



Jacksonville Waterways Commission Lynette Self, Chair

The monthly meeting of the Jacksonville Waterways Commission was called to order on Thursday, April 6, 2006, 9:00 a.m., in the City Council Chambers, by the Chair, Council Member Lynette Self.

The Chair noted a significant number of absences and that in view of the lack of a quorum that the Commission might discuss and make a recommendation on the proposed amendment to the Florida Fish & Wildlife Conservation Commission's rule regulating the speed and operation of motorboats for the purpose of manatee protection and then come back at another date to actually vote on the proposal. The Commission, in its role as the Local Rule Review Commission, is obligated to ascertain public input on the proposed rule, discuss the matter and make a recommendation to Tallahassee. Greg Radlinski, Assistant General Counsel, OGC, suggested that the Commission could proceed to conduct a workshop, take public testimony, then have a draft of a report, based on evidence presented at this meeting to send to Tallahassee, a report that would include, by reference, Jacksonville University's manatee update, statements from the public and Fish & Wildlife's Scott Calleson's information. The Commission would then have to come back at some point within the 60 days since receiving the proposed rule and have a vote and make a recommendation. The Commission is obligated to proceed with the public hearing because the public hearing had been noticed. The Chair announced that we would proceed with the public hearing and schedule another meeting to vote and recommend. The Chair observed that we were time limited because our recommendation was due in Tallahassee by April 28, 2006.

The minutes for the March 2, 2006 meeting were agreed upon (lacking a quorum, there was no vote of approval).

On the DOT Sediment Control Summary, the Chair noted that there has been a meeting with a number of enforcement agencies on sediment control

as it related to FDOT projects. The matter had been brought to the Commission's attention by the Riverkeeper, Neil Armingeon. Greg Radlinski reminded the Commission that the meeting that the Chair alluded to involved Craig Creek and it turned out to not be an FDOT issue. The incident at Craig Creek had to do with a utility provider doing some drilling across the street. An unmarked water line was pierced causing gushing water to carry dirt into a storm drain and into Craig Creek. Mr. Radlinski said that the issue that he was anticipating discussing, along with Terry Zinn, FDOT's lawyer, and Tracy Arpen, Deputy General Counsel, OGC, was the issue of whether or not local authorities can regulate the activities of FDOT and its contractors in FDOT's right-of-way. There is a statute that pre-empts local government regulation. It does not pre-empt local government inspection and observation of the activities of FDOT and its contractors in the FDOT right-of-way. Nor does it exempt FDOT and its contractors from state regulations. If contamination like sediment and eroding materials leave the FDOT right-of-way, local authorities can take enforcement action. Where there are violations within the FDOT right-of-way, local authorities can report the violations to state authorities. If state authorities fail to take action with regard to violations reported by local authorities, there are citizen suit provisions within the federal Clean Water Act.

Ebenezer Gujjarlapudi, Chief, Environmental Quality Division, Environment Resource Management Department, spoke to the issue. He indicated that the issue had come to a head when FDOT notified the Environment Resource Management Department Director that the City lacked jurisdiction to inspect sites within the FDOT right-of-way. If contaminated material leaves FDOT sites, then the City assumes inspection and enforcement authority. Terry Zinn, FDOT's District 2 legal department, proceeded to address the issue. Mr. Zinn agreed with Greg Radlinski's analysis and summary, but added that there were two other, federal entities with jurisdiction over FDOT and they are the Army Corps of Engineers and the Environmental Protection Administration. FDOT welcomes City inspection of its sites but requests that the City strictly observe OSHA standards regarding hard hats and shoes and that the City consult with project managers. FDOT does not think that City inspectors have any jurisdiction within FDOT's right-of-way. Should City inspectors feel that there is something improper going on within that right-of-way, there was recourse in turning to DEP, Corps of Engineers, the St. Johns River Water Management District and EPA.

Next on the agenda was the proposed Florida Fish and Wildlife Commission's rule change. The Chair put the issue in an historic perspective, indicating that the issue has been aired for nearly a year and explaining the factors that have brought us to the current status. At this juncture, technical problems with the Chamber's audio-visual system developed. Scott Calleson, Florida Fish & Wildlife Commission, made repeated attempts to begin his presentation. Neither the PowerPoint nor audio equipment was responsive. Since the meeting's proceedings were unable to be recorded, the Chair decided to move the Commission's meeting to Committee Room A directly across the Atrium on City Hall's ground floor.

When the meeting resumed in Committee Room A, the agenda was altered to allow staff to ready the equipment for Mr. Calleson's presentation.

Dan Cronrath, Recreation Planner, Parks, Recreation, Conservation & Entertainment Department, provided the Commission with a FIND update on projects. He distributed material and maps related to applications tendered this year. The update material included project descriptions grantor awards and the City's match and the status of each project.

Dr. Gerald Pinto, Jacksonville University, gave the monthly Manatee Update. No deaths were reported in March. 12 manatees were seen in the river from NAS Jax to the Buckman Bridge, on the west bank, near Goodby's Creek but not in the creek itself. Dr. Quinton White has been visiting Goodby's Creek doing preliminary work gauging the kind of boating traffic patterns prior to the boating ramp's opening and comparing it with traffic patterns once the ramp is operational. On another issue, Dr. Pinto discussed reports of people getting stuck in Goodby's Creek, information that Neil Armingeon had passed along. The reason is that the channel that has been marked to be dredged is not where the channel actually is located. People have had to be pulled out of the mud. The Chair inquired about the status of dredging. Dan Cronrath indicated that with FIND funding in place, we should be able to implement dredging at Goodby's by the year's end. While there has been some dredging around the ramp, dredging the creek itself to the mouth of the St. Johns River cannot be done until receipt of FIND funding in this application cycle. Dr. Pinto shared the story of a situation that he had recently encountered at Castaway Island where a college student, in his canoe, had become stuck in the mud. The individual had gone out at lunchtime not fully realizing that there was no water there

at low tide. He had tried to walk his canoe back to the launch, came within 200' and sank waist deep in the mud. 911 was called. Jax Fire & Rescue arrived but had no rope on their truck. Three JSO patrol cars arrived, none of which had rope. A JSO chopper arrived on the scene and provided the rope that enabled the canoeist to be pulled to safety. We need to put a sign out making people aware that, prior to dredging, there is no water at low tide. Dan Cronwrath indicated that dredging at Castaway is impending. In the meantime, a temporary warning sign will be installed.

Scott Calleson proceeded with his presentation on the proposed amendment to the Florida Fish & Wildlife Conservation Commission's rules on speed zones in the St. Johns River for the protection of manatees. He distributed and discussed three maps (the Area affected by the Preliminary Proposal to Amend the FWC Manatee Protection Rule for the Duval County Area (February 2006); Preliminary Proposal for FWC Manatee Protection Zones Downtown Jacksonville Area (February 2006); and Existing FWC Manatee Protection Zones Downtown Jacksonville Area (February 2006). The Downtown area is defined as the river upstream from Reddie Point to the Fuller Warren Bridge. This is the area where FWC's proposed amendment to the speed zone rules for manatee protection is focused on. State zones in Duval County were first put in place in 1993. The current speed zones depicted on the maps were put in place in 2000, as an amendment to the 1993 zones. The 2000 amendment was done in association with the manatee protection plan Jacksonville adopted in 1999. The existing state zones and the existing local zones are the same. In 2003, the U.S. Fish & Wildlife Service came in and put in federal manatee protection areas in Duval County from an area just a little south of Reddie Point to the County line. Soon thereafter, the City filed its intent to sue the U. S. Fish & Wildlife Service over the zones that the latter had imposed on the County. An agreement was mediated between all parties where the U.S. Fish & Wildlife Service agreed to amend its zones in the downtown area and the state, in turn, agreed to amend its zones in the city, so that all three zones were the same.

Mr. Calleson discussed what the proposed amended rules would mean. From Reddie Point to the Matthews Bridge, the zones would stay similar to what they are now but the state rule would change to make the eastern side buffer 1000 feet instead of 900 feet. Outside of the buffers the speed limit would be 25 m.p.h. From the Matthews Bridge to the Hart Bridge, a similar configuration, with 25 M.P.H. outside of the buffers. South of the Fuller Warren Bridge, there are no state amendments to the state zones. The rest

of the state zones throughout Duval County and toward Mayport downstream from Reddie Point would not be changed.

Mr. Calleson indicated that in the end, what the state is looking to do is have the state, federal and local zones be the same, enabling the state and local agencies to enforce these zones and enhancing the public's understanding of what the speed zones are.

The Chair announced that she had no speaker cards filled out and asked if there was anyone in the audience desiring to speak on the issue and provide any public input. The Chair subsequently opened and closed the public comment time.

Commissioner Grey asked when was the state going to start enforcing the revised zone. Mr. Calleson replied that the target is to have the final F & W Commission approval by December and that we are looking at early 2007 when we would have a revised state rule on the books.

The Chair announced that we could not take any action at this particular meeting owing to the lack of a quorum. She did, however, indicate that the Commissioners present needed to give a directive to Assistant General Counsel Greg Radlinski.

On Pending Legislation, Dylan Reingold, Assistant General Counsel, gave the Commissioners a synopsis of **Ordinance 2006-289**, Appropriating \$75,000 from Autumn Bond County Wide Dredging Reserve for Pre-Dredge Survey & Study & Construction Drawings for the Dredging of Morven Lake. Parks, Recreation, Conservation & Entertainment Department Director John Culbreth fielded questions on **Ordinance 2006-323**, Appropriating \$150,950 from Fla Fish & Wildlife Conservation Comm Grant and City match for "Lighthouse Marine Boat Ramp Drainage" Proj. **Ordinance 2003-1132**, Amend Ord Code, Changing Manatee Protection Motorboat Speed Zones from Year-Round to Seasonal, was **deferred**.

Commissioner Bronson Lamb submitted a letter from Mr. Downing Nightingale, Jr., CEO, Lamb's Yacht Center, Inc., raising concern about the number of boats mooring in the Ortega River. The number has been multiplying. Many of the vessels, most of which are sailboats, do not have proper lighting at night, particularly during the summer months. Either the state or Coast Guard should designate the area for mooring or not.

Assistant General Counsel Greg Radlinski recalled that unless the vessels are a hazard to navigation, anchorage cannot be prohibited. Commissioner Lamb cited the sanitation concern. The boats in question do not regularly go to the pump-out stations. Greg Radlinski suggested that we have the Coast Guard monitor these boats, to see if they are anchored for week after week without having a sanitation barge come along at some point. That would be strong, circumstantial evidence that the boats are discharging waste into the river. Commissioner Lamb observed that he knew of no one in Duval County who owned or operated a sanitation barge. The Chair announced that she would get together with Greg Radlinski to put a meeting together with Coast Guard and other parties to address the issues raised about mooring and anchorage in the Ortega River and the placement of markers in the river for manatee protection.

Commissioner Lowe mentioned the legislation moving through the current session of the Legislature addressing the issue of working waterfronts. Commissioner Lowe also mentioned C/M Self's letter regarding a Palm Beach County bond issue on working waterfronts (copies of the letter having been distributed to Commissioners). Commissioner Lowe cited Pinellas County using county funds to purchase a marina that would have otherwise been commercially developed. Here in Duval County, we have the Julington Creek Marina issue looming. Commissioner Lowe wondered if we could look into vehicles that the City could possibly employ to purchase marinas. The Chair mentioned that she had met with the Mayor (the previous day) and discussed the issue of vanishing marinas and that the Mayor expressed how he wished that the City could purchase the Julington Creek Marina but we could not afford it. The Chair further mentioned that the Bluebelting Subcommittee was changing. Commissioner Pitman had informed the Chair that she could no longer continue as Chairperson of the subcommittee. The Chair announced that the subcommittee's new name would be the Preservation of Working Waterfronts/Marinas Subcommittee and that she would head that body. The Chair indicated that she had been in touch with the Planning Department to see if the Comprehensive Plan could be a vehicle to help in preserving working waterfronts.

Commissioner Grey brought to the Commission's attention something that was included in the Nightingale letter (Lamb's Yacht Center), namely, that the City's manatee protection plan brochure stated that if you needed additional brochures, call the Council Secretary's Office. The telephone

number in the brochure, 630-1700, is actually the telephone number for the Office of General Counsel.

The City's Dockmaster/Waterways Coordinator, Mike Mills, brought to the Commission's attention the concern that the depth in the Metro Park basin is rapidly silting in. Getting vessels in and out of the basin has become an issue because of the number of impending events at Metro Park. Running generators on the boats when there is little or no water around has become a problem, as well, as the generators are picking up mud and silt. The Dockmaster advised that we need to look at dredging the basin out, particularly before the fall when the football games commence.

A special meeting of the Jacksonville Waterways Commission was called to order at 2:07 p.m., April 18, 2006, in the Council Chamber with Council Member Graham in the chair.

The purpose of the meeting was to discuss and vote on the proposed amendment to the Florida Fish & Wildlife Conservation Commission's Rule 68-C-22.027.

On a motion by Council Member Copeland, the Commission voted to recommend adoption of the speed zone incorporated in the proposed Florida Fish & Wildlife rule change. The vote was 8-1 (Lowe). Attached to the recommendation will be a statement indicating that the Commission has data and documented evidence that the speed zone is not needed for Exchange Island because there have been no manatee deaths reported at the Exchange Island area, from the island to the eastern shore.

Commissioner Bryan announced that the Jacksonville Port Authority is planning on deepening the port and doing so by blasting. The blasting is a threat to the manatees and could result in a spike in manatee fatalities.

John J. Jackson, Council Research Division (904) 630-1729