



JACKSONVILLE CITY COUNCIL

JACKSONVILLE WATERWAYS COMMISSION

DERELICT VESSEL TASK FORCE MEEETING MINUTES

April 3, 2024

Lynwood Roberts Room
1st floor, City Hall

Attendance: Waterways Commissioners Jimmy Peluso (Chair), Mike Barker; Jim Suber - Waterways Coordinator; Terry Carr - Environmental Quality Division; Jeff Clements – City Council Research Division; Brooks Dame and Amber Lehman – Executive Council Assistants

Meeting convened 11:34 a.m.

Chairman Peluso convened the meeting and the attendees introduced themselves for the record.

Shannon MacGillis of the Office of General Counsel distributed her research on guidance regarding derelict and abandoned vessels and anchoring enforcement issues. She recommended repealing the existing Ordinance Code Chapter 388 – Boats and Waterways – and replacing it with a new revised, reorganized Chapter 388 consisting of 5 parts: 1) Findings, Legislative Intent, Definitions; 2) Floating Structures; 3) Anchoring Limitation Areas; 4) Abandoned Vessels; and 5) Derelict Vessels. She suggested a 3-phase process for adoption: 1) Task Force approval of the structure and concepts of the revision, which she will draft in compliance with the requirements of *Florida Statutes*; 2) Task Force review and revision of the initial draft; and 3) opportunity for public and mariner comment on the draft and finalization of the legislation. Chairman Peluso gave his approval for Ms. MacGillis to begin the drafting process based on the outline presented today.

Commissioner Barker said a fee and fine structure for violations of the chapter and guidance for law enforcement officers are 2 topics that need to be covered in the new chapter. He also suggested the need to consider possible mechanisms to effectively post vessels with notices, noting that there have been at least 3 instances where the owners of abandoned vessels have been determined to be deceased. Ms. MacGillis said the current code provisions have differing notice provisions for different situations and the chapter re-write gives the opportunity to clean that all up. She noted that any local regulations will have to adhere to the *Florida Statutes* requirements with regard to 45-day notice periods. There is some leeway to deal with a fine and fee structure at the local level. In some cases, boat owners have found that it is cheaper to violate the anchoring time limitation and pay a citation than it is to rent a boat slip, so that has to be taken into account. Lack of clarity about official Immunity is a major component that has been hindering enforcement actions; placing a notice on a vessel is considered “entering” the vessel. The proper state law provisions need to be incorporated in the Code to permit that to happen. Each section will have its own notice provisions to reflect state law on the particular topic.

Ms. MacGillis said there are no enforcement procedures for abandoned or derelict vessels in our Code but there are in state law, and they will be imported into our Code. She will make the procedures as clear as possible and specifically reference state immunity provisions so that protection is clear to enforcement officers.

Captain Suber said Ordinance Chapter 615 – Docking – contains the City’s docking regulations and asked if they would be included in the new chapter. Ms. MacGillis said they would, as that seems like a logical location in the boating chapter. Capt. Suber cited the example of man living in a truck at a marina with his boat illegally docked. The boat is not derelict or abandoned and so is not covered by ordinances governing those conditions, but a mechanism is needed to tow a scofflaw boat for violating an ordinance. There currently is no real remedy if the owner just takes the citation and continues to violate the law. He believes the ordinance needs a towing provision and then the City will have to hire a towing company and a storage yard to store boats that are towed away. Ms. MacGillis said there should be a way to address that situation but recommended not making the chapter regulations overly case specific. She suggested adopting general regulations to deal with situations that are likely to happen. She said there might be a need to add a sixth section to her proposed chapter outline to include docking regulations and enforcement. She will need to research trespass regulations and constitutional notice requirements to make those regulations enforceable. Capt. Suber said Chapter Ordinance Code Chapter 615 also covers water taxi and commercial vehicle docking so that subject should be carried over to the new chapter.

Chairman Peluso asked about the process of hiring a towing contract and what that might cost. Capt. Suber suggested checking with the two major boat towing companies in town and asking them for prices and how they would handle towing requests (based on location, size of boat, distance towed, where they would tow to for storage, etc.). Capt. Suber agreed to research towing issues with the companies to get a basic understanding of their operations. Ms. MacGillis said there are *Florida Statute* regulations on vessel towing that need to be considered and incorporated. She thought the City would probably need to do a competitive procurement and suggested considering the example of how the Sheriff’s Office tows vehicles since that system has been litigated and successfully defended. She will use that model for the first draft of the new chapter. Capt. Suber talked about the need for clarity on what happens to a vessel after it’s been impounded for the required time, for instance, can it be junked or sold? Ms. MacGillis said state law has different rules for each type of situation so each part of the chapter will need to address the specific rules required by law. Capt. Suber said it’s important to follow state law, but the Florida Fish and Wildlife Conservation Commission (FWC) realizes there is a “Catch-22” situation that impedes enforcement of regulations and there are discussions planned at an upcoming FWC meeting on that topic. Ms. MacGillis said that meeting would be an opportunity to get the ball rolling on suggesting desirable changes to the *Florida Statutes* or FWC regulations.

Ms. MacGillis said she intends to have a draft of the chapter re-write ready in 30 days and could circulate it to appropriate regulatory and enforcement agencies for review and comment.

Terry Carr with the Environmental Quality Division said if a vessel is seized by the City and has fuel or other hazardous materials onboard, then the City would probably have the liability to remove that and protect the environment. Capt. Suber said that is why the City would hire a contractor to do the job since they have the expertise and equipment to do the job properly and the City would then put a lien on the vessel. Referring to a comment earlier in the meeting, Mr. Carr said it’s very unlikely that any of these seized vessels would ever be suitable to be used as artificial reef material. Capt. Suber said the cost to make a vessel reef-worthy is astronomical due to the environmental regulations.

Ms. MacGillis said the bill drafting process needs to take into account the various regulations and procedures of the enforcement agencies involved (FWC, JSO, etc.) so our Code chapter needs to coordinate with those authorities. Gaby Young, the General Counsel attorney assigned to the Sheriff’s Office, will review the draft

Chairman Peluso thanked Ms. MacGillis for her great work to date on this issue.

The next Task Force meeting will be scheduled for May 13th at 10:00 a.m.

Meeting adjourned 12:15 p.m.

Jeff Clements – Council Research Division

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