

**FORT MYERS BEACH  
TOWN COUNCIL AND  
MARINE RESOURCES TASK FORCE  
WORKSHOP  
APRIL 15, 1999  
NationsBank, Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA**

**I. CALL TO ORDER**

The joint Town Council and Marine Resources Task Force Committee Workshop was opened on Thursday, April 15, 1999, at 6:33 P.M. by Mayor Ray Murphy.

**Present were:** Mayor Ray Murphy, Vice Mayor John Mulholland; Council members Anita Cereceda, Daniel Hughes and Garr Reynolds; MRTF members Arden Arrington, Joel Bellucci, Terry Cain, Eve Haverfield, John Naylor, Ginny Smith, Gene Steffan and Joe Workman. Also present were: Town Manager Marsha Segal-George, Town Attorney Richard Roosa, Coastal Engineering staff member Ilene Barnett and members of the public.

**II. PLEDGE OF ALLEGIANCE**

All present recited the Pledge of Allegiance.

Mayor Murphy turned the meeting over to John Mulholland, Town Council Vice Mayor and Chairman of the Marine Resources Task Force.

**III. PUBLIC COMMENTS ON AGENDA ITEMS**

**A. WILL WHITE**

Mr. White introduced himself as Chairman of the Southwest Florida Regional Harbor Board and one of the five signatories that created this board. He is also an officer of the Boaters Action and Information League (B.A.I.L.).

Mr. White stated that his initial comments will be as chairman of the Harbor Board, and he noted that the Town has a memorandum of agreement with the Regional Harbor Board to the effect that we will try to have in the whole five-county region a management plan in harbors that need management. This plan is to be non regulatory and is to provide the greatest degree of freedom possible for the users. In other words, boaters are presumably consulted in developing any management plan for the Harbor Board.

Secondly, three months ago the Harbor Board approved a set of principles for harbor management to which the representative from our Town, the Lee County representative and Heather Stafford, who is on the MRTF committee, all agreed. Since this Harbor Board has not had a chance to set down a response to this plan, Mr. White said he would now don his B.A.I.L. hat. He wrote a letter to Town Manager Segal-George and asked her to request of MRTF that we not make a decision on this until we have heard from them. At tomorrow's Harbor Board meeting, this agreement will be the primary item on the agenda, and they will try to get back to us as quickly as possible. The Board at the last meeting also voted to submit the plan in its latest draft to a Captain Alan Richard of the Florida Marine Patrol and also to Tom Ankerson and Richard Hamann, who are lawyers with the Center for Governmental Responsibility at the University of Florida. When their responses are obtained, they will be passed along to us.

**B. WALTER STILLEY**

Mr. Stilley is the president of B.A.I.L. He advised that he had reviewed the Matanzas Harbor Action Plan at the last meeting of the committee and that he wished to revisit it again for the benefit of those of us who were not at that meeting. He stated

that we have to remember that in the B.A.I.L. proposal, we are attempting to find a way to solve our matters requiring regulation in a system that will serve both the boater and the community. It would be much better to engage the boaters in the anchorage in an ongoing discussion of what happens in the anchorage and what's to be done about it. They are after an alternative solution that will not anger people.

Mr. Stillely asks that we please consider the B.A.I.L. plan. In their opinion, it would be best if the boaters are permitted to govern themselves with participation by the city, the DEP and others. They have gotten this to work in the Harbor Board and think that it's worth pursuing. The boaters would be much happier if they could begin to be put into the mix now before hard and fast rules are made.

**C. JESS SEWELL**

Mr. Sewell noted that he has been involved in a lot of scientific research during his life and he is used to dealing with things in a very factual way. From his perspective, we have not established cause and effect relationships. There have been a lot of emotions and feelings, but we don't really know if there is pollution. If there is pollution, we really have not established where it's coming from. And, in fact, it's already illegal and it should be. His suggestion is to take a good look at whether or not we can identify what the specific problems are, because at that point we have a better chance of dealing with them effectively. It might be better for the city to help subsidize a guy when he comes in with a load and let him dump it at a marina and sign for it. If we find that adjustments are necessary, that's great.

Mr. Sewell added that he had attended the B.A.I.L. meeting and he doesn't feel that they would represent his interests very well at all and he would prefer that they speak for themselves and not for the boaters in general.

**D. RODNEY FILKINS**

Mr. Filkins stated that he pays over \$600 to store his boat at the Palm Grove Marina every year for two months when he comes here from Wisconsin. He couldn't afford a mooring fee. Maybe the \$30,000 that was spent assessing the situation down here should have been spent for the outhouses up and down the beach for the 3,000 people that go there every day. If we really want to clean up the area, he would say that the shrimp boats are the biggest problem. There are generators running, the air smells. The morning of the 6th at sunrise the whole water was polluted with oil. One day last year at the Palm Grove Marina one of the shrimp boats' bilge pumps spilled oil. This is a much greater problem than the sailboats.

**E. ANNE GORDON**

Mrs. Gordon announced that she had been boating in this area since 1984. She does not support restrictions in the anchorage and she thinks that when we enact them, two things will result. We'll be opening ourselves up to lawsuits to challenge them and we will drive cruising boaters and their business dollars from the area. But if regulations must come, she supports the plan proposed by B.A.I.L.; and she thinks any plan should involve input from cruising boaters. She feels that there are existing laws that could and should be enforced regarding anchoring and holding tanks, if those are the key problems that we wish to address. Why have more regulations? Enforce the laws presently in effect. There are a lot of hidden costs not addressed by saying that we will hire a harbor master. For instance, constructing and

maintaining shoreside facilities; a boat for fuel; a boat and fuel and oil for transportation for the harbor master to and from the anchorage; liability for moorings, etc.

Mrs. Gordon noted that typical fees at established mooring fields on the east coast have escalated to \$15 a day, and many of these places are unoccupied most of the year. The fees that we have suggested, ranging from \$160-\$195 a month will drive the boaters out of the area if they came for a short stay or into marinas if they plan on a longer stay. Why would any reasonable person spend \$160-\$195 a month for a mooring with limited facilities available, when they can stay at a marina with electrical power, water and other amenities for not that much more. She thinks that Fort Myers Beach will be further ahead economically and socially by restricting high speeds in

back bays that stress, maim and kill wild life and serve no purpose for the general population other than to stir up the bottom land and make marina environment uninhabitable. Regulate boat and jet ski levels with qualified operators who will respect the laws already in place. Provide monitors at fueling stations and enforce the holding tank rules that are already in place. Set a feasible fixed rate at pump-out stations, or consider a barge-type wagon to make it easier for boats to comply with the rules that are already in effect.

According to Mrs. Gordon, only 3% of the 36,000 registered vessels in Lee County are sail boats, but they make up by far the vessels anchored in Matanzas Pass. The proposed plan targets a very small group and ignores many others that wreak havoc in the Bay.

**F. RICK GORDON**

Mr. Gordon, the husband of Anne Gordon, felt that it was no coincidence that this meeting is being held when the basic population has already left the area. Another alarming aspect of this meeting, he stated, is that for the last several days the anchorage has been oppressed by Customs, the Marine Patrol and others that tend to harass the boaters. He has told his wife that this could be the last time that they sit at that anchorage as free boaters with the rights of free boating. Ponce de Leon many, many years ago came here unrestricted. Matanzas means slaughter, much like the slaughter of our freedom. As he understands it, this is going to be the last place on this coast where people have the freedom to do as they choose, not by regulation of government. Everybody in this room knows that we have too much regulation, too much government, too much cost, too much money going into government funds that don't express the needs and the wants of the people.

Mr. Gordon stated that he does not agree with everything that B.A.I.L. has, but if that's the bottom line, that is what he supports. He does not believe that the boaters need any regulation at all. He'd also like to invite everyone on the Task Force, including the \$30,000 engineering people, to come and spend one weekend on the anchorage so they can actually see what goes on up there. Watch the jet skis, watch the dead pelicans floating by and the gas and oil that have entered the water. Let's do something about the majority of things, not the little things.

Mr. Gordon, like his wife, feels that sailboaters make up less than 3% of the registered vessels in Lee County. He feels that this is pure and simple harassment of a very minute part of the society. If anybody can say anything other than that, he welcomes their comments.

**G. DAWN NICKELSON**

Ms. Nickelson stated that she had implemented today, along with Joanne Semmer, a petition against the Town of Fort Myers Beach's Matanzas Harbor Action Plan. It has been faxed to all the marinas and businesses in this area, including Cape Coral and Fort Myers -- anyone who might be using our waters and our anchorage. Ms. Nickelson then proceeded to read aloud the petition which requested that the Beach not obtain a submerged land management agreement for management of the harbor until all areas of concern by all persons

impacted by these actions are addressed. The areas of concern were listed. Mrs. Nickelson also advised to whom copies of the petition would be sent.

**H. DAVID RICHARDSON**

Mr. Richardson stated that an issue that he doesn't think has been addressed is unattended, abandoned and derelict vessels. It seems to him that when the Town was incorporated, it was bare bones government. There are about 9 or 10 unattended boats in his neighborhood. We should empower the police to address these vessels, set a time limit for them to be there, track down the owners. That, combined with the "honey barge," which Jess suggested, is a very simple, inexpensive thing to do.

**IV. DISCUSSION OF MATANZAS HARBOR ACTION PLAN**

Mr. Mulholland read from a memo that was prepared by the Town Manager, which he felt gives a full and clear history of what is going on. He felt it might clear up some misunderstandings and misapprehensions and maybe some bad information that people have. The memo advises why the Marine Resources Harbor Subcommittee was formed and the contract that was entered into with Coastal Engineering. Town Manager Marsha Segal-George secured a grant from West Coast Inland Navigational District (WCIND) for \$30,000 and that has paid for the Matanzas Harbor Action Plan study. No money has gone out of the Town Treasury and taxes have not gone up for the study. Given were the dates of all six advertised public meetings by the Harbor Subcommittee that have been held since September 9, 1998. All these meetings were recorded and minutes are available in the file. The subcommittee has been totally in the Sunshine. The full Marine Resources Task Force recommended that the draft plan be presented to the Council tonight.

Mr. Mulholland noted that of the 13 members in the Marine Resources Task force, 9 are involved in boating -- 6 commercially and 3 recreationally. They are not only aware of boating and aware of the anchorage, but are keenly interested.

Things at issue are reducing or improving marine sanitation; improving safety; creating a little order so that boaters do not run into each other.

The waterfront supervisor's handbook has been produced by Coastal Engineering. It was approved by the MRTF and given to the Council to review. Mr. Mulholland discussed this book page by page.

Dan Hughes asked about the remark made by Mr. Gordon that we are the only free harbor in the state and wished to know if that was true. This question couldn't be answered, but Mr. Hughes said that it would seem to him that if every other harbor has seen fit to regulate, there must be some rationale for why they have done so. He would take that argument as being something that would favor us taking a closer look at imposing some sort of regulatory authority over the situation here.

Asked what a port of refuge was, Ilene Barnett explained that there are certain locations that are noted as safe areas where boats can go to wait out a storm. Matanzas Harbor is one of those safe areas.

Mr. Mulholland advised that the rules and procedures outlined in the handbook shall apply to any vessel, its owner or owners, crew and guests entering the Town of Fort Myers Beach's municipal anchorage. Pointing to the map on the wall, he indicated where the Town's jurisdiction over the harbor was. The jurisdiction goes offshore 1000 feet and what is being proposed in the handbook is entirely within the Town's jurisdiction. Dan Hughes advised that he's always had a problem regarding where the Town's jurisdiction is shown on the map attached to the handbook, which differs from the one on the wall. Mr. Hughes feels that this difference should be resolved and that the maps should be consistent with one another. Mr. Mulholland felt that we should use the map in the handbook, that it defines our Town boundaries and he questions the map on the wall.

Dan Hughes questioned the last sentence of the introduction in the handbook and indicated he'd like the Town Attorney's opinion regarding whether ejection from the harbor was the only sanction that could be imposed by the municipality. Town Attorney Roosa stated that ejection might not be an appropriate consequence of an ordinance violation as much as a fine or 30-day jail term. Somewhat implied is that the harbor master would say that you have to comply with this or you have to move on, but that allows for a determination of violation and a penalty at the same time, and those two processes need to be separated. You cannot have the same person do both. The penalty requires a judicial process. Another concern voiced was whether or not a violation of an ordinance can be penalized by requiring that a person be ejected from the town. The statutes set out specific penalties for violation of an ordinance: a fine of not more than \$500 and incarceration for not more than 30 days. Those are the limitations that you have for compliance. You can also through code enforcement impose a penalty, and it can be so punitive on a per day basis that boaters would make up their minds that they're going to move on. But that's not the same thing as ejecting them. Attorney Roosa said that for page 1 purposes, he would suggest putting a period after the word "ordinance" and then just striking out "and be sufficient for rejection from the Town of Fort Myers Beach Municipal Anchorage." Ray

Murphy said that he had no objection to this.

On page 2 under B, Rules and regulations regarding the lease agreement, Dan Hughes stated that the lease is not geared to accommodate something less than a monthly rental. If we're going to have short-term rates, then the lease would have to be modified. Ilene Barnett said that it may not have been spelled out clearly in this draft agreement to cover all eventualities, but other mooring lease agreements also did not have that language. An extra sentence could be added to clarify that. Attorney Roosa stated that he would think that if you were to do it on a daily or weekly basis, you would not have a written lease. Boaters would make the payment and you would give them the rules that they would comply with. But you would at least want them to sign an acknowledgment of the receipt of the rules and regulations and that they agree to abide by them.

Dan Hughes advised that he did not know what was meant in paragraph V on page 3 -- may not have signed said lease or sublet the mooring lease agreement. Is there supposed to be another document there? John Mulholland stated that he understood this to mean that the person who has the lease does not have the right to assign it to someone else and leave. Attorney Roosa said he would strike out the words "the said lease." and just say "may not assign or sublet the mooring lease agreement."

On page 4 Dan Hughes felt that there was considerable duplication. He would just make a general comment that a number of these provisions under C, Rules and Regulations, are repeated again under Environment. Ilene Barnett stated that this was set up intentionally for someone's information so that they could get to a certain topic and see what the rules and conditions are in that topic. But the actual lease agreement has the mooring rules on the back page, which is an insert in the back of the handbook, and that basically is everything in C.

Council member Anita Cereceda questioned paragraph 11 on page 4 -- "the mooring of boats and vessels . . . is hereby declared to be a privilege and not a right." Attorney Roosa recommended review of this statement by a maritime attorney. Ilene Barnett advised that the statement had been supported by the Coast Guard. A review by a maritime attorney was done for the City of Stuart's lease agreement, which this is in part modeled after. But it seems that there is some controversy about that legal review and an additional legal review is recommended. It is currently being reviewed by a maritime attorney as part of the Regional Harbor Board's assistance

in this process, and we should be finding out more about that at tomorrow's Regional Harbor Board meeting.

On page 5, Councilman Garr Reynolds with respect to the statement regarding moving a boat or vessel for safety purposes or otherwise when the boat owner is not immediately available felt that the word "otherwise" left the moving of a vessel open to reasons other than safety. It seems like it should only be for safety or emergency purposes. Attorney Roosa agreed that "otherwise" should be stricken from the statement.

Council member Anita Cereceda wished to know why we wanted to include the waterfront supervisor in paragraph 7 of page 5. She was told by John Mulholland that this was because the waterfront supervisor is the person who is going to see when there is something wrong. Ilene Barnett stated that this was criticized by boaters causing the City of Stuart to modify their language. Language was added that the waterfront supervisor would first contact the vessel owner and discuss any questions about compliance with the Clean Vessel Act and other rules that he has concerns with and try to get the owner's permission. Only when all else fails could he board the vessel. Dan Hughes stated that if you don't have the right to inspect, you totally emasculate your ability to regulate. And there are times when the Florida Marine Patrol or U. S. Coast Guard are simply not available. And, incidentally, this doesn't actually say board the boat, it says inspect the vessel. He understands, however, Council member Cereceda's concern about an overzealous harbor master just hopping on boats and trying to find something wrong when there is no reasonable cause to do so. He would be in favor of giving the power to the waterfront supervisor to inspect, but only when there's reasonable cause. Attorney Roosa stated that it could be dangerous to enter a boat without permission. We might be giving

the waterfront supervisor a responsibility without adequate authority to carry out that responsibility. John Mulholland asked if we could say that the waterfront supervisor will work with the boat owner, and in the absence of the boat owner's consent and approval, he will try to contact the proper authorities.

It was noted that Paragraph 9, marine sanitation, has been modified. Anita Cereceda stated that it should be a policy that there is no pumping out of sewage anywhere in the Back Bay. We should strike "in the anchorage." Attorney Roosa said that though he agrees with Council member Cereceda conceptually, these are rules and regulations governing mooring and other activities at the anchorage.

Council member Cereceda noted that there are several references to guests of the anchorage and she would like to change the word "guest." People who live in the Back Bay are not guests of the Back Bay.

Ilene Barnett stated that the head of the Domestic Waste Section of the DEP in Fort Myers will be sending a letter saying that the law states it is illegal to discharge treated or untreated waste from a vessel into state waters. There are some marine sanitation devices that treat the sewage before it's discharged but can still put nutrients into the water. The law says that discharge must go into a sewage pump-out station and not into surface waters.

Dan Hughes stated that he would reverse the last sentence on page 5 and the first sentence on page 6. On page 14, he would make the violation a separate paragraph.

Page 6, paragraph 10 addresses marine pollution. Dan Hughes stated that there were some different standards in this paragraph and litter control on pages 15 and 16. For instance, on page 16 it says that all boaters in the anchorage are supposed to use bilge pillows and on page 6 it says absorbent sock. Councilman Hughes would like to see the language more consistent.

Item 12 deals with fish cleaning. Ilene Barnett explained why it was important not to throw fish remains into water where there is already a high nutrient buildup. Anita Cereceda felt that the quantity of fish being cleaned and dumped into the water is negligible. Dan Hughes stated that the fishermen that come into all of the marinas that he has observed clean fish and throw the waste into the water. If it's not an environmental hazard, we should delete the ban. If it is, then we should prohibit it at the marinas. It was decided to drop item 12.

Item 13 concerns noise that creates a nuisance or disturbance to guests in the anchorage. It was noted that if we have a noise ordinance that in effect in the Town, then it is automatically in effect in the anchorage.

Item 14 -- protecting the wildlife in the anchorage. Dan Hughes felt that page 17 gave a broader explanation than item 14 on page 6. Ilene Barnett stated that what a boater needs to be aware of is very specific to manatees.

Page 9, IV., Harbor Facilities. Dan Hughes stated that the fairways have never been marked beyond a certain point and there are times when the sailboats are quite close to shore. If you have large boats coming and going it's very narrow. John Mulholland said that the layout shows proposed new day markers where the channel is delineated so that boats going down the fairway or channel can find their way. We could also delineate in this plan where the mooring fields are going to be.

Dan Hughes asked Ilene Barnett what were the rights and usages of the right-of-way as distinguished from the federal channel itself. Ms. Barnett advised that the project manager at the Army Corps of Engineers for this channel wasn't too clear on the purpose of the right-of-way except that when they need to do work around the channel, they have sort of an expanded easement around it.

Ilene Barnett also stated that the plan shows that we really need better shoreside amenities if the harbor plan is going to be implemented. There is also grant funding associated with municipal mooring fields and funding for the associated shoreside facilities that are needed to service those moored boats. She tends to agree with people who say that if we're going to put in permanent moorings and charge people, that we should have very good shoreside facilities for them to avail themselves of. There are various options for doing this. John Mulholland agreed that we do have to give the boaters something back

and amenities is one of the most important parts of this plan.

Page 11, Communication. John Mulholland asked Ilene Barnett what happens if someone comes into the anchorage after hours and the waterfront supervisor has gone home. Her reply was that the boater could anchor or pick up a vacant mooring. The waterfront supervisor would contact that boat owner the next day.

Page 13, VI., Environment and Marine Sanitation. A broader treatment is given here to some of the subjects that were brought up in the lease agreement. On page 14 it indicates that the waterfront supervisor has authorization to board vessels and this was questioned. We will wait for Council's opinion on this.

Litter control is given broader treatment here than in the lease. Ray Murphy stated he was glad that it mentioned the Ostego Bay Emergency Response Coop. as the local organization to contact.

Pages 15-17. Council member Cereceda noted that there are recurring statements advising that harassment of protected wildlife in the anchorage is illegal and will not be tolerated. It is not tolerated anywhere, she stated, and can't we just say harassment of protected wildlife is illegal and will not be tolerated period. According to Dan Hughes, just saying that it is illegal is enough.

Dan Hughes feels that the word "policy" doesn't carry with it the fact that something will be enforced. He would rather see litter control rules or regulations rather than litter control policy. Also, rather than saying the use of shoreside trash and recycling receptacles is encouraged, we should say that it is required.

The statement regarding fish cleaning was deleted.

Page 16. It was decided to change the word "policies" in the statement "The Town of Fort Myers Beach municipal anchorage field and oil spill control policies" to "rules."

Attorney Roosa was asked if the rules would be put into ordinances. He advised that there were some things that can be done by resolution. Asked if then no penal sanctions could be imposed, Attorney Roosa replied that's correct. He also advised that the lease could be done by resolution. It doesn't have to be part of the ordinance. He would like to pick out all the things he would want in an ordinance, and what's left would be put into resolutions.

Page 18, 19, VII., Contacts.

## **B R E A K**

### **V. PUBLIC COMMENTS**

#### **A. DAWN NICKELSON**

Advising that she would like to address four issues, Mrs. Nickelson first referred to water quality and she stated that the test results of Ostego Bay were on file.

Secondly, she indicated that it appeared we were trying to manage moorings and boating as we would condos and that this couldn't be done that way.

Thirdly, addressing Dan Hughes, she announced that she believed in freedom, that this anchorage is currently free and should be left free. Asked by Mr. Hughes why she was addressing this remark to him, Mrs. Nickelson advised it was because he had stated that we were the only free anchorage currently ongoing in the State of Florida. Also, he is very strong on ordinances and policing in general.

Fourth, she finds Item 15 of the harbor action plan to be filled with inaccuracies. She suggests that we start over and include boaters, have a maritime lawyer and have a representative from the U. S. Coast Guard, the DEP and from all other government agencies involved and then try to formulate a plan.

#### **B. RICK GORDON**

Mr. Gordon stated that our proposal clearly does not identify any of the problems concerning the environment in the Back Bay. We have decided to delete the fish issue, which he feels is just as important as all the other issues. To him, this whole thing is right back to Square One. We are not doing anything for the quality of life in the Back Bay.

#### **C. THOMAS L(?)**

Mr. L. advised that he is part of what happened here before when this kind of thing was done by the County and it was found to be totally unconstitutional. It's still unconstitutional because nothing has been changed yet. All the rules and regulations that we're going through here are a total waste of time. They are already in place. The only thing there is a choice for a vote on at this point is whether or not you want to spend your town's taxpayer's money in putting in a mooring field at their expense that you can't even require anyone to use. These things were all discussed before when he took the County and the State to court and won. All of these guidelines, all of the rules are already there. Us being there is not illegal unless the federal government decides to make a congressional action on it, and it has not in 200 years.

Mr. L. feels that the whole community should pull together and that the boaters have been made adversaries when they only want to help.

**D. DAVID RICHARDSON**

Mr. Richardson said he considered himself a mariner rather than a boater. He advised that if we accept this plan the way it is, the yachts will go elsewhere and we'll be left with an empty mooring field. He feels we should get more education on maritime law, on the workings of the yachts and the various boats that use the anchorage out here.

**E. WILL WHITE**

Mr. White asked about public hearings and John Mulholland advised that first this subject will go back to the MRTF and changes will be implemented. It will come again to the Council. If the Council approves it and an ordinance is proposed, then there will be public hearings.

Mr. White also asked if we have to restate federal and state laws. He was told that we probably do, but it will be done in the correct fashion.

Mr. White advised that there is state law that says that municipalities cannot regulate non liveaboard vessels in the act of navigation. Mr. Mulholland assured him that this will be looked at with our maritime attorney.

Also explained by Mr. White was that the term liveaboard could not be used unless the vessel was one's legal residence.

Mr. White felt that it was erroneous to charge a bigger boat more than a smaller boat.

**F. WALT STILLEY**

Mr. Stilley wondered if we could not find a way for B.A.I.L. to participate with us in this. John Mulholland stated that we have bent over backwards to get people to work with us. As mentioned previously, Gene Steffans from Palm Groves Marina has worked with us faithfully and pointed out many things that he was unhappy about, and he has helped us a great deal. Mr. Stilley was encouraged to tell us about things B.A.I.L. might not like. Ray Murphy suggested that Mr. Stilley write his concerns down in letter form and he will get them to the Task Force and copy them to the Council as well for review. Mr. Stilley indicated that all their concerns were in the 3-4 page handout that he had brought with him tonight, which is an attempt to find a way for proper governance with a modest amount of regulation.

**G. RODNEY FILKINS**

Mr. Filkins stated that there is one reason why this whole thing will not work, and it's Mother Nature. He referred to the high winds in winter which will prevent the waterfront supervisor from hopping in a boat and collecting fees from people who just came in for a couple of days without ramming into a \$200,000 boat. There's going to be major damage.

Asked for comments, Daniel Hughes advised that we will read the handout from B.A.I.L. and that the Marine Resources Task Force may see fit to incorporate some of the recommendations into the plan. He also advised that he liked the term harbor master instead of waterfront supervisor and John Mulholland said he did also.

Garr Reynolds said he wished to thank Mr. Stillely for giving us the handout. He thinks it was very nice of Mr. White and Mr. Stillely to come by and offer their services and expertise. He stated he was disappointed that so many boaters are so concerned at this point and waited so long to come in. This has been going on for about a year. He urged that they don't stay away until the next final things comes before us. He advised that MRTF would have enjoyed having B.A.I.L.'s ideas and input, because they are the ones who have been working hard on this, and he asked that B.A.I.L. come in and spend some time with MRTF. It was good that they came in tonight as they really presented some very strong points. It's just too bad that they weren't heard earlier.

Dan Hughes noted that several of the people who spoke tonight properly brought up that there are other areas that need to be addressed. He would just reiterate that the Council doesn't view the boats that are in that mooring area as the sole and only problem that we have in the Back Bay and that this Council has to address, and we're fully aware of other things, such as infiltration in the canals, and so forth, that affect our Back Bay but have nothing to do with the people in the moorings. Hopefully, boaters will not feel that the Town Council is using them as scapegoats.

John Mulholland thanked Ilene Barnett, the project scientist on the study, and told her she has done an excellent job. He also thanked the selection committee, the subcommittee and Marine Resources for all the time, energy and effort that they put into this plan. Progress would have been much slower without them and is appreciated. He also thanked his colleagues on the Council for their review and the Mayor for letting him chair this meeting.

## **VI. ADJOURNMENT**

The meeting was adjourned at 9:52 P.M.

Respectfully submitted,

Lorraine Calhoun  
Transcribing Secretary

## Items for Action from the Workshop Meeting of 4/15/99

1. Attorney Roosa said that for page 1 purposes in the handbook, he would suggest putting a period after the word "ordinance" and then just striking out "and be sufficient for rejection from the Town of Fort Myers Beach Municipal Anchorage." Ray Murphy said that he had no objection to this.
2. On page 2 under B, Rules and regulations regarding the lease agreement, Dan Hughes stated that the lease is not geared to accommodate something less than a monthly rental. If we're going to have short-term rates, then the lease would have to be modified. Attorney Roosa stated that he would think that if you were to do it on a daily or weekly basis, you would not have a written lease. Boaters would make the payment and you would give them the rules that they would comply with. But you would at least want them to sign an acknowledgement of the receipt of the rules and regulations and that they agree to abide by them.
3. Dan Hughes advised that he did not know what was meant in paragraph V on page 3 -- may not have signed the said lease or sublet the mooring lease agreement. Attorney Roosa said he would strike out the words "the said lease." and just say "may not assign or sublet the mooring lease agreement."
4. Council member Anita Cereceda questioned paragraph 11 on page 4 -- "the mooring of boats and vessels . . . is hereby declared to be a privilege and not a right." Attorney Roosa recommended review of this statement by a maritime attorney.
5. On page 5, Councilman Garr Reynolds with respect to the statement regarding moving a boat or vessel for safety purposes or otherwise when the boat owner is not immediately available felt that the word "otherwise" left the moving of a vessel open to reasons other than safety. It seems like it should only be for safety or emergency purposes. Attorney Roosa agreed that "otherwise" should be stricken from the statement.
6. Attorney Roosa stated that it could be dangerous to enter a boat without permission. We might be giving the waterfront supervisor a responsibility without adequate authority to carry out that responsibility. John Mulholland asked if we could say that the waterfront supervisor will work with the boat owner, and in the absence of the boat owner's consent and approval, he will try to contact the proper authorities.
7. Council member Cereceda noted that there are several references to guests of the anchorage and she would like to change the word "guest." People who live in the Back Bay are not guests of the Back Bay.
8. Ilene Barnett stated that the head of the Domestic Waste Section of the DEP in Fort Myers will be sending a letter saying that the law states it is illegal to discharge treated or untreated waste from a vessel into state waters. There are some marine sanitation devices that treat the sewage before it's discharged but can still put nutrients into the water. The law says that discharge must go into a sewage pump-out station and not into surface waters.
9. Dan Hughes stated that he would reverse the last sentence on page 5 and the first sentence on page 6. On page 14, he would make the violation a separate paragraph.
10. Page 6, paragraph 10 addresses marine pollution. Dan Hughes stated was that there were

some different standards in this paragraph and litter control on pages 15 and 16. For instance, on page 16 it says that all boaters in the anchorage are supposed to use bilge pillows and on page 6 it says absorbent sock. Councilman Hughes would like to see the language more consistent.

11. Item 12 deals with fish cleaning. It was decided to drop item 12.

12. Page 9, IV., Harbor Facilities. John Mulholland said that the layout shows proposed new day

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13. Asked what happens if someone comes into the anchorage after hours and the waterfront supervisor has gone home, Ilene Barnett's reply was that the boater could anchor or pick up a vacant mooring. The waterfront supervisor would contact that boat owner the next day.

14. On page 14 it indicates that the waterfront supervisor has authorization to board vessels and this was questioned. We will wait for Council's opinion on this.

15. Pages 15-17. Can't we just say harassment of protected wildlife is illegal and will not be tolerated period. According to Dan Hughes, just saying that it is illegal is enough.

16. Dan Hughes feels that the word "policy" doesn't carry with it the fact that something will be enforced. He would rather see litter control rules or regulations rather than litter control policy.

17. Rather than saying the use of shoreside trash and recycling receptacles is encouraged, we should say that it is required.

18. The statement regarding fish cleaning was deleted.

19. Page 16. It was decided to change the word "policies" in the statement "The Town of Fort Myers Beach municipal anchorage field and oil spill control policies" to "rules."