming from different directions.

It was noted when the tide shifts, it is difficult for most vessels to maintain steerage.

Chairman Calvin asked if there was any comment from the public. Noting none, he asked Susan to repeat her motion.

Susan Snyder moved to approve recommending that the area from Wiggins Pass to the inshore portion of the Pass, including the four-way intersection of the Cocohatchee River, be designated as an “Idle Speed/No Wake Manatee Protection Zone” on a year-round basis.

Nancy Anderson offered a Second in support of the motion.

Motion carried, 7 – “Yes”/2 – “No.” Chairman Calvin and Josh Maxwell were opposed.

Scott Calleson noted once the rule making process has been completed, the sign posting to post the changes will be rolled into a review of all signs. The goal will be to correct and change everything that is out of place.

Cliff Holland asked if his vote had been counted and Chairman assured him it was because there was a quorum of members attending the meeting.

Josh Maxwell moved to approve allowing votes from sitting members who were attending via a conference call. David Boesche offered a Second in support of the motion. Carried unanimously.

(2) 30/20 ZONES

Scott Calleson: The zones date back to the original 1990 rule. Collier County is the only place in the State where this particular zone configuration is used. From FEW’s perspective, we are not sure there is a great deal of benefit – we are not sure boats operate any differently out of channel than they do in-channel in a 30/20 Zone. The Zones cover a good bit of acreage in water, particularly in the 10,000 Islands and even parts of the back bays around Marco Island and Rookery Bay. In other areas that have these types of zones, we are debating the benefits of maintaining those zones. To maintain a zone, you have to post the zone and maintain the signs. If it’s not adding much protection – if it’s not affecting boat traffic very much – we are contemplating whether or not they need to remain 30/20 Zones. The options would be, potentially, to pull them out so there’s nothing. Or there could be some other configuration in different areas where we might want to do something different. If the Committee has thoughts on 30/20 Zones as a whole, or if you have specific – if you think it should be something else in certain areas – we are looking for your feedback.

He continued: That’s one issue we would like to think through while we are going through the rule process. We may not be back in Collier County for a while. If the Committee thinks the 30/20 Zones should be kept, but we would like input on whether they are helping. If they are not helping, is there an alternative the Committee thinks would be better.

Josh Maxwell liked that the zones forced maintenance of marked channels. His concern was if the zones were eliminated, as the existing channel markers deteriorated, they would not be replaced.

Nancy Anderson agreed, stating it would not be a good idea to remove the zones entirely. She further stated she did not think it was a good idea to keep the “20” outside of the channels. She explained manatees have “learned behavior” – migratory patterns and destinations are repeated from year-to-year. They use the same travel corridors and intra-coastal waterways that are used by boats.

Josh Maxwell countered that the suggestion would require marking the channels for the entire 10,000 Island in areas that have not been identified as areas of concern.

Susan Snyder noted three manatee carcasses had been found by a national park ranger last month in the 10,000 Islands.

Mr. Maxwell stated he could support leaving it the same but not a recommendation to make it more restrictive. For example: There is an area within Rookery Bay that has no marked channels and it is 30 miles in channel and 20 outside. Local boaters and fishing guides are restricted to 20 miles an hour in an area that is used constantly on a daily basis. It would not be acceptable to make that a “Slow Speed” zone.

Chairman Calvin offered some history/background: The County has such expansive backwaters that are used by local fisherman and guides it is impossible to mark it all. No one has the necessary funding. The 30/20 Zone was created to allow those with local knowledge and those making a living access to those areas. It is a “de facto” closure if the 20 mile zones are removed. Some guides travel 25 to 30 miles one way to reach a fishing spot.

Captain Baer noted from an enforcement perspective, if a channel is not clearly defined, law enforcement cannot take action where there is confusion. The case would be lost in Court. Even where there are channels, questions arise: “Was I really in the channel” or “How far out was I?”

Chairman Calvin noted there were vast areas that were not accessible to manatees due to the shallow depth and closing those areas off to fishermen would deprive them of making a living. Some of the areas were less than a foot for several miles.

Nancy Anderson noted there is a great deal of uncertainty due the restoration project in the 10,000 Islands to return the normal sheet flow. She stated we have to do something now for the changes that will take place in the next ten to twenty years.

Scott Calleson pointed out boating studies that have been done around the State – looking at regulated and unregulated areas – noted the vast majority of boats operate speeds under thirty miles per hour.

Discussion continued. The County map was reviewed.

Cliff Holland supported leaving the zones as they are.

Josh Maxwell moved to approve recommending that, due to Collier County’s unique environment, FWC should retain the 30 in channel/20 out of channel zones which currently exist to provide some level of protection to the manatees. Jeremy Sterk

offered a Second in support of the motion.

Motion carried, 7 – “Yes”/2 – “No.” Susan Snyder and Nancy Anderson were opposed.

3) GUIDE PERMITS/COMMERCIAL FISHING PERMITS

Chairman Kalvin asked Scott Calleson to provide an overview of the issue.

Scott Calleson: There were two categories of permits: (1) commercial fishing operations, (2) professional guiding operations. They have been available since the early 1990s in some Counties throughout the State. They allow the permit holder to go up to 20 m/p/h in some of the Slow Speed zones during weekdays. They do not apply on weekends or holidays. In Collier County, there are approximately thirty guide permits.

He continued: The FWC is contemplating implementing the recommendation contained in the Manatee Management Plan, adopted 2007. The recommendation: Scale back the permits to only cover commercial fishing net setting activities, i.e., the process of laying out a net. The reason for the recommendation was all of the other activities covered by the permits could be conducted at Slow Speed – while they would take longer, they could still physically be performed. But with net setting, if you cannot play out your net above Slow Speed, you cannot set the net. In the Rule actions adopted since 2007, this change has been made in Sarasota, Manatee and Pinellas Counties. It does not refer to gill nets – only fairly small Seine nets, and does not apply to blue crabbers. There is a commercial fishing industry that still legally fishes with nets. It would apply to the physical act of laying out or setting the nets. There are approximately 150 guide permits statewide. For guides, it covers their activities while they have paying customers on board. The threshold: 50% of income must come from the activity. Permits apply in State park zones. It would apply in areas where there are 30/Slow Speed zones, i.e., Marco Island, Johnson Bay, Addison Bay.

Nancy Anderson agreed there was confusion since guide boats are very similar to pleasure boats and thought the permits should be restricted to the commercial fishermen. She continued it also causes confusion for the manatees.

Scott Calleson reiterated Staff’s recommendation was that permits would apply only to net setting activity within commercial fishing.

Nancy Anderson moved to approve FWS Staff’s recommendation that permits would apply only to net setting activity within commercial fishing. Susan Snyder offered a Second in support of the motion.

Discussion:

Chairman Kalvin offered an option: To “grandfather” the existing guide permits and not issue new permits. It would be a dwindling program but would not affect anyone’s livelihood because those who have permits would be allowed to renew in their name only. Permits could not be transferred.

Scott Calleson explained the current permits are valid for a five-year period. Lee County has eliminated all permits since 2000.

Cliff Holland noted guides had the opportunity to apply and did not. He supported the grandfathering option.

There was no comment from the public.

*Chairman Calvin called for a vote on the motion. Motion carried, 6 – “Yes”/3 – “No.”
Chairman Calvin, Josh Maxwell, and Cliff Holland were opposed.*

BREAK: 2:50 PM

RECONVENED: 3:05 PM

Chairman Calvin reconvened the meeting at 3:05 PM.

Susan Snyder asked if previous votes were “frozen in time” or if voters could change their votes at a later point.

Josh Maxwell replied the subject had been discussed in an earlier meeting and the consensus was that votes would stand as originally cast.

He further stated he was willing to go through to clarify majority and minority opinions but would not re-vote.

Captain Dave Baer asked about the area immediately 5 – Dover Bridge south to Goodland – it was not identified by FWC. He remembered the Committee had discussed it and he thought it would be re-visited at a later meeting.

Chairman Calvin noted it had been discussed at the April 8th meeting.

Josh Maxwell noted the consensus was for the area to remain within the speed zone.

IV. REVIEW OF MAJORITY/MINORITY OPINIONS

Josh Maxwell suggested reviewing area by area first, and then the additional areas.

N-1: Option #2 was approved. Josh will write the minority.

N-2: Option #1 was approved. Vote was 7 in support with 2 abstentions. Susan and Nancy abstained. No minority report is required.

N-3: Option #1 was approved. There was one minority – Susan.

N-4: Option #2 was approved. Jim was the minority and will write the report.

Cliff Holland stated he had some questions about the accuracy of the minority opinion and asked when that could be discussed.

Josh Maxwell suggested it could be discussed at the next meeting. The joint letter to State will be a summary of the minority reports. Every submitted minority report will be attached.

Cliff Holland clarified – he was not inferring there were inaccuracies in the existing minority reports. He asked if inaccuracies were discovered, how would those errors be handled?

Would questions be part of the report?

Josh Maxwell replied the Majority Opinion could contain a comment, in the appendix, for example, that the majority of the group felt that a minority report was not true based on “x-y-

and z.” Most of the minority reports will be multiple pages. The majority is based on agreeing with the option offered by the State. The group will not edit a minority opinion. **Cliff Holland** stated if there was an opinion on a minority opinion, somehow the final report needed to capture that.

Josh Maxwell if someone in or outside the group felt strongly enough, they could send a letter to the State as well.

Chairman Calvin asked if a draft of the Zone Summaries could be available at the next meeting for discussion and the response was, “Yes.”

C-1: Option #1 was approved. Majority vote, 9 – 0.

C-2: Option #1 was approved. Majority vote, 9 – 0.

C-3: Option #1 was approved. Majority vote, 9 – 0.

C-4: Option #1 was approved. Vote was 8 – 2. Nancy and Susan were the minorities.

C-5: Option #2 was approved, as amended – Change the existing zone to a shore-to-shore Slow Speed Zone south to Marker 44, approximately half-way through C-5. Vote was 8 – 1. Josh was the minority.

C-6: Option #2 was approved, as amended – To go from Marker 30A and 31 to Marker 27A and 28 to a year-round “Slow Speed/Minimum Wake.” Vote was 9 – 1. Josh Maxwell was the minority.

C-7: Option #1 was approved. Majority vote, 10 – 0.

C-8: Option #2 was approved. Majority vote, 9 – 0.

C-9: Option #1 was approved. Vote was 7 – 3. Marilyn Tempest, Susan Snyder, and Nancy Anderson were the minorities.

C-10: Option #1 was approved. Susan Snyder and Nancy Anderson were the minorities.

S-1: Option #1 was approved. Majority vote, 8 – 0.

S-2: Option #3 was approved. “Slow Speed” in the channel, “Idle Speed” in the other areas. Majority vote, 8 – 0.

S-3: Option #1 was approved. Majority vote, 8 – 0.

S-4: Option #1 was approved. Majority vote, 8 – 0.

S-5: Option #1 was approved. Vote was 8 –1 with one abstention. Josh was the minority. Jim abstained.

T-1: Option #2, as amended – with additional area as “No Entry” to all boats. Majority vote, 10 – 0.

T-2: Option #1 was approved. Vote was 7 – 2. Josh Maxwell and Jeremy Sterk were the minority.

Additional 30/20 Issues in the South Region:

Option #1 was approved. Canals on either side of S.R. #92

Additional 30/20 Issues in the 10,000 Islands:

Motion passed. Zones will be left as is. Vote was 7 – 2. Nancy Anderson and Susan Snyder were the minority.

Public Comment:

- Marcia Cravens – an interested party. Her question: Will the Committee recommended amending Figure 65 (on Map) to include Clam Bay?
- Josh Maxwell responded: No. We will reference with an exhibit to show the areas being outlined as Clam Bay – will include more than just one bay with inner and outer and areas in between. We will do the same for Wiggins Pass and the GIS will be made available to the State. We are recommending additional areas in the County that we would like to see reviewed.
- Ms. Cravens was concerned that non-specific analysis could potentially be overlooked when the actual Maps for the Manatee Protection Areas are published.
- Josh Maxwell stated the FWC is not required to review each area individually and update their maps. The Committee’s input is not the only factor to be used by FWC.

Attendance:

- Nancy Anderson and Marilyn Tempest have been excused from the May 13th meeting
- Susan Snyder will attend via conference call May 13th and May 19th meetings.
- Michael Crofton will attend via conference call on May 13th and May 19th.

Public Comment:

- Marcia Cravens: The agenda was not posted online – it was difficult to prepare for the meeting.
- She thanked the Committee members for their review of the preliminary areas identified by the FWC.
- She expressed concern regarding the process going forward, and in particular – Clam Bay. If it is only added to the final part of the report, it might be considered as less important and less of a recommendation. She would like Figure 65 to be modified to include it in the areas that will be designated as a Manatee Protection Zones. She hoped the Committee would add specificity to the report rather than just place it on the last page of the report.
- Josh Maxwell explained the report will have an exhibit similar to the FWC’s and it will outline all of the areas documented in the report. He stated that placement within the report does not give any more weight to what the FWC will consider.

Scott Calleson noted the FWC may call in for the next two meetings.

NEXT MEETING: Friday, May 13, 2016 from 1:00 PM to 5:00 PM
Conference Room #609/610 – Growth Management Department Building
2800 N. Horseshoe Drive, Naples, Florida

There being no further business for the good of the County, the meeting was adjourned by the order of the Chair at 3:55 P.M.

LOCAL RULE REVIEW COMMITTEE

JAMES KALVIN, CHAIRMAN

The Minutes were approved by the Committee Chair/Vice Chair on _____, 2016,
“*as amended*” [___].