

Public Workshop
Palm Beach County Government Center
Rule 68D-24.017 FAC -- November 19, 2008

The workshop was called to order at 6:15p.m. by Captain Carol Keyser.

Members of staff in attendance were: Captain Carol Keyser, FWC-GHQ, Ms. Tara Alford, FWC-GHQ, and Mr. Ryan Moreau, FWC-GHQ, Mr. Bill Sargent, FWC-St. Petersburg, Captain David Schaeffer, FWC-WPB; Mr. Roger Anderson, PBS&J. Also present at the workshop were members of the 'consensus group' which consisted of Mr. Gene Folden, Ms. Val Kattel, Ms. Jena Bradley, Dr. Ted Schiff, Mr. Mark Tamblyn, Mr. John Sprague, and Captain Bill Taylor.

There were 96 stakeholders in attendance. Captain Keyser provided a short presentation on the existing boating safety rule and zones. This presentation also showed an overview of the existing manatee zones. Mr. Roger Anderson, PBS&J, provided the remaining presentation on the findings of the Palm Beach County Vessel Traffic Study.

The questions and comments below were taken from the audience.

Mr. Mike Erickson – President of Indian Trail Improvement District, and boater – Will provide comments via email. At this writing (11/24) none have been received.

Mr. John Callaghan – Oak Harbour – No Wake zone needed – Mentioned that this marina (Oak Harbour) was not listed in the study. While it is private, there are other private marinas listed in the study.

Mr. Robert Schiff – Boater – Boating safety – Believes some of the worst boating takes place in the ICW south of the Donald Ross Bridge to the Juno Park area. Has seen 'go fast' boats operating side by side in this very narrow area. Believes this area needs to be Idle Speed No Wake. Need to make boaters more aware of their personal responsibility.

Mr. Lloyd Roberts – Boater – Speed and safety -- His area of concern is south of Donald Ross and north of PGA. Has seen many near-accidents in this area by vessels with large wakes. Doesn't think the vessel operators understand the rules of the road; has been passed on both the right and left side; also noted that PWC operators in this area have complete disregard for other boaters.

Mr. Larry Smith – Attorney – Speed zone south of Bert Winters Park -- Represents several residents between the Donald Ross Bridge and PGA Boulevard, specifically south of Bert Winters Park. Believes this area is very dangerous, especially on a Saturday and/or Sunday afternoon. Advised that one only has to sit on a dock in the area to see the many near-misses in this area. Very little enforcement in this area; believes that's due to the inability to 'pull folks over' - not conducive to doing so due to the high amount of vessel traffic and number of inexperienced boaters in the area.

Mr. Dane Fleming – Homeowner in Oak Harbour Marina area – Vessel traffic and safety/property damage -- He is a maritime expert and works with maritime

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attorneys. Entrances at both north and southern end of Oak Harbour Marina, also shoaling in this area. Seawalls in this area do not allow the wakes to dissipate. Also stated that vessels coming down canals can not see vessels in the ICW until too late.

Mr. Bill Krizck – Wake limits – Lives in area between Donald Ross and PGA Boulevard. Advised that weekends, noon, 5 pm, and after visiting local ‘establishments’ are the worst times.

Mr. Mark Wendt – Boat speed limits & waterway Usage – Lives in north Palm Beach in the area around Donald Ross Bridge. Suggested that the current regulations be enforced during the weekends and weekdays.

Mr. Charles Wendt – Boat speed limits – Passed on opportunity to speak.

Ms. Kim Wendt – Boat speed limits & vessel traffic safety – Passed on opportunity to speak.

Ms. Jean Matthews – Palm Beach County Parks and Recreation – Passed on opportunity to speak.

Mr. Charles Bantel – Concerned citizen – Peanut Island area - Signage has been moved during the re-construction of this area, and needs to be replaced. Thinks that the local law enforcement officers need to take boating safety classes.

Dr. Charles Edwards – Homeowner – Water safety on the ICW – Concerned about the areas of Juno Park and Bert Winters Park. Pointed out that Palm Beach County is second in the state in boating accidents. The area in question has two public parks that are heavily used during the weekends. Used extensively by water skiers, PWC users, etc. This area is also narrow (200’ across) and has many obstructions. Believes the traffic in this area has increased ten-fold in the last ten years. Has personally pulled two individuals out of the water in the area of his home with more than ‘band-aid’ care. Stated that speed, inattention, and alcohol all contribute to the problem. Believes we need to be proactive. Believes the solution is simple: slow down.

Mr. Alfred Peduzzi – Homeowner – Waterway safety – Lives in the Juno area. Believes that the congestion between Bert Winter and Juno Park is a recipe for disaster. Stated that Florida is number one in the nation for number of vessel registrations. Thinks our work is important, but we need to assess whether or not law enforcement is adequate. Also believes that the vessel traffic study is a good start, but doesn’t think some of the data used in the study is accurate (lack of citations). Believes the criteria for risk must look at the ICW when it is heavy with traffic; believes we must consider property damage when the accident could have injured an individual if they had been present on the dock (this happened at his home). Strongly suggests that a No Wake zone be instituted.

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Mr. Larry Kelleher – Property owner – Concerned about the area between Donald Ross Bridge and PGA Blvd. He is a resident in this area and has observed accidents and many near-misses in this area. Advised the area north of Indiantown Road is not as narrow as this area (Donald Ross Bridge and PGA Blvd.) but has a greater risk. As recent as two weeks ago he was thrown out of a kayak by a boat wake. This commercial area north of PGA Blvd. is where boats are worked on and tested between there and PGA Boulevard. Stated he had seen the ‘Lickety Split’ four times in less than 20 minutes one day. Advised the real problems occur on weekends and nights after 10 pm. Would welcome law enforcement to come and view the problem.

Dr. Ted Schiff – Property owner - Bert Winters Park area - Advised that although the study shows shoreline to shoreline is 300’, due to the docks and marinas in reality it’s more like 150’ – 190’. At low tide the waterway is reduced even more. There is no natural shoreline, and so the water churns back and forth like in a bathtub – no way for water to dissipate. There are blind corners as well as swift and rapid currents from between 2.2 and 2.4 knots, resulting in serious maneuverability issues. Has been a dramatic increase of boat traffic in this area.

Mr. Robert Nankervis – PGA Blvd. and Donald Ross Bridge – Doesn’t go out on weekends because of all the traffic. In 11 years has seen it constantly get worse. Not uncommon on a weekend to see what looks like tidal waves in this area.

Mr. Matt Collins – Wake limits – North of Juno Park and South of Bert Winters – Is an avid kayaker and advised the area is very dangerous.

Mr. Michael Stern – Oak Harbor area - Has experienced accidents on the waterway while attempting to dock. Advised it is not rocket science. Don’t spend money on data, just come and take a look for ourselves.

Mr. Frank Catalano – Lives opposite of Bert Winter Park - Concerned about the area between Bert Winter Park and PGA Blvd. Area is very narrow. S-turn in the area does not give boaters time to see what’s ahead.

Mr. John Pascerella – Oak Harbor area, southern end - Vessel speed control – Concerned about area around Oak Harbour Marina. States that boats come up/down on plane at this area and is concerned about visibility of boaters.

Mindy Heilman – Passed on opportunity to speak.

Mr. Charlie Isiminger – Consultant - His client wishes to have a zone 300’ either side of Donald Ross Bridge. He will be send drawings and so forth within next few days. They will need to be entered into the workshop minutes.

Mr. Ralph Castagna – Oak Harbor area – Advised that 90% of folks here are from the Oak Harbor area. Concerned about kayakers in the area being capsized by larger vessels. Problematic getting his boat on and off lift.

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Mr. Rick Jordan – Oak Harbor resident – This area is very congested on weekends. Believes that law enforcement needs to look at impaired boaters in this area. Questioned the length of the zone just north of Oak Harbour.

Mr. Wayne McCormick – President of Oak Harbor Marina Association – Marina damage – Addressed the oversight of his marina not in the study when other private marinas were mentioned. Has witnessed two accidents in his marina. Believes the data is flawed because of the criteria which makes a boating accident 'reportable'.

Mr. Paul Walczak – Homeowner – Lives on 'S' curve between Donald Ross Bridge and PGA Boulevard. Doesn't understand study. Stated the study didn't even take this area into consideration. Advised that many of the accidents don't get reported; add the large vessels with the giant wakes and you have a very dangerous situation.

Mr. Ron Surowitz – Passed on opportunity to speak.

Mr. Jack Fletcher – Homeowner – Lives on the 'S' curve just across from the Jupiter Office on the ICW. Many times the larger vessels do not see smaller family recreational vessels and it is an accident waiting to happen. Has witnessed large 'go fast' boats passing in the 'S' curve as close as 12' – 15'.

Mr. Don Winans – Boca Harbor Homeowners Association – Questioned the Highland Beach 'red' area. Advised it's wide open, and no one has any problems.

Mr. Greg Bowan – Highland Beach – Enforcement of existing regulations – Not a lot of areas in the southern portion of the county to use for recreational boating. Would not like to see any changes in this area. Did state that on any given weekend, you could see many 'go fast' boats speeding in excess of 40-50 mph. Stated that he rarely sees any enforcement from local, city, county, or state.

Mr. Jeff Kuehl – Resides between Bert Winters Park and PGA - Lives about 170' south of zone (Bert Winter). Asked should the zone now be larger, 600' or more from current zone. Also mentioned that the best time to waterski is during the week. Advised that vessels often pass at less than 10' apart. Believes the study is extremely flawed. He understands risk. With larger vessels and more vessels in the area, they need a zone here.

Anita Casey – Homeowner – Resides on the ICW between Atlantic and George Bush Blvd. – Believes that the state of Florida is a joke to all tourists, as we have no licensing in the state of Florida. Has seen boats operating in this area at two, three, and four abreast; has also seen 'go fast' boats racing in this area. Shame on America for not having a boating license.

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Mr. Tom Byrne – Boynton Inlet to Delray – Area is about 300 yards wide, doesn't think we differentiate between the sizes of boats. We have no wake zones or full speed ahead zones.

Mr. Rick Howard – Resides in Boca Raton - Concerned about area around Highland Beach.

Mr. Joseph Cory, Sr. – Resides in the Highland Beach area - Concerned about boats travelling at high speeds and disregard for kayakers. Proponent of regulation, but also would like to see more enforcement in area.

Mr. Gerald Ward – comments presented via electronic mail on November 18, 2009 - These cursory comments and later bolded and underlined comments are for your 19 November 2008 workshop to be held 1800-2000 19 November 2008 at Palm Beach County Offices 2300 Jog Road, West Palm Beach, Florida:

The first area of discussion should relate to the 21 bridges which cross the Intracoastal Waterway. I recommend the FWC standard slow speed zone be established for each bridge and any existing expansions of the "bridge" zones are reviewed and generally included in this rulemaking process. In other words the 300 feet standard should be adopted, but, with certain existing extensions. (In particular, the West Palm Beach, Lantana, Delray Beach and Boca Raton existing zones have basis from the past rulemakings.) (Figure 2-6, page 46 needs review for typographical or copying find's information errors - for instance: SR 7007 is SR 707 and SR 7006 is SR 706.)

Based upon the draft 10/3/2008 "palm beach county vessel traffic study" (as qualified by my consensus group initial comments), the existing Palm Beach County boating restricted zones (pages 51 and 52) should carry great weight in proceeding towards proposed rulemaking. The figures for focus areas (pages 76-82) provide good summary information.

Retention of the Jupiter island to Indiantown road (aka-Loxahatchee river) (page 76) idle speed zone with four bridges seems rational. Testimony should be solicited as to whether a slow speed zone designation would be equivalent in safety? The record and model analyses supports retention of the existing zone.

Higher level government (Palm Beach County Rec. and Parks has delayed since 1975 establishment of a new boat ramp facility immediately in the southwest quadrant of SR 706 (Indiantown Road). You were provided a preliminary electronic copy of that facility's site plan which indicated the SR 706 bridge zone could be simply extended slightly south. You need just before "proposed rule" to decide whether zone extension is warranted or whether the county will continue to delay this facility construction.

South of Bert Winters Park focus area (page 77) clearly determines that no modifications should be initiated. This is a 300 feet wide find rights-of-way land cut

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construction of the waterway. This area has developed since the war with single family folk who have more recently redeveloped with "high rent" single family construction and during the 1980's era with some multi-family construction on Florida's i-95 of the waterways. Fortunately, most of the multi-family construction has been with specific conditions prohibiting adjacent owners requesting rulemaking such as this. (Further, corps of engineers permits has clearly placed waterfront facility owners (single family and multifamily) on notice that law and regulations do not protect their facilities from commerce related impacts. Again, no modifications should be made north of the commercial facilities included in the PGA Bridge expanded zone.

North Lake Worth focus area (page 78) study results certainly determine that no changes are warranted. This area (similar to the between northern two bridges in West Palm Beach as well as Boca Raton) are also related to one of the more effective federal regulation establishment by the US Coast Guard seventh district bridge section of the aids to navigation branch. Making changes in this (and in West Palm Beach & Boca Raton) will result in federal impacts which are unwarranted.

Likewise, Peanut Island focus area (page 79) study results mandate a rulemaking analysis similar to that suggested above for the "Loxahatchee river" area. As the cover and other study results indicate this is an intense and good usage area. My specific most intense observational experience (circa 1965 through 2008, (I live and work in this town) says although some results could lower the speed to "idle" within the existing zone, such may not result in improvements because of currents, shoal and vessel control factors. I recommend the zone be continued including no extension to the north other than the current standard of specifying a 300 feet distance north of the blue heron bridge centerline.

The Boynton Beach Bridge focus area existing zone works extremely well. My direct observations relate to clients since the 1970's in all quadrants of the Ocean Avenue Bridge and northward to the previously contemplated high span bridge. Keep the existing rule adopted zone, it works well.

To the south vicinity Delray Beach, the county is just completing a new boat ramp facility which needs FWC evaluation for potential rulemaking. See:

"Park emphasizes boat ramps, preservation by Don Jordan | Tuesday, November 11, 2008, 05:43 pm

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Additional boat ramp access to the Intracoastal Waterway is now available at the new mangrove park in Delray Beach. The \$2.7 million, 4.5-acre Park at 1211 S. Federal highway includes two boat ramps, staging docks, benches, a bicycle rack, restrooms and parking for trailers and cars.

But what the park doesn't include is just as noteworthy. A large area has been set aside to protect native wildlife habitat, including seagrass beds and a mangrove forest.

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The park was paid for by \$1 million from the city, \$1 million in county grant money and \$688,420 from the Florida Inland Navigation District."

Both the Knowles Park boat ramp and Highland Beach focus areas study results have developed information that warrants further input from the citizens. I would suggest you attempt in this and future workshops to draw out local specifics to determine if the study results warrant zone implementation.

As previously noted, both the delay beach and Boca Raton areas have adopted rulemakings by the state and at the federal level for bridge regulations which are interrelated. These state zones are working and appear to need no modifications.

We look forward to summaries of you meetings on 19 November 2008 and notice of follow-on workshops.

This morning I was led to look at your 0900 7 November 2008 email meeting notice and rule text and 14 rule development 68d-24.017 FAC maps. A number of these maps do not reflect the draft 10/3/2008 "palm beach county vessel traffic study". For some reason several of the maps are generated converting "slow speed" zones to "idle speed" zones. In particular, Peanut Island/Palm Beach Inlet, Flagler Memorial Bridge, Royal Palm Bridge, Lantana Bridge and Boca Raton Lake/bridges! All of these zones need to be returned to "slow speed" on the maps. Further why are the maps different from the draft rule text?!?

What is more curious is the rule development rule text which implies other changes!?!? In particular, the text 68d-24.017(1)(a)(2.) Without justification greatly expands the existing Bert winters park and converts such to idle speed without justification.

The same occurs with 68D-24.017(1)(a)3. Rule development text takes the Juno Park zone and supposedly expands it to PGA Bridge, again without justification.

This FWC process is based upon specified and limited law and is not related to public outcry or legal technician ranting (arguments)! Just the differences between rule development text presented says boating & waterways should withdraw the 7 November 2008 documents and advise the attendees at the 19 November 2008 meeting that for follow-on meetings the documents for review will be coordinated (and provided with clear justifications citing agency (or consultant) generated materials.

Meeting adjourned at 8:20 pm.

Comments Received after the Workshop - The following comments were received via email from Mr. Reed Kakuska, a resident along the ICW. While Mr. Kakuska submitted his comments on November 24, 2008, they were not received in our office until March 9, 2009. These comments are posted as part of this workshop

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and will become part of the public record since we are still involved in the workshop portion of the Palm Beach County Vessel Traffic rule development phase.

Mr. Reed Kakuska - Resident - For the record, I am a property owner who lives in the area that garnered most of the public discussion. My home is on the Intracoastal Waterway across from E&H Boatworks, just north of the PGA Bridge. I have lived in the area for over 20 years and have been an avid boater for over 40 years (I started very young! - I grew up on a fresh water lake in Michigan). I took boating safety classes as a youth, and attended the United States Merchant Marine Academy at Kings Point, New York after high school. I have extensive boating experience and have sailed to South and North Africa. I am an avid boater, water skier, and fisherman, and for the past ten years have done most of my boating between the Jupiter Inlet and the Lake Worth Inlet (and the ocean in between).

Unlike the majority of the individuals who spoke at yesterday's public forum, I am not a proponent of adding more No Wake or Idle Zones to the Intracoastal Waterway between Jupiter and West Palm Beach. I agree with the results of the Vessel Traffic Study that indicates that all of the high risk zones in this area have already been designated as No Wake/Idle Speed zones and therefore the expansion of these zones (into low risk areas) is not warranted.

I am concerned that a fair cross-section of the citizens who use the Intracoastal Waterway was not represented at yesterday's meeting. The meeting was dominated by property owners who wish to have the waterway adjacent to their properties designated as No Wake or Idle Speed zones without regard for the impact of business interests or other citizens who use the public waterway. For instance, I heard comments criticizing the practice of E&H Boatworks to use the straight section of the Intracoastal Waterway north of the Juno Park No Wake zone to test run (or sea trial) their customer's boats after repairs are made. E&H Boatworks has been an established boat yard in the area for many years, the economic impact to that business, and the entire community should be strongly considered before yielding to public opinion that would restrict the ability of E&H to Sea Trial their customers boats a reasonable distance from their boat yard.

Public comments were also heard describing a boating fatality in the area. It should be noted that fatality took place in the Bert Winters Park area that already is designated a No Wake zone. This information exemplifies the fact that the No Wake zone did not prevent this fatality. Irresponsible boaters are not impeded by No Wake zones.

Another comment was received from the public that requires clarification. Someone indicated that there is not enough room between the jog in the waterway and the straight section in the waterway south of the Bert Winters Park No Wake zone to be able to see the No Wake sign. This is simply inaccurate, there is plenty of room for boaters to observe the No Wake zone sign and slow down prior to entering the Bert Winters Park No Wake zone.

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I do agree with general public comments that proper enforcement of current responsible boating laws in the area would be beneficial. I would also recommend that the commission consider other alternatives to No Wake or Idle Speed zones if the commission determines that additional restrictions are warranted in this area.

If the commission determines that excess speed is a problem in this area, then I would encourage the commission to consider the imposition (and enforcement) of a 30 mph top speed limit in the area. On the other hand, if excessive wakes are determined to be the problem, I would encourage the consideration of a max wake restriction similar to that which is imposed in Broward county or an Idle Speed restriction on boats larger than 35 feet in length (this is used effectively on the intracoastal in the area south of the Hobe Sound bridge).

Finally, there is one area north of the Bert Winters Park that is not currently designated as a No Wake Zone that may fall into the guidelines of the vessel traffic study that the board should be made aware of and may want to consider more closely - that is the area under and just south of the Donald Ross drawbridge. There are gas docks in the marina just south of the drawbridge, and the area under the bridge itself is not designated No Wake. As far as I know, this is the only drawbridge in the area that is not covered by a No Wake zone. It is also the only area that I am aware of that has gas docks that may be exposed to wakes from large vessels transiting the area on the intracoastal.

Thank you for taking the time to consider my comments and making them a part of the public record.