

MEMORANDUM



To: Florida Fish and Wildlife Conservation Commissioners

From: Dr. Thomas Eason, Division of Habitat and Species Conservation
Bud Vielhauer, Office of General Council

Date: November 19, 2015

Subject: Manatee Protection Zones in Western Pinellas County

Purpose:

To request an amendment to the manatee protection zone in Indian Rocks Beach that was approved in June 2015 as part of the final rule establishing manatee protection zones in western Pinellas County.

Summary:

At the June 2015 meeting, the Florida Fish and Wildlife Conservation Commission (FWC) approved a final rule for Pinellas County. The final rule included several changes to the version FWC approved in November 2014 and published in December 2014. One of the changes was to the zone in Indian Rocks Beach where, based on public comment, two basins were added to the zone. The city of Indian Rocks Beach, by way of a 4-1 vote in November 2014, supported the amended zone that was approved (with the two basins included).

In light of the City's position, the FWC approved a change in June 2015, and a Notice of Change was published on July 23, 2015. Two administrative rule challenges were subsequently filed with the Division of Administrative Hearings (DOAH) on August 11, 2015. The only issue contested in the challenges is the change to the zone in Indian Rocks Beach, with both petitioners arguing that the zone should be established as proposed in December 2014 (i.e., without the addition of the two basins). The two cases have been consolidated by DOAH into a single proceeding. The cases are currently in abeyance with a status update required by no later than October 9, 2015.

The City held a special meeting on August 25, 2015, to discuss their position of support of the two basins being included in the approved zone. By way of a 3-2 vote, the City changed its position to now support a zone that excludes the two basins. A copy of the letter from the City conveying this position was provided at the September 2015 Commission meeting.

FWC staff is continuing to work through the DOAH process, including consideration of settlement options. In light of discussions staff has had with the petitioners, and given the revised City position, staff is bringing this issue back to the Commission for reconsideration.

Staff Recommendation:

Authorize staff to publish a new Notice of Change to amend the zone in Indian Rocks Beach to exclude the two basins.

Staff Contact and/or Presenter

Kipp Frohlich, Deputy Director, Division of Habitat and Species Conservation (Presenter)
Bud Vielhauer, General Counsel