

PALM BEACH VESSEL TRAFFIC STUDY WORKSHOP MEETING
TOWN OF JUPITER COMMUNITY CENTER
200 MILITARY TRAIL – ROOMS A AND B
JUPITER, FL
MAY 5, 2009 – 6:00 P.M. – 8:30 P.M.

The workshop was called to order at 6:02 p.m. by Captain Carol Keyser.

Members of the Boating and Waterway staff in attendance: Major Paul Ouellette, Captain Carol Keyser, Ms. Tara Alford, Mr. Luke Davis, FWC-GHQ, Tallahassee; Mr. Bill Sargent, FWC - St. Petersburg.

Local FWC Law Enforcement was: Major Dave Stermen, Captain Dave Schaeffer, and Lieutenant Chuck Russo, FWC - West Palm Beach. Other attendees included: Mr. Roger Anderson, PBS&J.

Captain Carol Keyser gave a short introduction on where we are at this point in the process and Major Paul Ouellette advised what our authority was, why we were here, and why we were not here. Captain Keyser then proceeded with the power point presentation to the group.

The questions and comments below were provided by the group.

The following comment was (verbatim) received by individuals unable to attend the workshop, but who wanted to provide their input: "I am unable to attend the public workshop scheduled for Tuesday, May 5, 2009 at the Jupiter Community Center regarding proposed changes to the boating safety zones within the Florida Intracoastal Waterway in Palm Beach County. However, I wish to express my support for an Idle Speed/No Wake restriction for all vessels at all times within the area south of Bert Winters Park and north of Juno Park. I further request that this document be included as part of the official public record for this workshop." This comment was submitted on behalf of 143 individuals at the May 5, 2009 workshop.

Captain Bob Frevert – Jupiter – Mr. Frevert sent an email (5-5-09) advising that he was against any further speed restrictions on the ICW.

Mr. Jeff Kuehl – North Palm Beach – He praised FWC for the long way we have come in the last three years. He thinks we are headed in the right direction. He is happy with the proposals as presented.

Mr. Gary Schroeder – Juno Beach – Passed on opportunity to speak.

Mr. Donald Stevenson – North Palm Beach – He endorsed the proposed regulation in the Bert Winter Park area. He thinks this proposal will go far to protect all who use the waterway in this area. He went on to state the proposal was appropriate as well being safer for the operation of vessels at night.

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Mr. Ron Buch – Juno Beach – He thanked FWC for the work done so far. He wonders if boaters would understand the actual regulations. He advised we need to look at Idle Speed zones in the Bert Winter to Juno Park area in lieu of the proposed Slow Speed zone.

Mr. Arthur Roebuck – Tequesta – He asked FWC to reconsider an Idle Speed zone from Jupiter Inlet to marker 58 in lieu of the proposed Slow Speed zone. He believes this area is narrow and not conducive to safe operation of boats and PWCs that routinely use this area.

Mr. Bruce Kemp – Tequesta – Passed on opportunity to speak.

Mr. Daniel Johnson – West Palm Beach – Passed on opportunity to speak.

Mr. Bruce Sparler – Juno Beach – Passed on opportunity to speak.

Mr. Leonard Rubin – West Palm Beach – He was complimentary of FWC and their work on the Bert Winter Park to Parker Bridge area. He stills believes these areas are more conducive to Idle Speed than the proposed Slow Speed zones.

Mr. Norman Hirsch – Juno Beach – He thanked FWC for their work. He agrees with the proposal, but believes the Slow Speed proposal will affect the time it takes to get from point of entry into the ICW to final destination. He pointed out that the opening of bridges in the area are timed on $\frac{1}{4}$ and $\frac{1}{2}$ hour increments, he wonders if these proposals would impact this and further affect boating. He proposed that FWC calculate the present travel time and proposed travel time if proposed zones are adopted.

He provided FWC with a written statement supporting the proposed zones.

Mr. Tom O'Connell – Juno Beach – He supports the Bert Winter Park to Juno Park zone.

Mr. Bill Payne – Juno – He supports the Bert Winter Park zone. He advised that his dock backs up to this area so he sees boats of all types (barges, rowboats, speed boats) routinely using this area.

Ms. Val Kattel – North Palm Beach – She thanked FWC for their efforts. She stated that in a perfect world she still believes an Idle Speed zone would have been better, but is good with the proposal. She is also concerned about enforcement in this area and asked how boaters would be informed of the change in the rule. She believes the Slow Speed zone proposal will go a long

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way to address the concerns of the residents in the bend of the ICW north of Parker Bridge.

Ms. Daniela Evans – North Palm Beach – She would have liked the area north of Parker Bridge to have been an Idle Speed zone. She believes the visibility in this area is a real problem, considering the number of vessels, including personal watercraft, in this area. Ms. Evans supports the proposed Slow Speed zone.

Mr. Vincent Fletcher – Juno Beach – He believes the ICW from the Martin County line south to Lake Worth is the most dangerous in the state. He thinks the proposal is good, and urged us to move forward with the rule as written.

Dr. Charles Edwards – North Palm Beach – He thanked FWC for their work in this effort. He thinks the slowing of traffic in the area from Bert Winter Park to Juno Park boat ramp will greatly enhance boating safety. He stated the boat ramps at Bert Winter Park and Juno Park are in this area and are heavily used.

He went on to state that Palm Beach Co. has 45,000 registered vessels while ranking 2nd in accidents statewide. He thinks the only way to reduce accidents and deaths is to increase law enforcement, and wear PFD's. Dr. Edwards also stated that he does not understand how this state can have no 'license' for the operation of a vessel; by mentioning a recent boating accident in the northeast part of the state which resulted in multiple fatalities, which may have been avoided with licensing. He thinks much has been done, but the effort needs to continue.

Mr. Larry Smith – Jupiter – He represents clients along Lake Worth Creek and is pleased that we have made a step in the right direction. He still contends an idle speed zone is what is needed. He wants Boating and Waterways to go to the Commission with his request.

He went on to state this area was narrow, had a fast current, and double blind curve. He thinks the data collected is not accurate and many of his clients in this area will attest to this statement. He submitted five proxies from his clients on this issue. He also wants FWC to look at refining definition of slow speed.

Mr. Dane Fleming – Juno Beach – Mr. Dane C. Fleming – Ft. Lauderdale - Statement made May 5, 2009 – (Mr. Fleming spoke at the workshop, and provided his comments via email for placement into the minutes) - Personal Introduction - A. Education; Massachusetts Maritime Academy, 100 ton

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Masters License, 1988, 3rd Mates License, Unlimited, 1993. B. 25 years working in the boating industry, Private Vessels ranging from 16' to 110 feet, and Ships up to 546 feet. C. Maritime Expert, Testify on cases involving collisions in areas similar involving rules of the road. D. Familiarity with the area between Bert Winters Park, and Juno Park; Former resident at Oak Harbour, and operated vessels out of Oak Harbour Marina.

1. Rules of the Road - The area in question, Juno Beach Park north to Bert Winters Park, contains two blind bends, a narrow channel, and a multitude of marinas, intersecting canals, and a high volume of boat traffic. The rules of the road take into account all of these characteristics and are addressed in Rule 6 Safe Speed, Rule 8 Action to Avoid Collision, Rule 9 Narrow channels, and Rule 34 Sound and Light signals. Given the terms of the Rules of the Road, it is evident that the area in question creates a hazardous condition in which action must be taken.

Rule 6, Safe Speed: Every vessel shall at all times proceed at a safe speed so as to be able to take proper action to avoid collision, given the prevailing circumstances and conditions. Factors to be taken into account when determining safe speed. State of visibility, Traffic density, Maneuverability of the vessel given prevailing circumstances, state of wind, sea, current, and proximity of navigational hazards.

Draft of the vessel: Under the Safe speed Rule, all of these conditions are met with the presence of 2 blind curves which reduce visibility, traffic density is increased due to the narrowing of the NAVIGABLE channel, smaller vessel maneuverability is compromised due to the "washing machine" effect of other vessel wakes bouncing off the sea walls, the currents in and around the area of the double blind curve and proximity of intersecting canals, private docks and marinas create navigational hazards, and the prevailing depth of the channel forcing larger draft vessels to navigate closer to the center of the channel.

Without a speed restricted zone, it leaves the boater that lacks the knowledge and understanding of the rules of the road to determine their own speed, which in my past experience, and expert opinion, is not of a safe speed in which to take proper and effective action to avoid collisions.

Rule 8, Action to Avoid Collision: To Paraphrase this rule, it states that all actions to avoid collision be made in ample time, involves course and speed changes if there is sufficient room, and possibly take all way off.

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In creating a slow speed or no wake zone in the area in question, the state of Florida would be taking affirmative action in reducing the risk of collision by forcing the boater to be traveling at a safer speed and more able to take appropriate action to avoid a collision by altering course, further reducing speed, or taking all way off. Slower speeds in the highly congested areas will give the operator of the vessel more time to assess if a risk of collision exists and take proper action to avoid a potential collision, and allow for safe passage with other vessels.

Rule 9, Narrow Channels: Vessels navigating in a narrow channel shall keep as near to the outer limit of the channel on her starboard side as is safe and practicable.

When overtaking in a narrow channel, sound appropriate sound signals, and permit safe passage. Vessels approaching a bend of a narrow channel or FAIRWAY, where other vessels may be obscured, they shall navigate with alertness and precaution and sound appropriate signal!

In using navigational software, and other electronic aids of navigation, it has been determined that the NAVIGABLE Channel between Bert Winters Park and Juno Park, is no greater than 220', and as narrow as 153'. There are areas of the "S" curve in which the reported navigable depth of the channel which exceeds 8' is no more than 73' wide. Given these factors, this reverts back to the determination of Safe speed and requires a prudent mariner to navigate with caution and of safe speed.

Rule 34, Sound Signals: Vessels nearing a bend, or channel in which visibility may be obscured must sound one prolong blast. Vessels leaving a berth or marina shall also sound one prolong blast. From personal experiences in navigating thru this area the average boater is not aware of the proper use of sound signals, and I am also sure that the local residence in the area can attest that boaters do not sound the prescribed sound signals as set forth in this rule.

These 4 rules, all have reference to conditions and circumstances present in the area between Bert Winters Park, and Juno Park and all ultimately revert back to the determination of SAFE SPEED! These 4 specific Rules of the Road also address factors that both the state of Florida and the Palm Beach County Vessel Traffic Study cite as requirements for the approval of a No wake Zone.

Summation: The area between Bert Winters Park and Juno Park contain a multitude of factors in determining that it should be a No wake zone. The **Navigable** channel is NO greater than 220' wide, and as narrow as 153' right in the middle of a double blind "S" curve, at the **INTERSECTION** of

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another navigable canal, the canal eastward into Juno Isles. It has unsafe levels of vessel congestion due to the bottleneck/narrowing of the channel. It contains navigational hazards with the existence of docks, shoaling, 3 intersections of canals contained within the double blind "S" curve. All of these conditions are factors and Criteria for the Approval of Regulatory Markers under the state code 68D-23.105, and the criteria set forth within the Palm Beach County Vessel Traffic study, in which the area between Bert Winters Park and Juno Park would require a no wake zone and yet the state, and the Vessel Traffic Study feel that the area between Bert Winters Park and Juno Park is of low risk.

I find it incomprehensible that the state would not make the area between Bert Winters Park and Juno Park a Slow speed minimum wake zone. After thoroughly reviewing the Palm Beach County Vessel Traffic Study, the state of Florida's Criteria for the approval of Regulatory Markers, the determination of safe speed as previously defined by the Rules of the Road and other applicable rules, the minutes of previous meetings, and the general consensus of the residence in the areas in question it is clearly apparent that there is a need for a speed regulated zone in the area.

Comments on the May 5th 2009 Workshop: I am very pleased to see that the FWC is considering making the area between Bert Winter's Park and Juno Park a slow speed minimum wake zone! After hearing many of the people speak the other evening, I feel that the general consensus of the people is of a positive nature, but as all things go, it does raise certain questions and issues.

1. The question of the appropriate amount of patrolling in the area. I spoke with a representative from Oak Harbour, and it was stated that the Town of Juno Beach has tentative plans on placing their own boat in the area to help enforce the new speed/wake restrictions, should they be implemented. The question with that is; Does Juno Beach have the jurisdiction to issue citations and enforce the proposed regulations outside of their town limits?

2. The definition and enforceability's of "slow speed, minimum wake" has a very vague and ambiguous definition, and is left open to great interpretation. As stated it is a definition that plagues all counties within Florida, due to the "grey area" and looseness of definition. The definitions can be somewhat clarified in many different forms that would overlap the existing definitions, such as clarifying the definition of an excessive wake, or a wake that would create a hazardous condition. What is the definition of a hazardous condition created by a wake? A more definitive description such as; "a wake that is of such a size that it may disturb or rock another vessel in which that operator may become injured or cause damage in excess of a specific amount of

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money.” A commonly used term to define a slow speed is; “a speed in which the operator of the vessel has enough way on as to maintain steerage and take appropriate action to avoid collision. Many areas of the Rules of the Road, can be used in better defining “slow speed; minimum wake”

3. When and if the new no/slow wake zones are passed what steps will be taken to ensure that the boaters in the area are aware of the new speed regulations. The signs stating the old wake zone regulations have been in place for many years, and just changing of the signs with the new regulations may not be enough that the boaters are aware of the changes. It is suggested that all of the registered boat owners in Palm Beach County be sent a copy of the new regulations when they do go into effect and at the time of implementing the new regulations that any extra and available FWC officers patrol the area. Sometimes just the presence of FWC patrol is enough to make boaters aware.

Response to those in Opposition of the Proposed Speed/Wake

Regulations: Those who were in opposition offered no legal merit or background to the implementation of new speed zones between Bert Winters Park and Juno Park. The people in opposition failed raise any arguments that would apply to any of the state criteria or the Rules of the Road, for the implementation of a regulated speed zone.

One of the speakers spoke of a speed zone that was regulated by time, thus allowing for greater speed in the area from 9:30 pm to 9:30 am. As I have stated previously, Rule 6 of the Rules of the Road, Safe Speed clearly would apply to this, as during the evening hours visibility is greatly reduced. The presence of background lights from homes, make it more difficult to see the presence of another vessels navigational lights, and thus would predicate a slower speed as to properly assess the situation, and avoid collision.

I completely respect the opinions of those who are in opposition to the proposed new slow speed or no wake zones. I too, would enjoy not being restricted in the speed at which I am able to operate my vessel, but not at the risk of injuring another person, myself or personal property. Over the past years many people have made arguments to impose a slow speed or no wake zone in the area between Bert Winters Park and Juno Park, and their arguments have been backed by the legal criteria set forth by the state of Florida, and by the Rules of the Road. I find that such reasoning as “if I want to go fast, I should be able to do so” holds no legal merit or validity as prescribed by the Rules of the Road, and the Florida State code.

There is a time and place for speed and the area between Bert Winters Park and Juno Park as clearly defined by the state of Florida and the Rules of the Road, is NOT one of them.

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Mr. Al Peduzzi – North Palm Beach – He resides between Bert Winter and Juno Park. He thinks the proposal provided is good progress, and while he wants a slower speed, he believes we've come a long way. He is concerned that we don't have an end date for the implementation of the proposed rule. He wants FWC to put together a schedule for the process from now to adoption of the proposed (or similar) rule.

Mr. Reed Kakuska – North Palm Beach – He stated he was somewhat shocked to see the findings of the vessel traffic study which seemed to conclude the ICW was adequately regulated. But at this meeting he sees that the ICW has been proposed to be regulated from Donald Ross Bridge to Lake Worth. He thinks some of the zones currently being considered for 24/7 regulation could be considered for weekends and holidays with a begin/end time of perhaps after 9 a.m. to 7 p.m. (similar to the Camino Real zone in the south end of county). He also believes we should consider the class or size of vessels in this process. He also spoke about boater education and enforcement.

Mr. Paul Walczak – North Palm Beach – He thanked FWC for their efforts in the Bert Winter Park area. He called attention to this past weekend and the traffic generated by Sun Fest. He also wants FWC to define a rulemaking timeline and wanted to know if we'd be holding more workshops.

Mr. Jock Merriam – Palm Beach Gardens – He is concerned about boaters who ignore existing speed limits, and is in favor of proposed zone in the Bert Winter Park area. He is also a rower and stated this group was particularly vulnerable on the waterway.

Mr. John Callaghan – Juno Beach – Thanked FWC for their efforts. He did comment on the vessel traffic study, specifically Exhibit F, (which he stated would need the minutes from all meetings inserted). He also pointed out that we have some private marinas inserted in Table 2-2, (page 26-27) which are supposed to only be public marinas. He provided us with the phone number and contact information for the Oak Harbour Marina (561-625-9022).

FWC staff pointed out that the version of the vessel traffic study currently available on the FWC web site is a draft and staff will be looking further at this issue prior to final publication.

Mr. Michael Stern – Juno Beach – Thanked FWC for their efforts and thinks the proposal is good and workable.

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Mr. Larry Kelleher – Thanked FWC for their efforts. He was disappointed that we didn't have the matrix at this meeting. He is concerned about the area from Bert Winter Park to Juno Park and lack of law enforcement in this area.

He is also concerned about the commercial dock in the area, and believes the study has some shortcomings as it overlooks some marinas in this area, the 'S' curve as well as the lack of citations. He thinks the slow speed zone would be helpful, but believes the ½ mile area should be idle speed as it contains two marinas (Bay Colony and Oak Harbour Marina).

Mr. Benjamin Klein – Boynton Beach – He resides in southern portion of the county. He doesn't want regulation at the Southern, Lake Worth Avenue, Woolbright or Spanish River Bridges. He also supports providing time comparison for vessel travel time now vs. the proposed zones and/or lesser regulation.

Dr. Ron Surowitz – Juno – He resides on ICW between Donald Ross Bridge and Juno Park. He suggested that while he was not comfortable with an idle speed zone, he thought the draft (rule) should be for boat owners and not just those of us who own property. We are not the only people using the ICW.

He provided 19 proxies which had been provided to him on the day of the meeting and stated the likelihood is that there are many more who would agree that there should be no change in the speed zone between Donald Ross and PGA Bridges.

Mr. Kent Malinowski – Tequesta – He would like FWC to reconsider the extension of the FEC trestle portion of the Jupiter Inlet zone; he contends this area quickly narrows down just outside the current regulation. He is also concerned about the regulation of the area from Donald Ross Bridge to Lake Worth, and wants us to do a travel time comparison. He was concerned about this area being a 24/7 zone and favored time based regulation.

Mr. Hank Balevic – Jupiter – He is in favor of an idle speed zone from the mouth of Lake Worth to the Blue Heron Bridge. He is a sail boater who states he cannot always use his boat because of the speeding vessels in this area.

Mr. Gerald Ward – Riviera Beach – He suggested that all interested parties might write their comments with suggestions as to type of zone, length, etc., and email to FWC. He also stated the maps with the proposed language were too busy and the colors were confusing. He thinks the scale of the drawings is off and needs to be reconsidered.

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He also has issues with the bridge zones, but believes they are workable. He thinks the Jupiter Inlet zone needs to be slow speed in lieu of the current idle speed. He is not in support of new zones between the Donald Ross Bridge to the current PGA Bridge zone. He wants to see the data collected by the reservists. He is also against the new proposal at the Riviera Municipal Marina. He wants us to take a look at the new facility at the Flagler Bridge, as well as the proposed boat ramp at the Indiantown Bridge.

He stated that FWC needed look at the federal criteria for the regulation of vessels.

George Ranson – Juno – (provided his statement in written form). He resides in Oak Harbour and believes the proposal leaves Oak Harbour to be impacted by vessels accelerating and decelerating in this area. He thinks it will increase travel times.

He believes this action will create high wake action for vessels traveling either north or south and has observed wave heights in excess of 4 feet. These oscillate through the marina and cause extreme personal danger to person on vessels, damage to vessels, and breaking of mooring lines. He proposes that the proposed idle speed zone to the north be extended approximately 500 feet.

With all participants having spoke, Major Paul Ouellette summarized what we had heard and advised that FWC is not ready to propose an implementation schedule for the proposed rule.

Major Ouellette called the workshop to an end at 8:04 p.m.

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The following comments were received after the workshop:

Mr. Frank Curtin – North Palm Beach – He contacted us via phone. He would like to see the Palm Beach Inlet regulated at Slow Speed Minimum Wake, because he feels the vessels as they are returning to shore come through this inlet entirely too quickly.

Mr. Kent Malinowski – Board Member, Jupiter Inlet Offshore Fishing Club (JIOFC) - 1. Given that FWCC's rationale for the proposed IDLE ZONE 300' NW of the Jupiter RR bridge is not for safety reasons; given the idea was proposed to create a uniformity of speed zones around bridges statewide; given the consequences of moving the idle zone 300' West (toward the sandbar) will put boaters' speed transition point at a more narrow point in the channel, as opposed to the location now which is considerably wider; the members of the JIOFC hereby recommend the FWCC leave the present IDLE ZONE as it is at the Jupiter Railroad Bridge. 2. Given the proposals to limit speeds in the ICW from Donald Ross to Lake Worth Lagoon place a 24/7, 365 day burden on all boaters and fishermen; the members of the JIOFC hereby recommend Time Based Enforcement, limiting the proposed slower zones only to weekend days and night-times when congestion exists. This would allow a fishing boater who leaves their dock at 0430 to catch bait the ability to run on plane through those existing 25 mph zones, during times when the ICW is vacant.

This is an email sent on behalf of the vote of JIOFC's 240 Members at their May 7, 2009 Jupiter, Florida.

Dr. Ron Surowitz - I sincerely appreciated the opportunity to speak at the meeting in Jupiter. It was a block from my office, so that made it really great.

Although I have been a property owner on the east side of the ICW between PGA and Donald Ross, I believe this is a matter that should not be left to property owners alone. Of course we want less turbulence. Of course we want safety.

Yet, how many boats traverse this area yearly and how many truly significant accidents occur? Can we say that about our cars? Would we want to set an idle speed or 10mph speed limit on the Turnpike to avoid accidents? I think not.

Majority rule is not always palatable, but it is the law of the land. It is only fair to canvass those who use the ICW to determine what the public wants and not what we as property owners prefer. Anything short of that is just not fair to the general boating population.

Please let the Major know about this email. He is a very fair minded person. We

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need to let the boat owners decide.

These are all of the comments received as of May 21, 2009.