



# Boating Advisory Council

Staybridge Suites  
Tallahassee, Florida  
May 18, 2017

## I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 8:30 am.

## II. ADMINISTRATIVE ITEMS

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

#### **Present**

Colonel Curtis Brown (Chair) – Florida Fish and Wildlife Conservation Commission (FWC)  
DLE Director  
Robert Atkins – Boating Public  
Rebecca Bragg – Canoe/Kayak Enthusiasts  
David Childs – Water-Related Environmental Groups  
Stephen Danzig – Marine Special Events  
Phillip Dur – Boating Public  
William Griswold – US Coast Guard (USCG) Auxiliary  
David Hankla – Manatee Protection Interests  
William Husted – US Power Squadrons  
Joseph Lyshon – Marine Manufacturers  
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 Travis Hutson – Senate  
House of Representatives

### B) Audience – Introductions

Trent Anthony, Brack Barker, Bonnie Basham, Gwen Beatty, Dan Clark, John Lorenz, Peggy Mathews, Tommy Thompson, and Bruce Wright

### C) FWC Staff – Introductions

Lt. Colonel Jack Daugherty, Lt. Colonel Brian Smith, Major Rob Rowe, Captain Gary Klein, Captain Thomas Shipp, Lieutenant Seth Wagner, Hailey Anderson, Precious Boatwright, Brenda Collins, Jessica Crawford, Ivey Dockery, Brandy Elliott, Richard Flamm, Heather Forsman, Phil Horning, Haden Macbeth, Ryan Moreau, Brian Rehwinkel, Bill Sargent, and Heather Turner

### D) Meeting minutes from October 27, 2016 were reviewed.

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

**SECOND:** Griswold

**DISCUSSION:** None

**VOTE:** Unanimously approved

E) Special Recognition

Major Rowe presented Captain Shipp and Lieutenant Wagner with their 15-year service piens and thanked them for their service.

The Governor's Safe Boating Week proclamation was read into the record. Safe Boating Week is May 20 – 26, 2017.

III. UNFINISHED BUSINESS/UPDATES

A) Sunshine Law presented by Brandy Elliott.

Key points:

- Sunshine Law was created to protect every Floridian's right to public access of government meetings and records
- Meetings shall be open and noticed to the public
  - This applies to any meeting where official acts are to be taken or public business will be discussed
  - This extends to deliberations and/or **discussions between two or more members** of the board outside of formal meetings
    - **Any discussion between two or more members** of the same public commission or board discussing a topic which may foreseeably come before their board **must occur in the sunshine**
    - Discussion of official matters outside of a public meeting is a violation of the Sunshine Law
- Minutes of meetings must be taken and recorded
- Advisory committees are subject to Florida's Public Records Law
  - Be aware that documents received or produced by you in connection to your position in the BAC should be open for public inspection and copying
  - This includes emails, text messages and social media
- Knowingly violating the Sunshine Law subjects you to criminal penalties

B) Derelict Vessel (DV) Grants Update presented by Phil Horning

Key points:

- \$1,400,000.00 non-reoccurring funds appropriated by Legislature
  - \$1,195,754.00 encumbered for derelict vessel removal grants
  - \$204,246.00 remaining balance for program year end budget
- One public meeting held in Fort Pierce to determine how best to assist applicants with removal funding with the new grant program
- 29 applicants
  - 16 bulk grant applications
  - 4 rapid removal grant applications
  - 9 final opportunity grant applications
- Full expenditure challenges
  - Local governments not budgeted for 25% program match
  - Local governments not familiar with or prepared for a new program
  - Hurricanes Hermine and Matthew created staff and local government timing issues
  - US Coast Guard's federalization of the tugboat "Tutahaco" removal
  - DEP/FEMA funding confusion for derelict vessels

- Potential Program Opportunities
  - A recurring program to improve applicant awareness and program participation
  - The continued requirement for a percentage (25%) match to encourage applicants to select the highest threat derelict vessels for removal prioritization
  - The ability to allow for longer application periods limited only by available funding and fiscal year constraints
  - Continue both the Bulk and Rapid Removal DV Grant Programs allowing for routine and emergency removal options
- 507 vessels in the database
  - 317 active cases
  - 190 removals in progress
- The Florida Legislature has passed the 2017-2018 Legislative Budget Request for FWC including new DV Removal Funding of \$1.4 million
- Florida Keys Vessel Turn In Program
  - FWC and Monroe County are working together to develop a five year pilot program to initiate a derelict vessel prevention program
  - Allow vessel owners without the means to dispose of their own vessels to turn them in to the county for disposal at no cost to the owner
  - Remove vessels that have not been declared derelict
  - Remove pre-derelict vessels from the waters of the state
  - Pilot program is funded by the National Oceanic and Atmospheric Administration (NOAA) through a grant to FWC
  - May serve as a potential statewide program if successful in pilot study

**MOTION:** Spaeth moved to have FWC request the DV program funds be reoccurring with an annual increase and directed FWC to seek additional grants.

**SECOND:** Atkins

**DISCUSSION:** The original motion made by Spaeth was to request FWC to continue to look for funding for the DV program. Griswold requested it be recurring. Wilson suggested other avenues be explored such as grants. Spaeth pulled the first motion before it was voted on and changed his motion (see above).

**VOTE:** Unanimously approved

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

Becky provided an overview of the two-year process it took to create the recommendations draft. Griswold informed the council they could expect to receive the draft with supporting documents before the next meeting. Questions were asked regarding a solution for identifying the number of non-motorized vessels, user-pay/user-benefit, and search and rescues. There were no definitive answers to these questions.

#### IV. NEW BUSINESS/INFORMATION ITEMS

- A) Boater Etiquette Proposal presented by Dr. Richard Flamm.

Dr. Flamm presented the BAC with information on a potential educational outreach initiative. The goal of this initiative is to develop and implement an action plan to guide regional outreach by

boating safety agencies and organizations aimed at improving boater etiquette. In boating, etiquette has consequences for safety and environmental stewardship. Projected expectations for this project are as follow:

- Develop/implement an educational tool to engage boaters
- The tool will contribute to increased boating safety through improved etiquette
- The tool will contribute to greater conservation ethic through improved etiquette
- The tool will contribute to an increase in boater education
- Create a foundation for expanding capabilities in boater education efforts

Dr. Flamm requested written support from the BAC to further their goal of grant approval. Once they received the grant, they are requesting at least one member of the BAC act as an advisor to the initiative.

## B) Legislative Review presented by Major Rob Rowe.

Key points:

- Vessel Registrations – HB 711 / SB 718
  - The bill reduces state vessel registration fees for recreational vessels equipped with a qualifying emergency position-indicating radio beacon or whose owner owns a qualifying personal locator beacon
    - The beacon must be registered with NOAA to receive the reduced vessel registration fee
  - If approved by the Governor, these provisions take effect July 1, 2017
- Vessels – HB 7043 / SB 1338
  - Except for those participating in the pilot program, local governments were prohibited from regulating the anchoring or mooring of vessels, other than live-aboard vessels, outside the marked boundaries of mooring fields
  - FWC was required to submit a report of its findings and recommendations on the pilot program to the Legislature by January 1, 2017
  - Defines “barge,” “commercial fishing vessel,” “commercial vessel,” and “effective means of propulsion for safe navigation,” and revises the definition of “live-aboard vessel
  - Provides that a vessel is at risk of becoming derelict if the vessel does not have effective means of propulsion for safe navigation within 72 hours after the owner or operator of the vessel receives notice of such from a law enforcement officer and cannot provide proof of purchase of parts necessary for repair
  - Removes the expiration of anchoring limitation areas
  - Prohibits a vessel or floating structure from anchoring or mooring within 150 feet of a marina, boat ramp, boatyard, or other vessel launching or loading facility, within 300 feet of a superyacht repair facility, or within 100 feet outward from the marked boundary of a public mooring field, and provides exemptions
  - Prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing to an unpermitted or unauthorized object that is on or affixed to the bottom of waters of the state
  - Provides penalties for operation with an expired registration and for anchoring or mooring where prohibited

- Allows local governments to enact and enforce regulations related to proof of proper sewage disposal and removal of a vessel affixed to a public dock that is abandoned or lost property
- Prohibits the Department of Highway Safety and Motor Vehicles from issuing a certificate of title for a derelict vessel, until the vessel is no longer deemed derelict
- Provides that a law enforcement officer who has provided written notice through a citation to an owner of a derelict vessel is not required to send notice by certified mail
- The bill allows certain private residential multifamily docks to use sovereign submerged lands to exceed the number of moored boats to the number of residential units as authorized under former administrative rule
- The bill also allows FWC to establish boating-restricted areas to protect seagrasses on privately owned submerged lands if requested by the owner of submerged lands and certain conditions are met

C) Boating Accident Stat Review presented by Lieutenant Seth Wagner.

Quick Facts:

- 931,450 registered vessels in Florida
- 714 reportable boating accidents
- 67 fatalities, 421 injured persons
- 2,022 persons involved in accidents
- 47,307 boating Safety Education ID Cards issued
- Primary Accident Type and Cause
  - 50% of the accidents involved collisions
  - No proper lookout/inattention and operator inexperience were the two leading causes of boating accidents
  - “Falls overboard” is the primary type of fatal accident in 2016.
    - 16 fatalities resulted from “falls overboard” type accidents
- Vessels in Fatal Accidents
  - 59% of all vessels in fatal accidents were 16 feet or less in length

D) Let’s Get In Board: Branding Boating presented by Captain Thomas Shipp

In the last five years alcohol/drug related accidents and fatalities have trended upwards. In 2012, alcohol/drug related accidents were 10% and related fatalities were 11%. In 2016, they have gone to 14% and 24% respectively. Due to multiple fatality accidents the percentage of fatal victims took a jump upwards in 2014 and again this year. Due to these increases FWC developed and used Boating Under the Influence graphics on our BUI trailers, billboards, and Point of Sale at convenience stores/gas stations.

In 2015, we started an effort to Brand Boating, to link various boating messages back to one central point – FWC Boating and Waterways Section – with a consistent look. Trying to cover each sub-unit (Boating Safety: general, life jacket wear, education, 360 degree awareness, Personal Locator Beacon; Boating Access: Boat Ramp Finder, grant applications, ramp construction; and Waterway Management: derelict vessels, permitting, boating restricted areas, Marker On-Call program), each of which has a variety of different topics was challenging.

How do you Brand all of that? We started with the Brand Statement mentioning trusted source, information and resources, safety, enjoyment, and waterways. The brand statement is the message and tone that should be conveyed by the FWC when developing their marketing and brand assets; used as a cornerstone for comparing work and concepts. After that we moved on to a Tag Line with graphic treatment, there isn't always room for a Statement. You will see this Tag Line "Let's Get On Board" with and without the graphics. You will see it showing up on printed materials, video PSAs, and outdoor advertising. You will hear the Tag Line on our radio spots and voice overs.

#### E) Overview of Waterway Management Unit presented by Ryan Moreau

Key points:

- Main functions, which encompass the majority of the workload include:
  - Boating-restricted area ordinance reviews
  - Boating-restricted area rulemaking
  - Waterway marker permitting
  - Management of state boating safety and manatee protection zone markers, federal manatee protection zone, and critical wildlife area (CWA) markers
- In 2009, the Florida Legislature established 327.46, Florida Statutes (F.S.), which lays the foundation of both authorities granted and limitations imposed upon local governments for the establishment of boating-restricted areas for the purpose of public safety. The rationale was:
  - To encourage local governments to establish boating restricted areas where certain conditions are met
  - Place limitations on where and for what purposes boating-restricted areas can be established
  - Ensure greater statewide consistency
- There are two subsections within 327.46, F.S., that pertain to local government enacted boating-restricted areas. Subsections 1(b) and 1(c). Subsection 1(b) grants authority to local governments to establish boating-restricted areas based on specific criteria. Examples of which are:
  - Public boat ramps
  - Public fuel dispensers
  - Public launching and landing facilities
  - Public swim areas
  - Bridges (Dependent on height and span)
- All of criteria included within 327.46 (1)(b), pertain to public facilities.
- 327.46, F.S., is specifically for public safety. Therefore, local governments cannot establish boating-restricted areas for the purpose of shoreline protection, shore-based structures (ex. Private docks, seawalls etc.), or the protection of upland property from vessel wake or shore line wash.
- 327.46(1)(c), F.S., also allows for the establishment of boating-restricted areas by local ordinance, however, unlike 327.46 (1)(b), F.S. where authority is already given, those situations that would fall under subsection 1(c) require the local government to provide "substantial competent evidence" to the boating and waterways section in support of the area. The boating and waterways section then has to review the ordinance against the evidence in support of the ordinance and either approve the ordinance or deny the ordinance.
  - These situations include:

- Waterway confluences, blind corners, and bends in narrow waterways
- Waterway is subject to hazardous water levels or currents
- Unsafe vessel congestion (based on a valid vessel traffic study)
- User group separation
- Examples of evidence that may be included to support the need for a boating-restricted area would include boating accidents, boating citations, sworn affidavits, medical reports, and insurance claims if these reports can be traced back to a specific event in which excessive vessel speed was the primary factor.
- An ordinance under review via this section is noticed to the public at both the local and state level for possible challenge before approval. Also, anyone challenging the ordinance at the state level would be able to do so at the next available FWC Commission meeting.
- State Boating-Restricted Area Rulemaking
  - FWC is the state agency solely tasked with regulating the Intracoastal Waterway for boating safety. These regulations are implemented by state rule, specifically, 68D-24, Florida Administrative Code (F.A.C.).
  - Typically, these requests come in the form of an official request from a city or county.
  - Local workshops are held prior to making proposed changes to boating-restricted area rules.
  - Rule proposals then go before our Commission for approval to notice the proposed rule to the public, and for adoption, if no challenge to the rule is offered at that time.
  - Rules may be challenged by the public at any point during the rulemaking process.
- Waterway Marker Permits
  - The Waterway Management Unit issues uniform waterway marker permits to cities, counties, state and federal agencies for informational, mooring and regulatory waterway markers in the state of Florida.
  - Individuals may also apply but only for informational markers.
  - We maintain a database of approximately 1,051 active permits (as of 5/15/2017).
  - These permits constitute a total of 15,017 waterway markers (as of 5/15/2017).
  - Every three years the permit holder must complete a permit inspection and provide that inspection to the Boating and Waterways Section.
- Boating-Restricted Area, State Maintained Manatee, and CWA Markers
  - The waterway management unit manages over 6,000 markers in the state of Florida. These include state boating-restricted areas, state manatee protection zones, Critical Wildlife Areas (CWAs) and federal manatee protection zones. Federal manatee protection zones are maintained through an agreement with the US Fish and Wildlife Service.
  - Every three years, FWC maintained markers in each county are inventoried by the boating and waterways boat access crew. This includes assessing the conditions of pilings, signs, buoys, crossbeams, and hardware.
  - These inventories are then used for construction plans to maintain all existing or new markers.

## V. MEMBER ITEMS

Bragg said there is concern in the paddle industry of out-of-state individuals coming to Florida and setting up temporary liveries. Spaeth said that was a concern of the charter captains as well.

Hankla was interested in information on permanent liveboards and how they are regulated. Permanent liveboards are boats which the owner considers their primary residence, doesn't necessarily have to be a houseboat. They can be regulated by local governments as well as FWC.

Husted reviewed the Enhanced Marine Law Enforcement Grant along with the Broward Boating Guide.

Shaffner asked if FWC will support/partner with USCG to deal with illegal charters which lead to discussion of the Captain's license issue previously discussed by BAC. The suggestion was made for Shaffner to take up the issue directly with the legislature. Shaffner also brought up the issue of increased shark feedings to attract sharks.

## VI. COUNCIL ROUNDTABLE

Childs commended FWC's Legislative Affairs staff.

Griswold complimented staff for selecting the meeting facility and pulling together lunch.

Chairman Brown thanked the public for attending and the FWC staff.

## VII. PUBLIC COMMENT

No public comment.

Meeting was adjourned unanimously at 3:00 pm.

Next meeting will be held October 18, 2017, at Mission Inn in Howey-In-the-Hills, Florida.