



# Boating Advisory Council

Mission San Luis  
Tallahassee, Florida  
April 7, 2016

## I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 8:35 am. Pledge of Allegiance was led by Chairman Brown.

## II. ADMINISTRATIVE ITEMS

### A) Boating Advisory Council (BAC) Members – Roll Call

#### **Present**

Colonel Curtis Brown (Chair) – FWC DLE Director  
Spencer Anderson – US Power Squadrons  
Robert Atkins – Manatee Protection Interests  
Rebecca Bragg – Canoe/Kayak Enthusiasts  
David Childs – Water-Related Environmental Groups  
Stephen Danzig – Marine Special Events  
William Griswold – US Coast Guard (USCG) Auxiliary  
Joseph Lyshon – Marine Manufacturers  
Todd Rebol – Boating Public  
William Richardson – Department of Environmental Protection (DEP)  
Christopher Shaffner – Commercial Vessel Owners/Operators  
Michael Shuler – Scuba Diving Industry  
Robert Spaeth – Commercial Fishing Industry  
Hans Wilson – Marine Industries

#### **Absent**

Mark Crosley – Florida Inland Navigation District (FIND)  
Senator Charles Dean, Sr. – Senate  
Phillip Dur – Boating Public  
Representative Ray Pilon – House of Representatives

Chairman Brown welcomed newly appointed members Childs and Dur, and congratulated Atkins, Rebol, Shuler, and Wilson on their reappointments. He thanked April Price for her service on the BAC.

### B) Audience – Introductions

Trent Anthony, Brack Barker, Bonnie Basham, Gwen Beatty, Cheryl Bruce, Oren Castille, Sandra Castille, John Paul Fraites, Donald Kelly, Julie Larsen, John Lorenz, April Price, Tommy Thompson, John Veasey, and Bruce Wright

### C) FWC Staff – Introductions

Lt. Colonel Mark Warren, Acting Lt. Colonel Brian Smith, Major Richard Moore, Captain Gary Klein, Captain Thomas Shipp, Lieutenant Ben Eason, Lieutenant Seth Wagner, Precious Boatwright, Brenda Collins, Jessica Crawford, Brandy Elliott, Phil Horning, Jackie Fauls, Emily Norton, Brian Rehwinkel, and Bill Sargent

Helena Sadvary, Facility Rental Manager of Mission San Luis de Apalachee, gave a brief history of the historical site.

D) Meeting minutes from October 13, 2015 were reviewed.

**MOTION:** Griswold moved to approve the minutes.

**SECOND:** Danzig

**DISCUSSION:** None

**VOTE:** Unanimously approved

E) Special Recognitions

Brian Rehwinkel was recognized as the 2015 State Boating Educator of the Year. He has also been nominated for the National Association of State Boating Law Administrators' (NASBLA) Boating Educator of the Year. Major Moore provided an overview of Mr. Rehwinkel's duties in Boating and Waterways and with NASBLA. He expressed his appreciation and high regard for Mr. Rehwinkel.

Chairman Brown commended Captain Klein and Bill Sargent on their years of service to FWC.

### III. UNFINISHED BUSINESS/UPDATES

A) All Aboard Florida (AAF) Update presented by April Price. AAF is a high-speed rail from Miami to Orlando. There are three railway bridges with busy waterways that will be impacted by AAF. They are New Bridge in Fort Lauderdale, Saint Lucie River Bridge, and Loxahatchee River Bridge. These bridges are so low that only small boats can pass without requiring an opening. AAF plans to add 16 round trips equaling 32 trips daily. This will impact marinas, commercial traffic, and recreational passageways. AAF is rebranding to Bright Lines. Bright Lines has contacted Treasure Coast Marine Industries (TCMI) and Palm Beach to apply for a Tiger Grant to do bridge repairs and possibly raise Loxahatchee and Saint Lucie four feet. TCMI wants to see total gear replacements and updates on the affected bridges with this grant. Martin County has declined to go forward with the Tiger Grant. Jupiter Inlet District is working with FIND to go forward with applying for a Tiger Grant. Neither TCMI nor Palm Beach have made determinations regarding the grant. Concern is the grant is difficult to get and gives the appearance TCMI and Palm Beach are onboard with the project. The Saint Lucie River Bridge is on the USCG agenda, and there was a letter sent to Martin County regarding this issue. They are still trying to sell bonds and have received extensions to do so as the bonds are not selling.

#### Questions or Comments

Chairman Brown: What is a Tiger Grant? *Response* – Price: Federally funded grant which is transportation oriented and earmarked for this project. Chairman Brown: If they raise it four feet, what would the total height be? *Response* – Price: 10 to 12 feet clearance. Basham (public): Will it go forward? *Response* – Price: We will be meeting again to review and discuss. Rebol: Is the Tiger Grant necessary for the product to move forward or just the mitigation of the boating community? *Response* – Price: It is mitigation AAF/Bright Lines has presented to the boating community. Funds they would like us to apply for. Danzig: Are they still considering 20 minute closures per train per bridge? *Response* – Price: Yes. Danzig: That's about eight hours of closure.

**ACTION ITEM:** Updates will be provided to BAC at a future meeting.

B) Legislative Update and Impact Discussion of New Legislation presented by Major Moore. Presentation available on the BAC website, <http://www.myfwc.com/boating/advisory-council/meetings/>.

- Bills that died in committee:
  - a. HB 161 Driving or Boating Under the Influence (DUI) (BUI) – Specifies an amount of delta 9-tetrahydrocannabinol (THC) per milliliter of blood commits offense of driving under influence or boating under influence.
  - b. HB 1121 City of Fort Lauderdale/Broward County – Prohibited anchoring of vessels in certain areas of Broward County.
  - c. HB 863/SB 644 Boating Safety – Change the minimum age to 16 to operate a personal watercraft and eliminate the exception which allows the operator to not have a boater ID if accompanied by someone who does have a boater ID.
- Bills that passed:
  - a. HB 871 Broward County – Became law upon approval by the Governor on March 25, 2016 Amends a Special Act by removing obsolete language related to penalties for violating boating speed zones and also removes obligation for Broward County and the City of Fort Lauderdale to install and maintain waterway markers posting state-adopted speed zones.
  - b. CS/SB 846 Divers-Down Warning Devices – Effective July 1, 2016 Amends s.327.331, Florida Statutes (F.S.), related to divers-down warning devices, primarily aimed at providing alternative three-dimensional diver-down warning devices to be displayed in lieu of a flag
  - c. CS/CS/HB 427 Vessel Registrations – Effective July 1, 2016 Amends s.328.72, F.S., to provide a one-time reduced recreational vessel registration fee schedule for registered vessels which are equipped with an emergency position indicating radio beacon (EPIRB) or for which the owner of the vessel owns a personal locator beacon.
  - d. CS/CS/HB 1051 Anchoring Limitation Areas – Effective July 1, 2016 Creates s.327.4108, F.S., to prohibit overnight anchoring of vessels in specified anchoring limitation areas in Broward and Miami-Dade Counties.
  - e. HB 7025 At-risk Vessels – Effective July 1, 2016 Creates s.327.4107, F.S., to prohibit a vessel that is at risk of becoming derelict from being anchored, moored, or allowed to occupy the waters of this state.
  - f. CS/SB 158 Identification Cards and Driver Licenses – Effective July 1, 2016 Amends ss.322.051 and 322.14, F.S., providing for a person’s status as a lifetime freshwater fishing, saltwater fishing, hunting, or sportsman licensee, or boater safety identification cardholder to be indicated on his or her identification card or driver license upon payment of an additional fee.
  - g. CS/HB 703 Vessels – Effective July 1, 2016 Amends s.327.33, F.S., relating to the careless operation of a vessel and amends s.327.70, F.S., providing for issuance and display of vessel safety inspection decals while prohibiting law enforcement officers from stopping certain vessels solely to inspect for compliance with specified safety requirements.
  - h. CS/CS/HB 1075 State Areas – Effective July 1, 2016 Creates s.327.45, F.S., which would authorize the Fish and Wildlife Conservation Commission to establish certain protection zones to protect springs and requiring the Commission to develop such zones in consultation and coordination with certain entities.

#### Questions or Comments

- Atkins: On HB 1121 – Couldn’t the City of Fort Lauderdale or Broward County do it with a local ordinance since it’s such a local issue? *Response* – Major Moore: State law prohibits local governments from establishing anchoring restrictions. Wilson: Why did it die in committee? *Response* – Fauls: The local bill was not needed because the general bill passed.
- Griswold: Does this (CS/SB 846) apply to the alpha flag? *Response* – Major Moore: No. State law requires the divers-down flag. Shuler: Most of the commercial operators in south Florida use the alpha flag. Major Moore: Do they use the alpha and divers-down flags? *Response* – Shuler: Yes.

- Lyshon: On CS/HB 427 – What happens when you register the same boat the following year? *Response* – Major Moore: It will be back to the regular fee. Chairman Brown: A lot of good is coming out of this legislation. FWC is ensuring all of its officers have individual EPIRBs on their life jackets as well as all of their boats. Griswold: National Boating Safety Council is assembling a book, *Saved by the Beacon*, with real life stories. Spaeth: Commercial fisheries have been required to have them in accordance with USCG. In my career, I've seen a significant decrease in loss of life. Danzig: Make sure you update your EPIRB registration with NOAA online.
- Atkins: On CS/CS/HB 1051 – Did this take care of the Broward problem of anchoring in the sports area? *Response* – Major Moore: It is hard to know what the impact will be. Wilson: This legislation is a response to local governments wanting to do their own anchoring and mooring regulations, which is a concern that the industry has. They believe it will affect transient boaters coming through the state. Where do we stand with FWC crafting statewide regulations that might put to rest this pressure on a local level to do their own specific regulations? *Response* – Major Moore: This bill is only in effect until the Legislature acts on the FWC recommendations to the Pilot Program. We will provide a report to the Governor, President of the Senate, and Speaker of the House by January 1, 2017, with the results of the Pilot Program and recommendations on how to address anchoring issues.
- Wilson: On HB 7025 – Can local enforcement implement this law? *Response* – Major Moore: Yes, any officer authorized by statute. Wilson: How much information garnered from your regional workshops was used to craft the legislation? *Response* – Major Moore: It played a huge role. Those workshops were critical. Shaffner: Can you give us a rundown of what happens if a person does not comply with the citations? At what point is the vessel considered derelict, and how is it addressed? *Response* – Norton: Non-criminal penalties (fines) - \$50 for first offense, \$100 for second offense if committed within 30 days of first offense, \$250 for third offense if committed within 30 days of second offense. It doesn't provide for a step up to criminal or removal of the vessel. If you do not take care of the citation, it will become a misdemeanor. Danzig: In the initial conversation with the owner, would it be possible to mention he can donate the boat to a charitable organization? *Response* – Major Moore: We can certainly make that part of our outreach.
- Chairman Brown: On CS/SB 158 – Do you know what the fee is to have the designation added to your driver's license? *Response* – Norton: It's a dollar. If you are replacing a card, it's two dollars.
- Spaeth: On CS/HB 703 – How long is the vessel safety inspection sticker good for? *Response* – Major Moore: It has no expiration date. Spaeth: Does this deter you from checking boats for violations/fish violations? *Response* – Major Moore: I don't believe that's the intent of this bill. Although, many of our fishery inspections started out as safety equipment inspections. Chairman Brown: Our authority is still clear. We can do fishery inspections. Fauls: The intent was not to stop our ability to inspect (fisheries). We still have the ability to stop for inspections (fisheries). Bragg: Is this all vessels or just motorized? *Response* – Major Moore: All vessels. Atkins (to Anderson and Griswold): The inspection stickers you issue have years on them, don't they? *Response* – Anderson and Griswold: Correct. Atkins: I'm surprised these don't. Major Moore: This was not written to provide an exemption or expiration. Chairman Brown: FWC has a lot of work on implementation, getting information out to the regions, and re-teaching careless operation. It has changed how FWC will do boating enforcement in the future. FWC will report back on how it's going. Griswold: I would like to make a motion (see below). Danzig: As a marine surveyor, I see deteriorated safety equipment on boats constantly, unless they're new. Atkins: My thought is this is going to change. It won't last. My suggestion, in preparation for the change, is that you put a year on the sticker. I think it's a bit of an overreach to expect it to be good for the life of the boat. Shaffner: Can you give us a bit of background? *Response* – Chairman Brown: The House side of the bill came from the Rules Chairman, Representative Workman. He had been stopped several times for boating inspections.

Fauls: The state gives our law enforcement the authority to patrol as they see fit. Our responsibilities are fish and wildlife. Boating is clearly legislative authority. Shaffner: Does this affect local law enforcement and USCG? *Response* – Chairman Brown: It affects local law enforcement, not USCG. Lyshon: Once I have the sticker, I can't get stopped again by FWC or local law enforcement for safety violations? *Response* – Chairman Brown: We cannot do just a boating safety inspection. Wilson: As a recreational boater, you want as much freedom as you can without a lot of restrictions. In that regard, the sticker is a good idea. It causes the boat owner to ensure his safety equipment is in place. Why I support Griswold's motion is because there is no timeframe set in place or coloration to tell if the sticker is current. The safety inspection would cause the boater to make sure at least the equipment was up-to-date and the right amount of life jackets were available for the people onboard. While I appreciate the fervor of the Legislators trying to create more personal freedoms on the water, from the prospect of boater safety, I would have to support Griswold's motion. Griswold: The USCG had this problem twenty years ago. People would be coming up the ICW and get stopped in multiple states on their way. They came up with a ticket which stated we stopped you and no violations. The person then would be able to show it to the next officer. A simple system like that would certainly eliminate the frustration of this Legislator. Chairman Brown: We worked with the Rules Chairman and informed him of the old system. We hoped the sticker would be annual. The Legislators chose to make it lifetime. Rebol: I completely understand the inconvenience, but there has to be a time limit. Basham (Public): I sat in several meetings with Workman and the staff. The legal staff's opinion is if you have a color or a date (on the sticker), it suggests that there is a mandatory inspection process exactly like we use to have for automobiles. I don't believe FWC is going to be allowed to put on a color or a date. Wilson: Is this a USCG inspection or a state sticker? *Response* – Chairman Brown: State. Wilson: Is this issued by an enforcement officer during an inspection and says you have everything onboard? *Response* – Chairman Brown: Yes.

**MOTION:** Griswold: I move that the Boating Advisory Council pass to the Commission its deep disappointment over the passage of HB 703. We feel that passenger safety aboard recreational vessels in the state has been compromised, and eliminating recurring safety inspections by law enforcement will result in necessary carriage required equipment deteriorating to unsatisfactory levels under the decal program. We urge the Commission to address this unfortunate situation.

**SECOND:** Wilson

**DISCUSSION:** See Questions or Comments

**VOTE:** Unanimously approved

**ACTION ITEM:** The motion will be presented to the Commission by memo from BAC.

- Chairman Brown: On CS/CS/HB 1075 – There will be a public meeting process if anything is implemented. Atkins: My problem with this bill is that it is very vague and open. Chairman Brown: It says may, not shall, and it's a process that will have to go before the Commission. Wilson: Is the intent to do this on a spring-by-spring basis unique to the characteristics of each site or to be an overall broad brush application to regulate boating activities around all the springs of the state? *Response* – Fauls: The intent is to do it on a spring-by-spring basis. The wording of the bill is about natural resource concerns not excessive speed. It is about impact to the natural resources and environmental impact to the springs. Atkins: Just like the Sanctuary Act, it simply says boat regulations. It doesn't offer you alternatives. It says restrictions on the operations and speed of vessels. Basham (Public): Senator Dean specifically said, this bill was because a lot of people have become very concerned and upset about the speed, but mostly the noise of boats in the springs. Price: Is there any intent to see this go to any other bodies of water within the state? *Response* – This is specific to springs.

**ACTION ITEM:** Updates will be provided to BAC at a future meeting.

- C) 2015 Boating Accident Statistics by Lieutenant Seth Wagner. Presentation available on the BAC website, <http://www.myfwc.com/boating/advisory-council/meetings/>.

Key highlights:

- 915,713 registered vessels in Florida
- 737 reportable boating accidents
- 55 fatalities, 438 injured persons
- 2,147 persons involved in accidents
- 47% of the accidents involved collisions
- 22 fatalities resulted from falls overboard
- 45,360 boating safety cards issued

Questions or Comments

- Danzig: Do you break out the boater safety card information? *Response* – Lt. Wagner: Yes, I do. It is broken out in the stat book under the Boater Education section.
- Shaffner: Do you have anything that identifies the operators as residents or non-residents? *Response* – Lt. Wagner: Information on residency is not reliable. They could be using a Florida address during their stay, if they're here for the summer. Shaffner: Do you have an estimate? *Response* – Lt. Wagner: About 15% are non-residents. Shaffner: Is it just boater education in Florida that officers check for? *Response* – Lt. Wagner: Officer/investigator on scene asks if the operator has any formal education. We have reciprocity, if they have completed a NASBLA-approved course.
- Shaffner: Do you have an estimated number of boaters on the water each year to reference against the number of accidents occurring? In terms of percentages, are they going up or down? *Response* – Lt. Wagner: We don't have that. Griswold: USCG did a boating survey with exposure hours broken down by state and region. It is on their website. Shaffner: It would be valuable to determine per capita or by boating hours if our accidents were going up or down? Is it where more rentals are occurring? *Response* – Lt. Wagner: It's hard to track how many are on the water. The problem with that research (boating survey) is that it was done by phone and may have hit some people multiple times. Chairman Brown: We've taken pro-active efforts to target problem areas with enforcement. Lt. Wagner: We've done outreach programs with education, gas pump toppers, and livery details.
- Shaffner: Is the instruction provided by liveries to rent a personal watercraft counted as education in your stats? *Response* – Lt. Wagner: No, unless it is the temporary certificate exam, which meets the education requirement.
- Chairman Brown: When will the statistic books be available for Council members? *Response* – Lt. Wagner: It should be printed by the end of next month. It will be available online.
- Danzig: Is formal education provided to officers to evaluate damage to vessels? *Response* – Lt. Wagner: No. Resource tools and information are given to them. Our officers are not qualified mechanics or marine surveyors.

**ACTION ITEM:** Updates will be provided to BAC at a future meeting.

- D) Non-Motorized Boat Working Group (NMBWG) Update presented by Becky Bragg and Bill Griswold

Bragg and Griswold provided an update on the NMBWG. The meeting occurred on April 6, 2016. The primary discussion was access for non-motorized vessels. Definitions, location issues, maintenance, recreational and commercial, concessionaires and liveries, Americans with Disabilities

Act (ADA), design, planning, variations of need, and rules were discussed as they pertained to access. Issues and solutions were discussed with communication being the prevalent issue and solution. FWC is including non-motorized access ramps under Ramp Finder on its' website. The next topics to be discussed will be education and safety. The NMBWG meeting minutes are posted online, <http://www.myfwc.com/boating/advisory-council/nmbwg/meetings/>.

#### Questions or Comments

Rebol: If it is a public facility, it has to have ADA access. Wilson: The ADA requirements have been changing over the years. During 2010 is when new facilities were required to meet compliance. If a facility is being renovated, a portion of the costs have to be used for ADA. You can download the ADA requirements for marina and boat ramp facilities. Griswold: A lot of this could be headed off by including the users in the planning. Shaffner: Was there any discussion on how the community would contribute to the cost of all these things? *Response* – Griswold: That will be the last topic discussion – user pay/user benefit. This was strictly a discussion on access issues. Shaffner: Access issues cost money.

**ACTION ITEM:** Updates will be provided to BAC at a future meeting.

#### IV. NEW BUSINESS/INFORMATION ITEMS

A) FWC Proposed Legislative Items presented by Captain Gary Klein and Captain Tom Shipp. Presentation available on the BAC website, <http://www.myfwc.com/boating/advisory-council/meetings/>.

a. Captain's License – Captain Gary Klein

The Legislative Review Team was comprised of the Division Director of Freshwater Fisheries, Regional Director of South Region, Legal Office, Marine Resources Captain, and a Captain from the Boating and Waterways section. "Navigable Waters" versus "waters of the state" became an issue with the team for several reasons:

- Recent two vessel airboat crash with numerous injuries occurred on sole state waters so if enhanced safety associated with the training required to obtain the credentials is the goal, then why limit it to "navigable waters."
- Notice issues as to what water bodies are deemed "navigable." Many obviously navigable waters are not listed on the USCG District 7 or District 8 documents.
- Legal issue – if navigable waters, as defined by the USCG, is selected as the criteria to which the credentialing would be required, it would be just those water bodies defined as navigable on the effective date of the statute only. Any modifications to the federal list would either create inconsistency or the state statute would need to be modified.
- District 7 vs. District 8 – the two districts appear very different in how they capture navigable waterbodies. District 7's list is more comprehensive and describes the listed waterbodies with much more precision.

The FWC senior leadership was concerned that FWC could be perceived as requesting more power and authority from the legislature to regulate small businesses for the federal government. For this reason, moving this legislative proposal forward was not deemed appropriate at this time. The FWC would be willing to assist with staff analysis and technical expertise for any Legislator willing to sponsor a bill to pursue this matter separate from the agency's agenda.

b. BUI Refusals – Captain Tom Shipp

Key highlights:

- Current Florida law compels suspects who are arrested for either BUI or DUI to submit to a chemical test of their breath, urine or blood and provides penalties for refusing to do so.

- Florida law makes a conviction for either BUI or DUI apply as a previous conviction for either section.
  - Current BUI and DUI laws also provide for an additional penalty if a person charged with either BUI or DUI refuses to submit to a chemical test (breath, blood or urine) for a second or subsequent refusal. The penalty is a misdemeanor of the first degree.
  - BUI refusals result in a civil fine of \$500, and DUI refusals result in the suspension of driving privileges.
  - Legislative Proposal:
    - Eliminate the current inconsistencies between BUI and DUI laws related to second or subsequent refusals to submit to chemical tests.
    - Allow the additional penalty or charge in either a BUI or DUI case when the suspect refuses to submit to a chemical test of their breath, blood or urine for a second or subsequent time.
  - Effect of this Legislative Proposal:
    - Any person who refuses to provide a breath, urine, or blood sample and has previously been fined and/or had their driver's license suspended/revoked would be committing a misdemeanor of the first degree and would be subject to punishment as provided in s. 775.082 or s. 775.083, Florida Statutes.
    - This criminal charge would apply to any second or subsequent refusals.
- c. Temporary Certificate Program (TCP) – Captain Tom Shipp
- Key highlights:
- The temporary certificate is not intended to replace a boating safety course.
  - Exam is not NASBLA-approved and is only valid in Florida for 12 months.
  - FWC intends to pursue legislative changes to applicable Florida statutes and rules to allow the temporary certificate to be available online.
  - These legislative changes will include cleaning up or aligning language to current boating safety education processes, as well as anticipating future needs.
  - This effort has the support of the FWC Executive Director's Office, online course providers and PWC rental business representatives.

#### Questions or Comments

- Danzig on Captain's License: I was one of the originators of the discussion on this, and I'm sorry to see it's gone the way it has. My original motion was state waters and to adopt by reference the federal code, not write a new code. It was an amendment made to the motion which changed it to "navigable waters." *Response* – Captain Klein: The sub-team looked at that (state waters) and wanted it as part of the proposal that went up the chain. There is an argument for going with state waters and not necessarily navigable waters as defined by the USCG. Chairman Brown: FWC put this through the Legislative Review Team (LRT) process. The LRT is a compilation of all the division directors. There were several factors, such as: who would be affected, the controversy, and the timing. The LRT just felt this was not the right time to pursue due to the complexities of this coupled with Jackie Fauls leaving and having a new person in her place. It will be daunting enough for the new person dealing with the Anchoring and Mooring legislation. There are a lot of good merits and if someone gets a bill sponsor, we would go and explain the need for fairness on the water.
- Griswold on BUI Refusals: Will a BUI count for points on a driver's license? *Response* – Captain Shipp: No. If you had a BUI conviction and got a DUI, it would count as the second conviction of being under the influence. Griswold: Is there any move to hook it up with the driver's license? *Response* – Captain Shipp: There was a recent proposal where the BUI would show up on their record but would not affect their driving ability or right to drive. Danzig: The increase in refusals went from 21 to 85. Why is that? *Response* – Captain Shipp: It was 31 to

83. Hypothetically, it could be the lawyer ads on the radio telling the public to hand over their license and do nothing else. Lt. Eason: Once they find out it's not attached to their driver's license, they stop complying. Chairman Brown: Another factor is the increased BUI enforcement. Shaffner: This proposal doesn't change the initial consequences of a BUI, just the subsequent if they refuse a second time. This just gives it more teeth? *Response* – Captain Shipp: It makes it reciprocal with DUI. Chairman Brown: This is a proposal that FWC will bring back to the LRT process. Barker (Public): In the case of injuries/fatalities, is force draw in the BUI plan? *Response* – Captain Shipp: There is already the requirement in cases of death or serious bodily injury. We start with asking for consent due to Missouri case law. If we don't get it, we would then go and get a search warrant to compel them. Danzig: Is the search warrant practical, as the blood alcohol content (BAC) is dropping by the minute? *Response* – Captain Shipp: In a lot of counties, they have an expedited process. Search warrants are used to ensure we are covering all bases and working within our authority. Atkins: There is a big difference between operating a motor vehicle six feet from another car on the highway and operating a boat on the waterway. There's no doubt there comes a point where you're inebriated. Numbers are good, but not the same for everybody. I have a problem tying BUI and DUI together. Is it the same problem on the waterway as it is in the car? *Response* – Captain Shipp: It is legal to drink on the water. It is not legal to operate while impaired. Strictly from law enforcement, we're looking at the boating accidents. In fatal accidents, it is still the most highly single identifiable contributor. From the public's point-of-view, it is one of the most highly concerning issues for the boating public that they have identified themselves. Spaeth: I'm concerned about tying these two together because people's jobs on land are effected. My preference is to keep the two separate. *Response* – Captain Shipp: This is just for refusals. Violations are already reciprocal. Wilson: I have no idea how many beverages I can consume to blow over the level. It would be an interesting experiment to test, get a sense of the reality of what's involved. Major Moore: That's called a wet lab. Chairman Brown: FWC would be glad to do that. Captain Shipp: I can bring a Preliminary Breath Test (PBT). It would be better to do it the night after the meeting. Danzig: There are charts which would give you an idea of your BAC based on your body weight and amount of alcohol. Chairman Brown: It is a good eye opener and experiment for those willing. We've done it. It helps you to realize where you're at in the process, at what level a couple of beers at seven percent alcohol will get you to. Barker (Public): Attach the first or second BUI refusal/violation to a Commercial Driver's License (CDL). Captain Shipp: Only DUIs affect their license.

- Wilson on TCP: Is this for those born on or after 1988 who want to rent personal watercraft (PWC)? *Response* – Captain Shipp: Yes, whether resident or visitor, if they want to rent anything over 10 horsepower they need to comply with the boating safety education requirement. This is a way for them to do that. Danzig: Under your proposal, will there be an education component? *Response* – Captain Shipp: The temporary certificate is a knowledge check. Atkins: What's the minimum age for renting a PWC, a pontoon, or a center console? *Response* – Captain Shipp: The minimum age to operate a PWC is 14. The minimum age to rent anything is 18. Atkins: What's the minimum age to operate a vessel? *Response* – Captain Shipp: There is no minimum age, as long as you meet the educational requirement. Lyshon: What's the main reason you haven't gone online prior to this? *Response* – Captain Shipp: We've tried it multiple times. Legal language and fee limitations are the main reasons. Shaffner: People who take the online version will receive something immediately or in the mail? *Response* – Captain Shipp: It would be immediate. Shaffner: Is the ideal to have a computer available at the livery? *Response* – Captain Shipp: No. The way we envision it is they can do it on their phones, tablets, or the hotel computer the night before. Shaffner: How do you verify the person who took the test, if there's nobody supervising it? *Response* – Captain Shipp: There is no direct solution for that. That is a question on our radar. Shaffner: Will there be penalties/consequences for those who game the system? *Response* – Captain Shipp: We've had people do that with certificates for the boating safety ID. We have investigated those and will continue to do so whether

electronically or hard copy. Basham (Public): Would you allow the online providers to have the temporary certificate so it can be online somewhere other than FWC and allow for a printout certificate? *Response* – Captain Shipp: That is the current vision we have. Chairman Brown: This is a proposal that FWC plans to move forward and get a bill sponsor for. It would be good for FWC to have advice from the Council in support of this or not in support of this. Lyshon: I motion for the Council to support it. Wilson: I second. Chairman Brown: Discussion? Atkins: I'm surprised it's 12 months. I would've thought it would be three months or 30 days. It seems to be geared to helping the rental vendors. *Response* – Major Moore: It was put in place in 1996. It did not start out for boat rentals. The intent was for new boat buyers to get on the water when they took delivery of their boat. It may not be necessary now to do the 12 months where back then it seemed like a better compromise. There may be an additional challenge if it was changed from 12 month validation period to three, six, or nine months, but we can explore those options. Atkins: Can't you also get your boating education requirement online? Why don't we change it to 30 days? Let's fix it. It doesn't need to be 12 months. You can go online and get a license. Anderson: The way this is set-up right now, somebody could continuously get the temporary certificate. Should this be restricted to a one-time thing and they have to get the card after that? Wilson: What's the time differential between the two? *Response* – Captain Shipp: The online boating education course is about four hours. The temporary certificate is 25 questions. I can take it in 10 minutes. Rebol: A friendly amendment to the motion would be to consider timeframe clutter. Reconsidering timeframe and reoccurrence are good points. Shaffner: I wouldn't want our motion to compromise the goal of what FWC is proposing. Is that a separate item to create a timeline and look at reoccurrence? *Response* – Captain Shipp: No. We are early in the process. Fauls: We are getting close to the end of the internal process. We have until mid-summer, July at the latest that we would need to have this tied up. We have to take it to the Commissioners before we take it to the Legislators. The Commissioners tell us what we can take to the Legislators. Wilson: If the original intent of the certification was to authorize those born after 1998 to purchase a vessel and get it home, then this should be just like when you purchase a vehicle you get a temporary tag for 30 days until you get the permanent card. Shouldn't this be the same thing? It gives them time to go online and take the permanent test. Major Moore: Can I do a quick straw man on the timeline issue? We have a lot of things which allow 90 days. What are your thoughts on limiting it to 90 days validity? It really is easy to get the permanent test online, anywhere, any day. (All hands minus the chairman raised.) Rebol: Can I call the question? Lyshon restated his motion amending it to change from one year to 90 days (see below). Danzig seconded the motion as amended.

**MOTION:** Lyshon: I motion for the Council to support it.

**SECOND:** Wilson

**AMENDED MOTION:** Lyshon: I motion for the Council to support it moving forward with a change from one year to 90 days.

**SECOND:** Danzig

**DISCUSSION:** See Questions or Comments

**VOTE:** Unanimously approved

**ACTION ITEM:** It will be presented to the Commissioners in September.

**ACTION ITEM:** Updates will be provided to BAC at a future meeting.

- B) US Coast Guard (USCG) Request for Authority to Mandate Boater Education presented by Major Moore. Presentation available on the BAC website, <http://www.myfwc.com/boating/advisory-council/meetings/>.

#### Key highlights:

- In 2004, the National Boating Safety Advisory Council (NBSAC) for the USCG made a recommendation by resolution encouraging the USCG to seek authority to mandate boating safety education.
- In 2007, it was reinforced with a new resolution.
- The USCG authority does not extend to boating safety education; they would need approval from Congress to pass regulation to mandate boating safety education.
- A suggestion will be made to repeal the NBSAC recommendation to the USCG and have boating safety education remain a state issue
  - a. There are only five states without boating safety education.
  - b. The need for federal assistance no longer exists.

#### Questions or Comments

Danzig: I make a motion that we do not support the USCG takeover of the licensing process.

Wilson: I second. Griswold: I think asking the USCG to abandon that effort is the right way to go.

Danzig restated his motion, I move that BAC supports state regulation as opposed to federal regulation of boating safety education. Wilson: I second that.

**MOTION:** I move that BAC supports state regulation as opposed to federal regulation of boating safety education.

**SECOND:** Wilson

**DISCUSSION:** See Questions or Comments

**VOTE:** Unanimously approved

**ACTION ITEM:** Major Moore will inform NBSAC of the BAC's motion.

- C) US Coast Guard/Department of Highway Safety and Motor Vehicles – Changes to Certificate of Number (CON) presented by Captain Shipp. Presentation available on the BAC website, <http://www.myfwc.com/boating/advisory-council/meetings/>.

#### Key highlights:

- Applications for CON: primary operation, vessel type, hull material, propulsion type, and engine drive type (new).
- CON must contain the following new information: state of principal operation, primary operation, vessel model, and engine drive type.
- Issuing authority must determine whether a vessel imported/manufactured on/after November 1, 1972 has a primary Hull Identification Number (HIN) which meet requirements of the HIN format/display and the Manufacturer Identification Code.
- A variety of methods are used to verify a correct HIN: pencil tracing, digital picture/photo, and physical inspection.
- If the HIN does not meet federal requirements, the Florida Department of Highway Safety and Motor Vehicles (DHSMV) must assign a primary HIN and verify that the owner of the vessel has permanently affixed it to the vessel.

#### Questions or Comments

- Shaffner: What if the drive type changes (inboard to outboard) during the course of the vessel's life? *Response* – Captain Shipp: It would have to be noted. A process will need to be created for that.
- Wilson: State of principal operation – as in United States or condition of the principal operation? *Response* – Captain Shipp: The state you are mainly operating in, i.e. Florida. Wilson: If you move from one state to another (traveling), do you have to change your CON? *Response* –

Captain Shipp: No. You would just need to register in that state. If you relocate, you will need to register and change your CON.

- Danzig: A change in primary operation won't change your CON? *Response* – Captain Shipp: Your CON, FL numbers will stay the same, if Florida remains your resident state.
- Shaffner: Pencil tracings and digital pictures are easily falsified. Is there any potential to include this in the FWC safety check inspection? *Response* – Captain Shipp: It would be difficult to track the information and get it to DHSMV. Danzig: It could be very difficult and time consuming for officers to locate the HIN. Griswold: Has the 15-digit HIN been discussed? *Response* – Captain Shipp: Not as part of this, but I know there has been consideration of changing the format. Griswold: Is this part of the vessel identification scope debate that has been going on for 20 years? *Response* – Captain Shipp: It may be, but I don't know. Shaffner: Who's driving this? *Response* – Captain Shipp: USCG. These are federal requirements from a final rule that began in 2012. Bruce (DHSMV): We are working on HIN verification programming. DHSMV is in the middle of a 10-year modernization project. We are currently updating driver's licenses. The motor vehicle side doesn't start until next year with programming in 2019. We will respond back to the USCG, and try to figure out by January 1, 2017, how we will begin implementation. Our big issue and a resource problem is how will we verify the number was placed on the vessel. Major Moore: There is potential for huge impacts to workload not just for DHSMV.

**ACTION ITEM:** Updates will be provided to BAC at a future meeting.

- D) Assessment of Boating Safety Testimonial Videos presented by Brian Rehwinkel. Videos will be posted on YouTube and made available for boating safety educators.

Brian Rehwinkel presented three videos (a grieving daughter talking about the loss of her stepfather in a boating accident, an older man informing all that he's still here because of a life jacket purchased the same day, and a father talking about looking death in the face with his young son as a result of a boating accident) emphasizing the use of life jackets and what the use or non-use of the life jackets meant for them or their family member involved.

#### Questions or Comments

- Danzig: Very well done, good production. The father and son should have used a kill switch. He could have had the emergency kill switch on his belt. Rehwinkel: He said that in his interview.
- Wilson: Very powerful stories. Will there be pictures of the boats? *Response* – Rehwinkel: Yes.
- Shaffner: Based on the south Florida constituency, they are not going to bite. There's no diversity in there. I encourage you to do some. Rehwinkel: I understand where you are going. Are you going to identify with everyone in there? That's a good point. We are building a library which will be utilized to target a variety of audiences. Wilson: Are you looking for candidates? *Response* – Rehwinkel: Absolutely. If you know of someone who has a story, please put them in touch with me. Building these relationships are important.
- Wilson: Are you anticipating making these as public service announcements? *Response* – Rehwinkel: We plan to do a variety of things with them. They will be placed on YouTube. We will cut them down for 30-second television spots. Educators will use portions for classroom instruction.

**ACTION ITEM/MOTION:** None

## V. COUNCIL ROUNDTABLE

- Danzig: The change in the types of diver's down flags that can be used has inspired me. I'm going to explore the use of reflective crab pots.
- Shaffner: Anything more on the mooring project? *Response* – Chairman Brown: The report is due January 2017 to the Legislature. Faults: The program itself sunsets July 1, 2017. The idea for that timeframe is to give the Legislature time to take what the experiences of the pilot program has shown, and if they want to do legislation they will have time to do legislation and pass it during the 2017 session. Shaffner: In July 2017, will they continue to manage those mooring fields or will they be removed? *Response* – Faults: The mooring fields are permitted so those continue on. It's the local ordinances that test different anchoring restrictions outside of the mooring fields, because the state assumes jurisdiction of sovereign submerged lands. By accepting mooring fields, local governments can control what happens in those mooring fields by a permit from DEP. Major Moore: We will be bringing you some things to evaluate at your next meeting which may turn into recommendations. Chairman Brown: FWC will also have additional public meetings. Major Moore: It will also have to go to the Commissioners as well.
- Griswold: National Safe Boating week is coming up May 21 – 27, 2016, and National Wear Your Life Jacket to Work day is Friday, May 20<sup>th</sup>. Ready, Set, Wear-It, where you get as many people out there is May 21<sup>st</sup>. Wear Your Life Jacket to Work day has been a very successful campaign. It generates a lot of interest in life jackets. Bragg: Can we set some type of Facebook page up where you send pictures or an Instagram account? *Response* – Captain Shipp: We have a pretty good push from our Community Relations department who's working on that.
- Atkins: Why are we not using more floating markers instead of the fixed markers? *Response* – Major Moore: Buoys are more expensive. Maintenance is more costly and time-consuming.
- Chairman Brown: Where do you want to do the next meeting? *Response* – Danzig: How about Jupiter. Wilson: I'm game for the middle of the state. (Unnamed members agreed with Wilson's comment. Other unnamed members called out St. Pete.) Spaeth: One thing we should consider is the public having access to these meetings for their comments. We should move them around.

## VI. PUBLIC COMMENT

No public comment.

Chairman Brown thanked the public for attending, the Non-Motorized Boats Working Group members for the work they are doing and attending the BAC meeting, the Boating Safety staff for putting the meeting together, Legislative Affairs, Legal, the Governor's Office and John-Paul Fraites, and last, but not least the Council, who are not paid.

Major Moore informed BAC that FWC was appropriated \$1.4 million for derelict vessel removal. He also issued a challenge to all BAC members to have a Boating Safety Education ID card by the next meeting and to bring it with them.

Meeting was adjourned unanimously at 4:06 pm.

Next meeting will be held October 27, 2016, in West Palm Beach, Florida.