

**Manatee Protection Plan Review Committee (MPPRC)
Meeting Minutes of February 29, 2008**

Scrivener's Note: Corrections to page 8 have been made in response to a motion at the April 8, 2008 MPPRC meeting. These changes are incorporated herein and have been approved by the Chair prior to posting.

Committee Attendees: Brett Bibeau; Richard Bunnell; T. Spencer Crowley III; Roman Gastesi Jr.; Bob Karl; Mark Lewis; Kate L. Mansfield, Ph.D.; Manny Prieguez (Chairman); Dick Townsend (Vice Chair); Julia Zaias, DMV, Ph.D.

County Staff Attendees: Dorian K. Valdes, P.E., Assistant Director (DERM); Susan Markley, Ph.D. (DERM); Craig Grossenbacher (DERM); Lisbeth Britt (DERM); Molly Messer (DERM); Lubby Navarro (Office of the Chair of the BCC)

Other Attendees: A sign in sheet was provided for public sign in (copy attached).

The meeting agenda is attached and made a part by reference hereto.

1. Introduction:

Chairman Prieguez called the meeting to order at 2:15 p.m. with nine (9) members present, the required quorum being seven (7), and shortly thereafter, a tenth member joined the meeting. Chairman Prieguez introduced Mr. Richard Bunnell, newly appointed by Commissioner Seijas, District 13. Mr. Bunnell introduced himself as a marine contractor with special knowledge and interest in the Miami River. Dr. Markley announced the appointment of Ms. Lynda Green by Commissioner Jordan, District 1. Ms. Green was appointed after the February meeting date was set and already had a previous commitment and expressed her regrets to Dr. Markley at not being able to attend today. Two members are yet to be appointed for Commission Districts 9 and 10. Chairman Prieguez asked Lubby Navarro of Commissioner Barreiro's Office to request of the Commissioner that he send a reminder to Commissioners Souto and Moss that their committee appointments are pending.

Dr. Markley advised the Committee that materials had been mailed to each of them in the month of January. She asked that each member advise her if they failed to get the mail out or emails concerning setting the meeting or review of minutes.

2. Review of Agenda and Draft Minutes of Dec. 17, 2007 Meeting:

Mr. Bibeau indicated that he had not had chance to review the meeting minutes, and requested that review be deferred until next month's meeting. Chairman Prieguez suggested instead that the minutes be voted upon so that the minutes can be posted for public review. However, if Mr. Bibeau has any comments, these can be incorporated and the minutes officially amended at the next meeting. Mr. Gastesi then motioned for the minutes to be approved and Dr. Zaias seconded the motion. The minutes were unanimously approved.

Chairman Prieguez deferred Item 3 on the agenda, establishing a public workshop date, until later in the meeting (see Item 9).

4. Review of Responses from FL Fish and Wildlife Conservation Commission (FWC) for MPP clarifications:

Dr. Markley summarized the two letter responses from the FWC to DERM dated September 18th and December 18th, 2007, copies of both of which had been previously provided to the Committee and which are incorporated herein by reference. She urged the committee members to read the letters in their entirety, and reviewed highlights of the correspondence. In the September 18, 2007 letter, FWC states in part, "Based on our experience with implementing the state-approved Miami-Dade county MPP, the existing protections provided by the plan appear to be successfully addressing risks to manatees. As you have noted, revision to the Miami-Dade MPP has not been identified as a priority in the draft state management plan. We consider your MPP one of the best plans available because it appears to provide adequate conservation measures that are also easy to interpret and implement." FWC further states that if the plan is to be revised, "The first step in this process would require the collection of more recent data; otherwise, there is no objective analysis that can be done to address any changes that may have occurred since the plan was initially approved." The December 18, 2007 letter reiterates this information and also advises the Committee to consider and review manatee mortality data, especially as pertains to the Miami River.

Dr. Markley also summarized a portion of a letter from FWC to Broward County, which FWC copied to all other Florida counties with approved MPPs, dated December 20, 2007. The letter conditionally approves the Broward County MPP, which includes a slip pool allocation and offsetting measures; however, it advises that FWC will not approve similar approaches for other counties: "By copy of this letter to other counties with approved MPP's, we are providing notification that methodologies involving slip pool allocations or slip transfers will not be recommended for approval by FWC for MPP revisions in the near future. One of the concerns we have for this methodology is how riparian rights will be provided using the slip pool method..." A copy of this letter was provided to the Committee at the beginning of the meeting.

Mr. Crowley asked Dr. Markley to further explain FWC's concern about slip allocations. Dr. Markley responded that she could not respond in detail, since she did not want to misrepresent FWC's concerns. However, she explained generally that few counties have used slip pool limits or transfers of slips, and that some issues were developing during implementation, primarily related to fairness in allocations or distributions. For example, one owner may obtain a large number of slips from the pool, but a neighboring property would not be able to receive any if all the slips were used up. In the case of a transfer of slips, a restriction might be placed on the property that no longer was using slips. These considerations affect property values and traditional rights of access. The FWC letter states that these types of issues must be addressed more fully before implementation in other areas.

Mr. Bunnell requested that Dr. Markley provide copies of the Broward Plan to the Committee. Mr. Prieguez suggested that a link to the Broward web site would be sufficient as Dr. Markley explained the document is very large. She did offer to provide a hard copy to any member who makes the request to her once the link is provided.

Mr. Gastesi referenced the FWC December 18, 2007 letter and suggested that data collection should be the MPPRC's priority.

5. *DERM Review of Status of Data Collection and Recommendations for MPP Clarifications:*

Dr. Markley indicated that there are two kinds of data that need work: updated information on manatees and their habitat, and information on boater utilization and boating facilities. Manatee mortality and population modeling is a statewide endeavor. Miami-Dade has been collecting information on manatee distribution and on resources on an ongoing basis. The main focus of new data collection by the County will therefore be of boating and facilities.

DERM has a contract with Mote Marine Laboratory to collect 12 months of boater user and compliance information in Miami-Dade. The contract was executed in January 2008, data collection began in February and will proceed for one year. A draft final report will be available several months after data collection is complete.

DERM staff is working in-house to update boat facility inventories and occupancy rates. Dr. Markley stated that a draft inventory of permitted facilities will be presented under agenda Item 7 and later staff will convert the information for mapping and GIS analyses.

The Miami-Dade Parks and Recreation has a contract with Lambert Inc. to identify boat facility supply, demand and related economic issues. The study will assess retention of facilities, or changes in types of facilities, by comparing earlier records to current inventories.

Chairman Prieguez then opened the floor for discussion. Dr. Mansfield asked whether or not Mote Marine will do manatee aerial surveys. Dr. Markley responded that DERM conducts manatee aerial surveys and participates in statewide counts. DERM intends to present the results of the manatee aerial surveys at a later meeting.

Dr. Markley then stated that DERM staff generally concurs with FWC that the current MPP has worked to protect manatees, while also allowing for permitting of many slips or facilities. She identified one area that DERM staff believes requires substantive revision: the definition of "existing marine facility". Dr. Markley provided some background on the development of the definition and the deliberations of the first advisory committee. She explained that the current definition is becoming increasingly difficult to implement because it is based on a date beginning in October 1984, and the definition does not clearly address some practical details of facility use. Dr. Markley stated that DERM is not suggesting a specific remedy at this time. Dr. Markley added that although DERM believes no other substantive changes are needed, the narrative of the entire marine facility siting section of the MPP should be clarified and reformatted. She reiterated that these clarifications and reformatting were not considered to be substantive changes. Dr. Markley presented two slides that expanded upon these points. Those two slides are attached and made a part of the minutes.

Mr. Bibeau requested that Dr. Markley provide the Committee copies of her slides. He also reported that sections of copy of the MPP that he has for review appear to be missing pages from the Executive Summary, and he requested a copy of Appendix A, the Biscayne Bay Bottom Communities Map. Dr. Markley stated that DERM staff would look into this issue and would provide any missing pages to the Committee.

Several Committee members, including Mr. Bibeau, Mr. Gastesi, and Mr. Karl, then expressed a concern about the timeline for completing the required study and the requirements in the ordinance that sunset the Committee in April 2009. Mr. Gastesi suggested that the Committee meetings and time clock might be suspended for a

period of time to allow for data collection. Chairman Prieguez suggested that the Committee has so much information to cover that a request to the Board of County Commissioners for an extension of the Committee is more appropriate, and asked whether a 6 months extension is sufficient. Mr. Bibeau suggested a one year extension. Dr. Zaias made a motion for a 9 month extension.

The motion to request the Board to extend the Committee sunset by nine months was seconded by Mr. Bunnell and the motion passed unanimously. Chairman Prieguez requested DERM staff prepare a draft letter for his signature addressed to Commissioner Barreiro that requests this extension. Mr. Lewis made the motion that the Chairman be allowed to review and sign this request on behalf of the Committee without further review by the Committee. Again, this motion passed unanimously.

Dr. Mansfield asked whether or not the Mote contract allows for interim reporting to the Committee. Dr. Markley indicated that it does require quarterly reports, including data collected, but that the overall seasonal analysis and conclusions portion will not be available as interim.

6. Committee Member Comments, Concerns Regarding the MPP Revisions:

Chairman Prieguez explained that he had previously asked DERM to summarize problems that it has experienced in administering the plan and that DERM's suggestion to refine the current definition of "existing marine facility" was an example of this. While FWC has endorsed the 1995 plan, Mr. Prieguez stated that he believes FWC does not have experience with administering it on a local scale. From here, he believes the next logical step is to ask the Committee and the public what problems their first hand knowledge reveals about the MPP. Mr. Prieguez then opened the floor for member input.

Bob Karl – Mr. Karl stated that as an average person, who has not been involved in the technical background, he finds the much of the material obscure and that it is difficult for common citizens to interpret. He considers that most boaters are like him and agrees that clarification is a critical aspect.

Spencer Crowley – Mr. Crowley offered three general comments. 1. He believes that the boating experience in Miami-Dade would be improved by having more courtesy or transient docks that allow boaters to visit parks, spoil islands, restaurants, or other waterfront venues. He suggests this should be further explored. 2. Water taxis and commuter ferries are being considered as a way to enhance transportation opportunities. He recommends that the MPP should evaluate how best to accommodate water taxis. 3. He suggests that priority be placed on identifying existing facilities that may be under-utilized but which have physical space or infrastructure to support increasing permanent slip numbers, especially dry slips, before creating new locations for slips.

Mr. Lewis asked that Mr. Crowley confirm that his last point recommends increasing capacity at existing facilities. Mr. Crowley confirmed this point.

Mr. Bibeau asked for clarification of recommendations in the existing MPP regarding "limited special use" such as water taxis with respect to the Miami River. Dr. Markley explained that the existing MPP recommends new water taxi or similar specialty slips be allowed in the downtown area and from the mouth of the Miami River west to the 5th St. bridge. Dr. Markley pointed out that the impact from any slip is related to how many boat trips the slip generates, and that water taxi slips or

courtesy docks at restaurants by nature have a potentially greater impact than other kinds of slips, since many different boaters might use the same slip each day. She explained that even though the Miami River is an important manatee habitat and has a history of mortality, the original committee understood the goals for waterfront redevelopment and access including water taxis. The original committee reached a compromise that allowed for this use in the downtown area and lower River, with limits on density of such slips.

Mr. Townsend, the co-chair of the original advisory committee, explained some of the limitations from the original Plan are due to the length of time the document took to get approved and the compromise in verbiage required to serve the varying interests. This resulted in a patchwork writing that should be improved with any revisions to the plan. He stated that the original plan is a compromise document.

Julia Zaias – Dr. Zaias requested data be provided on distribution and health of sea grass beds in relation to manatee use and boat patterns, manatee population changes over the past 10 years, including reporting on manatee use and mortality in the Miami River. She also requested population modeling information and asked whether data from non-DERM sources of manatee data can be considered.

Dr. Markley explained that DERM records public and other opportunistic sightings of manatees, but noted that this type of data could be biased due to the locations where the public are allowed to go and to the locations where the public congregates. She furthered explained that the aerial surveys provide better coverage of manatee distribution and have been conducted at least quarterly since 1989, though they are not considered to be an accurate representation of population transects, but the number of runs are limited.

Kate Mansfield – Dr. Mansfield requested that satellite telemetry data on manatees be included in the data review effort. She also inquired about whether it was possible to determine changes in population or develop a population index to assess patterns.

Richard Bunnell listed the following concerns with the current MPP:

- He believes fendering limitations are too strict in the Miami River
- He requests that the “performance criteria” for variances should be reviewed, He believes they are too strict, noting that he is not aware of any variances to the Plan that have been approved.
- He would like more explanation to be provided about the State’s decision not to delist the manatee, even though the populations appear to have increased
- He believes law enforcement is a more viable management strategy than restricting facilities
- He believes signage is confusing, and should be redesigned with cartoon-like images of manatees
- He recommends emphasis on movement or use of slips, rather than limitations on numbers
- He requests better definition of what represents a power boat vs. a sail boat, and review of potential impacts

Brett Bibeau requested that the following topics to be included in plan updates:

- Should slip transfers be recognized by the new plan since this is already going on in Miami-Dade County? With respect to this question, Dr. Markley explained that the 1995 plan does not recommend such a process, but also does not prohibit or preclude it. She added that the Board of

County Commissioners had approved a resolution directing that a procedure be developed for consideration of reallocation of unused slips in the Miami River, that such a process had been developed, and could be implemented on a case-by-case basis. She stated that it is likely that this will be discussed further by the committee, but that staff has not made a specific recommendation at this time, in view of FWC's guidance on the subject.

- Clarification of no wake zone maps

Manny Prieguez requested that the following topics be included in the MPP review:

- Adequacy of speed zone enforcement and penalties.
- Review of risks associated with different types of boats, considering their size and potential speed.
- Definition of types of boats needs clarification
- What is fair for permitted businesses that lease properties and then lose their lease and have to move to another location?

Dr. Markley noted that several of the issues mentioned, such as fendering requirements, some protection zones, enforcement and penalties, are part of Florida Statutes and rules, and cannot be modified by changes to the County plan. She explained that the Committee could perhaps make comment on the FWC Management Plan but that the County and the committee do not have authority to change state laws.

Chairman Prieguez expressed that he was pleased with the issues raised by the Committee and that these were just the type of issues he thought were appropriate to address as the Committee makes recommendations for MPP revisions.

7. Draft Data on Marine Facility Inventory

Dr. Markley explained two draft table handouts provided to the Committee at this meeting: Permitted Marine Facilities 1995 and Permitted Marine Facilities 2007 (copies are attached and incorporated into the minutes by reference). She explained that this is a work in progress and that the tables are based upon DERM permitting records, and include only the name, address, and reported number of slips for the listed facilities. She explained that DERM will be adding data on occupancy, type of slips or vessels, and other information as the review progresses. She stressed that DERM has not yet completed its review for accuracy. However, DERM desires to share this early work product with the committee and the public at this time to seek input from all sources to ensure the data are accurate before it is finalized. The tables do not include facilities that do not require DERM operating permits. The 2007 table does not yet include all permits issued for the 2007 – 2008 fiscal year. Dr. Markley presented a summary slide totaling the number of facilities and the number of slips reported for each table. That slide is attached and incorporated to the minutes by reference. The results show that the number of permitted facilities is roughly the same, but that the total number of reported slips has increased by about 900. By perusing the lists, DERM can infer that most properties that had marina use in 1995 still have marina use in 2007. However, the upland use has changed in some areas. For example, some sites that supported commercial marinas or boatyards have been redeveloped to residential uses such as condominiums. Later DERM hopes to use GIS mapping to display these changes geographically.

Mr. Bibeau asked whether or not the 1995 table is the same as Appendix D in the MPP. Dr. Markley explained that Appendix D, an inventory of facilities in 1995, has some errors such as facilities being listed twice or listing a facility that actually did not exist at the time

and these have been corrected in the handout. Mr. Bibeau requested that these changes be reflected in a "track changes" format or a list of changes so that they are obvious. Dr. Markley explained that the document is not a revision of an existing document, so it is not possible to "track changes", but that staff would provide examples of some of the corrections that were identified.

8. Public Comment

Chairman Prieguez then opened the floor for public comment.

Fran Bohnsack, representing the Miami River Marine Group, raised the issue of documenting the number of times a boat in dry stack is put in the water. She thinks that it is harder now for boaters to find storage, and that data of this nature could improve the potential to expand dry stack use.

Dr. Markley agreed that this would be very useful information for many types of facilities, and requested assistance from the marine community in helping secure such data or observations. Because marina operators don't have to disclose this type of information in their permits, the County does not have access to this information. Dr. Markley suggested that a request of this type to the marina operators from the marine community would be better received than if it comes from DERM. Historically, frequency of launches or use has been inferred this information from phone or ramp surveys of individual boaters, but the state prefers to rely on actual observations, rather than recollections

A discussion ensued amongst committee members about how such data could be effectively collected. Several members recommended focusing first on larger, public-operated facilities. Chairman Prieguez asked for a motion on a letter to request information from facility operators.

Mr. Crowley made a motion that DERM draft the letter and that it be signed by the Committee or Chairman. Chairman Prieguez seconded the motion that this letter go only to facilities on public property.

Mr. Bibeau asked Dr. Markley whether or not these types of data are already being collected. Is there any historic data? Dr. Markley reported that the Mote study includes collection of this type of information at some important boat access sites, several times per year, including weekends.

Chairman Prieguez requested that DERM draft a letter to facilities on public land requesting a year of data for movement in and out of dry dock and include a request to have a DERM (or contracted) observer posted at the facility for data collection.

Dr. Markley reminded the Committee that letters or actions of the committee must be drafted during a publicly noticed meeting, and that they cannot be reviewed and approved by email, or by delegation to one or more members.

Chair Prieguez then asked whether there was any more public comment and with no response, closed the floor for public comment.

9. Discussion of next meeting date and setting date for public hearing

Chairman Prieguez announced his preference that the next meeting be the meeting for public comment. Depending on the response, there might be a need for more public

hearings. Dr. Markley suggested having meetings in convenient places around the County to facilitate participation.

Mr. Lamadrid then entered the room and joined the meeting at 4:29 pm, explaining that he thought that the meeting started at 4:30 pm.

Chair Prieguez proposed Tuesday April 8 as the target date for the public hearing with Wednesday April 9th as the back up date. He asked that each member bring their calendars to all future meetings so that they can more easily estimate a target date for future meetings. Mr. Prieguez asked Dr. Markley for a public venue like the Commission Chambers and an evening meeting time to start at 5:30 p.m.

Several members, including Mr. Prieguez, Mr. Karl, and Mr. Gastesi left, since the meeting was now a little over schedule.

Vice Chair Townsend suggested a University or other secure and neutral locations and that notice be provided in a variety of ways to promote good turnout. He stated that the locations need to be convenient.

Mr. Crowley reinforced the need for all of the Committee's information to be on a dedicated web site with an email contact for the public to ask questions. Mr. Crowley also requested the scope of the Mote Marine study so that the MPPRC can provide comment. Dr. Markley indicated that the scope is already set by contract and that changes cannot be readily accommodated. She explained that the process to initiate the bid solicitation and contract award was initiated by DERM before the Committee first met because the Department realized that data collection would take longer than the Committee was set up to meet.

Mr. Bibeau asked how much of the dedicated funding (\$700K) remains. Dr. Markley explained that the total figure represents the estimated cost for outside contractors, such as Mote Marine Laboratory, DERM staff and other county services related to data collection, analysis and reporting, aerial survey flights, computer services, advertising, reproduction, and other related expenses. Mr. Bibeau then referred to specific pages in the MPP and requested that the following issues be addressed at future MPPRC meetings (editor's note: the text below was modified per a motion at the April meeting):

1. Citing pages 47 and 87, Mr. Bibeau requested a status report on enforcement of no wake zones, including grants for local enforcement.
2. Citing pages 47 and 87, Mr. Bibeau requested a report on activities of a law enforcement task force.
3. Citing page 86, Mr. Bibeau requested a report on all slips or notches permitted for filling in the Miami River and elsewhere. Mr. Bibeau stated that the MPP says that filling slips may impact manatee habitat and should not be allowed. His request is for a status report on how developments on the Miami River have gotten permits to fill slips.
4. Status of recommendations for grating on all culverts
5. Citing page 20 of the MPP, Mr. Bibeau requested a report on SWIM funding for stormwater projects since 1995
6. Reports on seawall repairs or shoreline stabilization to reduce turbidity
7. Status of repairs to reduce manatee mortality at airport canals
8. Status of flood gate alterations to prevent manatee deaths
9. Status of Sonar technology to avoid manatee collisions
10. Status of prop guards to reduce manatee injuries and effort to provide economic incentives for boaters to use them

11. State statutes related to signage requirements and fines for speed zone violations

Vice Chair Townsend made the motion to adjourn the meeting at 4:50 p.m.