Memorandum

MIAMI-DADE COUNTY

Date: SEP 23 2010

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Report of Follow-up Comments from the Florida Fish and Wildlife Conservation Commission on Recommendations of the Manatee Protection Plan Review Committee for Revision of the Miami-Dade County Manatee Protection Plan

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You may recall that the final written recommendations of the Manatee Protection Plan Review Committee were provided to members of the Board of County Commissioners (Board) in November 2009 (attached). In addition, the Committee's recommendations as well as data and analysis reports were also provided to the Florida Fish and Wildlife Conservation Commission (FWC) in order to elicit initial comment on revisions to the Manatee Protection Plan. Following initial comments from FWC received in February 2010 (attached), DERM staff coordinated with FWC to further discuss the updated data and analysis generated during the MPPRC review process and the recommendations of the MPPRC.

Please find attached FWC's follow-up comments dated August 11, 2010 on the final written recommendations of the Manatee Protection Plan Review Committee (MPPRC).

Background

Section 370.12(2), Florida Statutes, requires counties to adopt a local Manatee Protection Plan (MPP), which must be approved by the FWC. Miami-Dade County's present MPP was adopted in 1995 and is approved by both the FWC and the US Fish and Wildlife Service. Changes to the County's approved MPP must also be reviewed and approved by these agencies.

The MPPRC was established in 2007 by Ordinance No. 07-144 to provide advisory recommendations to the Board regarding the need for amendments, revisions and additions to the County's approved MPP, consistent with manatee protection regulations of the State of Florida. The ordinance further states that recommendations shall be in accordance with the guidelines and requirements of the FWC statewide Manatee Management Plan and shall be based on updated information, data and analysis provided by the Department of Environmental Resources Management (DERM), including but not limited to the requirements of FWC, as well as other relevant information. The MPPRC concluded its work in October 2009 with a series of motions identifying components of the MPP that were recommended for revision or clarification. The final written recommendations of the MPPRC were provided to members of the Board in November 2009. The MPPRC recommendations as well as updated data and analysis reports relating to manatee distribution and mortality, and boat travel patterns, were also provided to the FWC in order to elicit initial comment on suggested revisions to the MPP.

In February 2010, FWC provided initial preliminary comments on the recommendations made by the MPPRC. FWC's initial response acknowledged the County's efforts in gathering updated information and data analysis, and emphasized that proposed revisions to the MPP must be supported by this objective data. However, FWC indicated that it was not clear how this data was considered in the Committee's recommendations, and further stated that it would be difficult for FWC to concur with several of the Committee's recommendations as currently proposed. FWC also reiterated the importance of early coordination with its staff and the US Fish and

Wildlife Service (USFWS), to achieve concurrence with any proposed revision to local MPPs and to assure that the appropriate level of manatee protection is provided. FWC recommended further discussion of proposed revisions and review of the supporting data between county, state and federal staff as the most expeditious path to revising Miami-Dade County's MPP.

Following receipt of these initial comments from FWC, DERM staff further coordinated with FWC to discuss the updated data and analysis generated during the MPPRC review process and discuss recommendations of the MPPRC. FWC has now provided additional, more detailed feedback on the MPPRC recommendations (attached FWC Follow-up Review letter dated August 11, 2010). In addition, we have received correspondence from the USFWS regarding FWC comments (attached). FWC's technical feedback does not constitute an agency action, but rather is intended only to provide guidance on the most productive forward path for formal review and approval of a revised plan. Although FWC's comments identify certain elements of the MPPRC recommendations that they cannot support, FWC has provided additional guidance on recommended plan revisions that are likely to be acceptable to their agency, subject to development of acceptable specific language to be included in the revised MPP. As compared to their initial comments, the FWC is now willing to consider a process to allow for transferring the use of boat slips from one site to another, and suggested that the issue be addressed countywide rather than limiting it to the Miami River. In addition, FWC recommended updating the definition of existing facilities in the MPP and they provided guidance on an acceptable approach. Although FWC did not agree with the recommendation for a ten-fold increase in transitory dock density in areas of downtown Miami and the Miami River (FWC noted that this area has the highest concentration of manatee deaths in the County), they did suggest an opportunity for limited expansion of transitory boat slips in this area.

FWC has clearly indicated that formal approval of any plan revisions will require review of the specific proposed revision language in the context of the entire plan. Any revision to the County's approved MPP will ultimately require formal review and approval by the FWC and USFWS. I am therefore instructing DERM staff to work with these agencies to develop specific language for a draft revised MPP based on the recommendations of the MPPRC and the follow-up comments received from FWC. Following development of a draft revised plan and receipt of public comment, the draft revised plan will be presented to the Board for your consideration for transmittal to reviewing agencies for formal review and approval.

If you have questions regarding this matter, please contact Carlos Espinosa, Director of DERM, at 305-372-6754 or me directly.

Attachments:

- FWC's Follow-up Review of the Recommendations from the Miami-Dade County Manatee Protection Plan Review Committee dated August 11, 2010
- USFWS Letter to FWC dated September 8, 2010
- Transmittal of Final Written Recommendations of the Manatee Protection Plan Review Committee to Board of County Commissioners dated November 19, 2009
- FWC's Preliminary Review of the Recommendations from the Miami-Dade County Manatee Protection Plan Review Committee dated February 3, 2010

c. Honorable Mayor Carlos Alvarez
Susanne M. Torriente, Sustainability Director
Carlos Espinosa, P.E. DERM Director

Florida Fish and Wildlife Conservation Commission

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Managing fish and wildlife resources for their long-term well-being and the benefit of people.

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MyFWC.com

August 11, 2010

Mr. Carlos Espinosa, P.E., Director
Miami-Dade Department of Environmental
Resources Management
701 NW 1st Ct.
Miami, Florida 33136

Subject: Follow-up Review of the Recommendations from the Miami-Dade County Manatee Protection Plan (MPP) Review Committee (MPPRC)

Dear Mr. Espinosa:

On February 3rd, 2010, the Florida Fish and Wildlife Conservation Commission (FWC) sent preliminary review comments concerning the MPPRC's Final Written Recommendations to Miami Dade County Department of Environmental Resource Management (DERM). DERM staff asked FWC staff to further clarify comments on the proposed motions. Since our preliminary review of the 23 motions adopted by the MPPRC, we received additional information and have discussed our questions with DERM staff. We have also performed preliminary reviews of the data in order to assess the motions further.

We agree with general concepts behind some of the motions and believe that many issues can be worked out and specific revised MPP language could be drafted that would be acceptable to FWC. This letter represents our effort to provide more detailed input on the MPPRC motions. Approval of any plan revisions cannot be provided until the specific language of the revised plan can be reviewed in context.

Motions 1, 21 and 22

As stated in our earlier correspondence, several of the motions are outside the purview of the MPP. Motions 1 and 21 recommend that the Board of County Commissioners urge the Florida legislature to 1) increase penalties for violations of manatee protection vessel speed zones and 2) require boat operator licenses and mandatory boater education for all age groups. Motion 22 recommends that the Board of County Commissioners establish a Manatee Protection Fund. We remain neutral on motions 1and 21 as these are not issues included in MPPs. Motion 22 regarding funding should be discussed and included in the MPP regarding how protection efforts will be supported. There are already basic funding requirements associated with the implementation of the MPP. It is our opinion that the past level of funding should continue (or increase if needed, during this revision process). Also, a discussion of this funding should be included as a part of the revised MPP.

Motions 2 through 7

These motions are all related to the removal of slips or berths in use at one location and transferred to another. We support the concept of slip transfers provided the process is done in such a way that it provides a benefit to the manatee and the overall value of the MPP. As discussed in our February 3rd, 2010 letter, we cannot support the

motions as written for inclusion into the MPP. We recommend addressing the issue county wide rather than just the Miami River, and further we believe more details need to be provided that will ensure the slip transfer will provide a net benefit for manatees We believe the final details of a slip transfer process will need to be worked out carefully between the county, the FWC and the USFWS. In order to provide some additional guidance we offer the ideas listed below. We believe if these provisions were included the slip transfer process, it would be considered a net benefit for manatees. In order to benefit manatees, the slip transfer process should include the following provisions:

- All donor sites should retain riparian access of at least one motorboat slip for every one hundred feet of shoreline owned, or one per parcel if less than 100 feet of shoreline is owned.

- Donor sites should be located in areas designated as essential habitat, as defined in the MPP.

- Recipient sites should not be located in state manatee protection areas designated as "No Entry Areas" (or limited use areas), as designated in 68C-22.025 F.A.C. including portions of the Little River, Virginia Key, Coral Gables Waterway, and Black Creek Canal.

- Facilities at recipient and donor sites should be legally constructed and have all active and current local, state and federal permits as required.

- To qualify as a transferable slip, all donated slips should be documented showing consistent, historical past use by motorboat; documentation would include records showing the vessel use and historical aerial photographs. Documentation of the highest single day slip use by motorboats should not be older than a period of five years prior to application for transfer.

- All recipient sites must be closer to or equidistant to Biscayne Bay than donor sites. Transfers may only occur between sites in the same waterway, river or tributary. For sites located in large water bodies like Biscayne Bay, the recipient and donor sites should be in general proximity to each other. The goal is to set a distance between sites that would not create a significant difference in vessel traffic impacts.

- There should be an overall net reduction in slips from the donor site to the recipient site.

- Slips transferred between a donor site and a recipient site must represent similar, or less, impact on manatees. Restrictive covenants, in perpetuity, must be placed on both donor and recipient sites.

- Restrictive covenants on donor sites must prohibit additional structures or launching of vessels or designate donated slips as sailboat only, if the donor site

location precludes sailboats.

- Restrictive covenants on recipient sites will 1) prohibit additional structures or launching of vessels beyond the number achieved with the transfer; 2) prohibit the donation of slips to other properties; and 3) specify the type of use and prohibit any change of use of the slips from the type approved during transfer. Covenants must be requirements in permits and submerged land leases (if required) and recorded prior to commencement of construction.

- All transfers must be reviewed and approved by DERM, FWC and USFWS.

Motion 8
This motion recommends revised language concerning single family docks. FWC agrees with the concept that under MPPs, all single family residences should maintain riparian rights and have access to the water. The MPP should establish a threshold below which, single family docks with boat slips should not be restricted by the plan. To better reflect current practices, we recommend that the plan be revised to allow up to four boat slips at a facility, including single family docks. Single family docks that request more than four slips would be reviewed under the provisions of the plan similar to any facility with 5 or more slips.

Motion 9
This motion recommends revised language concerning transitory slips. We do not agree with the proposed replacement language because the proposed slip densities are too great and locations are not specific. Such an increase in repeat use facilities would result in significant adverse impacts to manatees. However, some limited expansion of transitory slips in some areas could be acceptable. Potential increases could be considered by revising the current definition in the MPP for Limited Special Use such as:

> "..... 1 vessel slip per 500 feet of shoreline~~, or one slip per parcel, whichever is more restrictive~~."

In addition, while in the revision phase of the MPP, specific locations with specific development plans for potential increases in transitory slips can be reviewed and considered for inclusion into the MPP. Locations in sensitive manatee habitats may even be considered if such proposals are government-owned, government-operated, non-revenue generating, and there is a demonstrated need for this type of public access.

Motion 10
This motion recommends adopting proposed DERM language for revising the definition of "existing facility", with a change that includes retaining the date that is in the original plan. As discussed in our February 3rd, 2010 letter, we do not support retaining the original date in the plan. A facility that was constructed and used 26 years ago, but has not been in use for the past 20 years should not be considered "existing". The definition of an existing facility, for the purposes of a manatee protection plan, should be a facility that is legally operating and is currently producing

boat traffic, or has recently produced boat traffic that is still affecting manatees. Facilities that have all required local, state and federal permits, authorizations and approvals that are still valid, but are not yet built, can also be considered existing.

The MPP facility siting strategy should apply to facilities constructed without all proper authorizations, with the exception of facilities that pre-date permitting programs and have been in continuous use. These older facilities, and facilities that are legally constructed and permitted but do not have authorizations that clearly specify the number of slips, should be evaluated on a case by case basis. The case by case review will determine the existing number of slips by taking into account the use of the slips by vessels (including motorboat and sailboat). Documentation of vessel use history and documentation showing the facility's highest single day use must be provided by historical aerial photographs. If facilities are vacated as a result of unforeseen circumstances (such as hurricanes, fires, etc.), they could be considered existing for a period not to exceed the period five years prior to application for permit.

Motion 11
This motion has two parts. One part recommends retaining and supporting sites identified in the original MPP for the expansion of marine facilities. We agree with this concept. The other part recommends removing the residential designation at C-111. We agree with the concept that the designation as residential should be changed because it is not zoned residential, however, we have concerns with allowing potentially unlimited development in this canal. Manatee use of this habitat is significant enough to warrant specific long term planning protection. FWC suggests that a designation that specifies single family density (1:100) but allows different zoning besides residential may be appropriate.

Motion 12
This motion recommends the removal of the "Boatyard Only" designation in the Aventura canals, to be replaced by the residential 1:100 designation. The motion allows boatyards in other appropriately zoned parcels in Aventura, Sunny Isles Beach in Dumfoundling Bay and waters contiguous to the ICW. We support the change in the Aventura canals. However, the specific locations where boatyards might be allowed need to be identified for the other referenced waterways, or the residential 1:100 designation should remain. The numbers and sizes of potential boatyards need to be specifically assessed.

Motions 13, 15, 16, 17
These motions recommend removal of the residential (1:100) designations at FIU/Oleta State Park shorelines, Deering Bay/Chapman Field, Gould Canal at Black Point, and Homestead Bayfront Park/Convoy Point. What is recommended by the motions for these sites appears to be a new MPP designation category specific to boats of trailerable size. A clear definition of what "trailerable" means is needed, as well as an idea of how many additional slips would be allowable at each site. While we think the intent of this designation is to keep vessel sizes appropriately small due to the more shallow nature of these area waters, it does not address the numbers of vessels that would add cumulative impacts to the waterways. Appropriate design of ramps

could have the effect of limiting the size of boats that can be launched at specific ramps.

FWC has the following concerns:

- Manatees still consistently use the areas around Deering Bay/Chapman Field, Black Point/Gould Canal, and Homestead Bayfront Park/Convoy Point (Motions 15, 16 and 17). This use is still significant enough to warrant specific long term planning protection that includes some sort of maximum slip density limit, perhaps allowing different zoning besides residential. FWC is open to the concept of allowing higher densities for these facilities if it can be demonstrated that there is a need for public access.
- Manatee use in the vicinity of FIU/Oleta State Park (Motion 13) still indicates that the surrounding areas are sensitive manatee habitat. However, FWC would consider a case be case review of projects that address water access for the public, target vessels appropriate to the waterway, and that are consistent with manatee protection.

Motion 14
This motion adds additional locations for public transient or courtesy docks along specific shorelines. Amendments included clarifying that the provision does not limit the density of transitory docks more than what is stated in the MPP, or rescind Motion 9. FWC agrees with this motion, clarifying that transient or courtesy docks in areas identified as appropriate for commercial marinas and ramps are not restricted in number.

Motion 18
This motion recommends a reduction in the area identified as recommended for expansion for commercial marinas, dry storage, ramps and transient docks, changing the border to begin at Venetian Causeway going south. FWC agrees with the concept that the designation can be changed, however, this motion is unclear as to what the replacement designation would be for the area that is removed. How many and what type of facilities would the new designation allow? Additional discussion and data analysis is warranted for this area and a proposed designation for this change is needed for consideration.

Motions 19 and 20
Motion 19 recommends revision of the fender language to remove 'major' from the requirement for renovations. We concur with this revision, as proposed.
Motion 20 recommends that the MPP be updated with all the maps and technical information provided by DERM during the committee review process. We concur with this recommendation. Changes to an MPP must be supported and justified with accompanying data.

Motion 23
This motion adopts the recommended changes to performance measures and variance language proposed by DERM, with the amendment that Black Point Marina be added as a cold-weather aggregation area. If the intent of revised language is still essentially the same as what is in the approved MPP, which is to prohibit variances in cold-

weather aggregation areas, other areas where sensitive manatee behavior occurs, or in a travel corridor to or from the area, we agree with the concepts behind the revisions to the section.

Additional Issues

A recent and important issue for most of the "Key" manatee counties has been assurance of adequate enforcement of manatee protection speed zones. This is especially important when considering an increase in the level of boat slip development in particular areas, which is proposed by some of these motions. There are different ways in which to improve on-water law enforcement, and we recommend that Miami-Dade County consider all alternatives and include a section in the MPP to discuss this issue. The August 2009 document entitled *On-Water Law Enforcement and Boating Safety Summary* developed by DERM staff, is a good basis for this portion of the revised MPP.

The recent 2009 boating study, as well as manatee aerial surveys, would be good information to share with law enforcement to help develop strategic plans for deployment of enforcement efforts. According to the 2009 study, areas where less enforcement was observed and compliance levels were the lowest are at Black Point and the Miami River. In areas where enforcement was more frequently observed, compliance was relatively high, such as Haulover Park. An enforcement strategy should be detailed in the MPP that includes a county-wide approach to ensure strong enforcement and compliance. Regular communication between staff that study manatees and law enforcement staff will aid this effort.

Another issue that Miami-Dade County may want to consider expanding upon in the revised plan is a section for the Port of Miami. There have been at least three manatee deaths from large vessels in the vicinity of the Port since the MPP was originally approved. The vicinity of Downtown Miami, the Port, and the Miami River has the highest concentration of manatee deaths in the county. An update on the master plan, the Port's expansion efforts, and development of manatee education and awareness programs specific to personnel that handle large vessels is warranted.

FWC also recommends clarifying and revising the Protection Guidelines maps so that the maps fully represent all narrative that is provided in the plan. Additional definitions need to be added to the plan, particularly given the possible changes proposed in the motions and our comments. Updates to the educational and monitoring efforts should be included as well.

Conclusion

As we reviewed the committee's work and recommendations, we also reviewed the latest manatee related data and believe that the need for manatee protection in Miami – Dade County is still strong. The number of watercraft-related deaths in Miami-Dade County has doubled since the MPP was approved (16 deaths for 1982 – 1995 compared to 30 deaths for 1996 - 2009). The continuing watercraft-related deaths, as well as the continuing high manatee use need to be considered when revising the MPP, to assure that potential impacts to manatees are adequately addressed when changes are made to the plan.

We look forward to assisting the county as the MPP revision process moves forward. Once draft language is incorporated into the MPP and can be reviewed in context, it will be easier to review the implications of the proposed revisions. It is important to note that the opinion of the U.S. Fish and Wildlife Service (USFWS) must also be considered, in addition to FWC's input on these motions and potential revisions to the MPP. Please do not hesitate to call Ms. Carol Knox of my staff at (850) 922-4330 or contact her at Carol.Knox@myfwc.com if you have any questions.

Sincerely,

Kipp Frohlich, Section Leader
Imperiled Species Management Section

RKF/cak/md

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cc: Mr. Kalani Cairns, USFWS
Ms. Lisa Davis – FWC

United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960

September 8, 2010

Kipp Frohlich
Florida Fish and Wildlife Conservation Commission
Imperiled Species Management Section
620 South Meridian Street
Tallahassee, Florida 32399-1600

Dear Mr. Frohlich:

The Fish and Wildlife Service (Service) received a copy of your letter to Miami-Dade County, dated August 11, 2010, regarding proposed changes to the county's manatee protection plan. We understand that the proposed changes submitted by the county's Manatee Protection Plan Review Committee are in the form of suggestions or motions which the county is presently considering.

We agree with some of the proposed motions to revise the plan which we think may result in reducing the potential interaction between manatees and watercraft within the county. One example is the concept of slip transfers. Though the motion lacks specific details as to how the concept would be implemented in the plan, we view this suggested change as a potential benefit to manatees by reducing the number of slips in locations where manatees are frequently present. Conversely, we have concerns with other motions suggested as potential changes to the plan, such as increasing the transitory slip density in the Miami River, a known aggregation area for manatees. This is one example of the suggested changes that, if incorporated into the county's plan, appear to increase the risk to manatees from watercraft.

We recognize that these motions currently lack the specific language necessary to be included as appropriate revisions to the county's plan. We look forward to working with you and Miami-Dade County in refining changes to the plan that will improve or maintain protection of manatees while allowing the construction of new as well as the expansion or reconfiguration of existing watercraft facilities in appropriate areas within the county.

Please continue coordinating with Kalani Cairns at 772-562-3909, extension 240, who is our point of contact regarding manatee protection plans in south Florida.

Sincerely yours,

Paul Souza
Field Supervisor
South Florida Ecological Services Office

cc:
Miami-Dade DERM, Miami, Florida (Carlos Espinosa)
Service, Jacksonville, Florida (Dawn Jennings) electronic copy only

Memorandum

MIAMI-DADE COUNTY

Date: NOV 1 9 2009

To: Honorable Chairman Dennis C. Moss and Members
Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Transmittal of Final Written Recommendations of the Manatee Protection Plan Review Committee to the Board of County Commissioners

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Please find attached the final written recommendations of the Manatee Protection Plan Review Committee.

Section 370.12(2), Florida Statutes, requires counties to adopt a local Manatee Protection Plan (MPP), which must be approved by the Florida Fish and Wildlife Conservation Commission (FWC). Miami-Dade County's present MPP was adopted in 1995 and is approved by both the FWC and the U.S. Fish and Wildlife Service. Changes to the MPP must also be approved by these agencies.

The Manatee Protection Plan Review Committee was established by Ordinance No. 07-114 to provide advisory recommendations to the Board of County Commissioners as to the need for amendments, revisions and additions to the 1995 Miami-Dade County Manatee Protection Plan (MPP), consistent with manatee protection regulations of the State of Florida. The Ordinance further states that recommendations shall be in accordance with the guidelines and requirements of the FWC statewide Manatee Management Plan, and shall be based on updated information provided by the Department of Environmental Resources Management (DERM), data and analysis, including but not limited to the requirements of FWC and other relevant information.

The attached report from Committee Chair Manny Prieguez constitutes the recommendations made by the Committee. As any changes to the approved MPP must ultimately be approved by the FWC, the recommendations of the Committee, as well as the updated data and analysis reports have been forwarded to the FWC to elicit early comments for the Board's consideration. I will notify the Board upon receipt of comments from FWC, and will also provide county staff recommendations on this matter for consideration by the Budget, Planning and Sustainability Committee.

Please contact DERM Director Carlos Espinosa, PE, with any questions at (305) 372-6754 or email: espinc@miamidade.gov.

Attachments:

Final Written Recommendations of the Manatee Protection Plan Review Committee
Dade County Manatee Protection Plan

c: Honorable Mayor Carlos Alvarez
Denis Morales, Chief of Staff, Office of the Mayor
Alex Munoz, Assistant County Manager

Memorandum
Manatee Protection Plan Review Committee

Date: October 12, 2009

To: Honorable Chair Dennis Moss
Board of County Commissioners
Honorable Mayor Carlos Alvarez

From: Manny Prieguez, Chair
Manatee Protection Plan Review Committee

Subject: Final Written Recommendations

Ordinance No. 07-144, which established the Manatee Protection Plan Review Committee, requires that within thirty (30) days of the Committee's receipt of the final report by DERM, the Committee shall make its final written recommendations to the Board of County Commissioners as to the recommended amendments, revisions and additions to the Miami-Dade Manatee Protection Plan (MPP). This memorandum constitutes the Committee's final written recommendations.

Background

The first organizational meeting of the Committee was held on December 17, 2007. Each member of the County Commission and the County Mayor appointed a person to the Committee. All seats are currently filled, and a list of the members is included as Attachment 1. The Committee has met a total of 23 times since it was first established, including a public hearing on April 8, 2008. All regular meetings were noticed and open to the public, and included opportunity for public comment. A quorum was achieved at each meeting. The original sunset date of the Committee was extended twice, from 18 months to 24 months from its date of establishment, so that the Committee would have an opportunity to review the results of an updated boating activity and compliance study in more detail. Approved minutes of the Committee meetings and materials presented to the Committee are posted on a web page hosted by the Department of Environmental Resources Management (DERM): http://www.miamidade.gov/derm/manatee_agendas_and_information.asp

At each meeting, DERM staff members provided verbal reports to the committee on data collection progress, and provided data on manatee distribution, mortality, and habitat; updated information on operating marine facilities and changes in facilities since 1995; permits issued for construction of new slips or rebuilding of previously existing slips; use of public ramps and dry storage facilities; and law enforcement, signage and education. Results of the updated study, "Recreational Boating Activity in Miami-Dade County", were presented by Mote Marine Laboratory principal investigator Jay Gorzelany, to the Committee at its June 3, 2009 meeting. DERM provided the Committee with a report entitled Miami-Dade Manatee Protection Plan Data Collection and Information Final Report, as required by Ordinance No. 07-144 on July 29, 2009. The report summarizes and synthesizes the types of information required by the Florida Fish and Wildlife Commission, including updated information on changes in marine facility uses.

Summary of Motions describing recommended revisions or clarifications to the MPP

Over the course of its meetings, the Committee adopted 23 motions concerning specific recommendations related to manatee protection and revisions or clarifications to the MPP. Many of the motions include detailed recommended language. The motions that were adopted are summarized herein, and a complete, detailed transcript of the adopted motions and votes is included as Attachment 2 for reference.

- **Motion 1** Recommend that the Board of County Commissioners urge the Florida Legislature to amend Florida Statutes so as to increase penalties for violations of manatee protection vessel speed zones

- Several motions were approved related to inclusion of a procedure in the MPP to allow consideration of transfer of slips from one location to another location

  - **Motions 2 and 4:** Prohibit transfer of slips from non-essential manatee habitat into any essential manatee habitat

  - **Motion 3:** Request DERM to develop language such that slip transfer between water basins will not be permitted under the MPP

  - **Motion 5**: Add language to the MPP to allow slip transfers provided that the proposed transfer is demonstrated to have a net benefit to manatees

  - **Motion 6**: Amend the MPP to allow transfer of slips along the Miami River in accordance with specific criteria and requirements relating to such transfers

  - **Motion 7:** Amend the MPP to include the following language: '*To be eligible for transfer, donor site wet or dry slips must have all required environmental and land use authorizations or permits in effect at the time of the application, excluding building permits. Only slips in compliance with all applicable regulations may be transferred. In lieu of obtaining actual permits from authorized governmental agencies, letters of intent from said agencies could be accepted for the transfer of slips.*'"

- ***Motion 8***: Revise language in the MPP relating to single family docks to clarify that the MPP does not recommend any additional restrictions above and beyond current law including specific clarifying language

- **Motion 9**: Amend the MPP to broaden the definition of transitory docks, increase the allowed density of such docks to 1 slip per 50 feet of shoreline at all locations in the downtown area from I-395 to SE 15th Road and on the Miami River to NW 5th St., and allow a density of 1 slip per 100 feet of shoreline at all publicly owned locations countywide; and to create specific requirements relating to the operation of water taxis

- **Motion 10**: Revise the MPP to clarify the definition of "existing facility", while retaining the date of October 28,1984 as stated in the current MPP

- Numerous motions were adopted related to revisions or clarifications of Marine Facility Siting Criteria in the 1995 MPP

  - **Motion 11**: Retain and support sites identified in the 1995 MPP for the expansion of marine facilities and remove designation for residential marinas in the C-111 canal.

  - **Motion 12**: Revise siting guidelines to allow boatyards at any appropriately zoned site in portions of Sunny Isles Beach and Aventura, provided no impacts to seagrass occur, and to recommend residential marinas at a density consistent with other essential manatee habitat in specific Aventura canals

The above bullets are a summary of the adopted motions. A complete transcript of the adopted motions is provided in Attachment 2.

- **Motion 13**: Revise siting guidelines to allow expansion of marinas, ramps, or transitory docks for trailerable sized boats in waters adjacent to portions of the FIU and Oleta River State Recreation Area shoreline, provided no impacts to seagrass occur

- **Motion 14**: Revise siting guidelines to recommend transient or courtesy docks at additional locations, and clarify MPP language related to transient docks (this motion does not limit or amend the recommendations contained in motion 8 above).

- **Motion 15**: Revise siting guidelines to remove limits on expansion of residential marinas at Deering Bay and to recommend expansion of public access facilities for trailerable-sized boats at Chapman Field Park, provided that vessels use existing navigation channels and provided that impacts to habitats used by manatees are not required.

- **Motion 16**: Revise siting guidelines to remove designation for residential marinas at Black Point and recommend ground level dry storage in limited areas of the park, provided that additional vessel traffic use south channels and that boater non-compliance is addressed. No in-water construction is recommended in the no-entry zone.

- **Motion 17**: Revise siting guidelines to recommend Homestead Bayfront Park/Convoy Point as an area suitable for expansion of public access marine facilities, especially for trailerable-sized boats.

- **Motion 18**: Revise siting guidelines to recommend reducing the area recommended for expansion of facilities in the vicinity of south Miami Beach to the include the shoreline from Venetian Causeway to Government Cut.

- **Motion 19**: Revise language relating to an exemption from fendering requirements on a portion of the Miami River to require fendering upon replacement or renovation of bulkheads in the exempted area.

- **Motion 20:** Recommend that DERM update the maps and technical information in the MPP based on recently acquired data, as summarized in the Data Collection and Information Final Report dated July 2009, and also include a list of all technical data and maps provided to the Committee

- **Motion 21:** Recommend that the Board of County Commissioners urge the Florida Legislature to amend Florida Statutes to require boat operators licenses and mandatory boater education for all age groups.

- **Motion 22:** Recommend that the Board of County Commissioners establish a Manatee Protection Fund, funded by annual allocations of $5 million, from *ad valorem* revenues

- **Motion 23:** Revise and clarify the section of the 1995 MPP that describes criteria for projects seeking a variance from marine facility siting guidelines

The above bullets are a summary of the adopted motions. A complete transcript of the adopted motions is provided in Attachment 2.

ATTACHMENT 1
Manatee Protection Plan Review Committee
Member List October 2009

Manny Prieguez, Chair
(appointed by Comm. B. Barreiro, Dist. 5)

Brett Bibeau
(appointed by Comm. D. Rolle, Dist. 2)

Richard Bunnell
(appointed by Comm. N. Seijas, Dist. 13)

T. Spencer Crowley, III
(appointed by Comm. C. Gimenez, Dist. 7)

Judy Futerfas
(appointed by Comm. D. Moss, Dist. 9)

David Gardner
(appointed by Comm. J. Souto, Dist. 10)

Lynda Greene
(appointed by Comm. B. Jordan, Dist. 1)

Bob Karl
(appointed by Comm. A. Edmonson, Dist. 3)

Alberto Lamadrid
(appointed by Comm. J. Martinez, Dist. 11)

Mark Lewis
(appointed by Mayor Carlos Alvarez)

Kate L. Mansfield, Ph.D.
(appointed by Comm. R. Sosa, Dist. 6)

Robert Moser
(appointed by Comm. J. Diaz, Dist. 12)

Richard (Dick) Townsend, Vice Chair
(appointed by Comm. K. Sorenson, Dist. 8)

Julia Zaias, DVM, Ph.D.
(appointed by Comm. S. Heyman, Dist. 4)

ATTACHMENT 2
Summary of Approved Motions* & Votes
Made by the MPPRC Committee

Motion 1 made on October 1, 2008 by: Brett Bibeau

Seconded by: Richard Bunnell

"That a letter be drafted and submitted to Commissioner Barriero's office for presentation to the BCC. Said letter would include the recommendation for an amendment to State statute 327.73 to increase the amount of the fines. In addition, for repeat offenses revised fines should be based on an escalating scale depending on the number of offenses and to have significant consequences result after numerous violations."

The motion **passed** unanimously by all members present:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Dick Townsend (Vice Chair)	Yes	Manny Prieguez, Chair	Yes
		Julia Zaias, Ph.D.	Yes

Motion 2 made on August 17, 2009 by: Dr. Julia Zaias

Seconded by: Lynda Green

"That there is absolutely no transfer of any slips of any kind from non-essential manatee habitat into any essential manatee habitat; at the most recent update of what those maps would be I guess, into the 2009 version of that essential habitat, you know, assuming that it is similar, but it will look sort of like this."

The motion **passed** with the votes as follows:

Brett Bibeau	Yes	Richard Bunnell	Absent
T. Spencer Crowley, III	No	Judith Futerfas	No
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Yes
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Yes	Julia Zaias, PhD	Yes

Motion 3 made on August 17, 2009 by: Mark Lewis

Seconded by: Alberto Lamadrid

* Does not include motions related to approval of meeting minutes or to extension of meetings.

"...that staff prepare text for final consideration at the next meeting that says, in appropriate terminology, that slip transfers from one water basin to another water basin will not be permitted as part of this Manatee Protection Plan...within Essential Manatee Habitat"

Mark Lewis clarified in response to a question about the definition of "water basin" by Julia Zaias. "In my mind, water basin is everything from where it enters the bay until it dries up, upstream."

The motion **passed** with the votes as follows:

Brett Bibeau	Yes	Richard Bunnell	Absent
T. Spencer Crowley, III	No	Judith Futerfas	No
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Yes
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Yes	Julia Zaias, PhD	No

Motion 4 made on August 24, 2009 by: Lynda Green

Seconded by: Robert Moser

"I make a motion that we accept the language that DERM came up with for transfer of slips."

Final Amended Motion:

"I make a motion that we accept DERM staff's interpretation of language of transfer of slips...the first..."
(See language below)

DERM staff's interpretation of the committee's intent:

There shall be absolutely no transfer of slips of any kind from non-essential manatee habitat into any Essential Manatee Habitat. Essential Manatee Habitat is herein defined as that habitat which has been determined to be essential to manatees as described in the Miami-Dade Manatee Protection Plan approved by local, state and federal agencies.

The motion was **approved** by a vote of 9 to 3 as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	No	Judith Futerfas	No
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	No
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Yes	Julia Zaias, PhD	Absent

Motion 5 made on August 24, 2009 by: Robert Moser

Seconded by: Dick Bunnell

"Slip transfers should be considered as part of the Manatee Protection Plan provided they can demonstrate that the transfer will have a net benefit to the manatees."

The motion was **approved** by a vote of 7 to 5 with the votes as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Yes
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

Motion 6 made on August 24, 2009 by: Brett Bibeau

Seconded by: Alberto Lamadrid

Mr. Bibeau made a motion to amend the MPP to include the below language:

"g.(2) *Removal of Slips or Berths in Use at a Location and Transfer to Another*

Removal of dry or wet slips or berths in use at one or more locations along the Miami River may serve as a form of mitigation to compensate for the potential impacts to manatees from proposed new operations or expansion of marine facilities in the Miami River above the guidelines recommended for manatee protection. The transfer process requires a review and evaluation by DERM, in coordination with state and federal regulatory authorities, of the proposed transfer for potential adverse impacts to manatees as well as evaluation of other requirements of Chapter 24 of the Code of Miami-Dade County. To assure that the impacts from proposed new slips would not exceed the potential impacts from the slips that are to be removed for mitigation, this analysis must be site specific and be based on a consistent set of mitigation rules applied to all such projects. Furthermore, to assure that the impact of new powerboat slips remains fully mitigated, a suitable restriction running with the land (i.e. restrictive covenant) on the donor property is required to record that the historical use was transferred, and assure that the original slips would never be reoccupied by powerboats. This is similar to other forms of environmental mitigation, or conservation easements, intended to preserve the mitigation benefits in perpetuity. Transfer applications shall not be approved without concurrence of federal and state regulatory agencies with authority for manatee protection. This has implications for the owners or future owners of donor properties. These owners have an expectation that continuing use or reconstruction of historical motor boat slips will be found consistent with manatee protection guidelines. This would no longer be the case if the historical use had been transferred to another parcel. For these reasons, both from an assessment of the biological merits of the mitigation for a proposed project, and in fairness to owners whose slips are sought for transfer, slips cannot simply be "reallocated" to another property without participation and consent of the "donor".

The following mitigation criteria will be used to evaluate requests for slip transfer.

1. Slip transfers only have the ability to offset potential impacts if they represent an actual reduction in use of equivalent slips at the donor site, and the slips from the donor site may not be reoccupied.

2. To assure no net increase in impact to manatees, slips may only be transferred from one site to another along the 5.5 mile Miami River.

3. Only slips in compliance with all required environmental and land use approvals are eligible for transfer. For slips located in or over the water, documentation of approval of the submerged lands owner is required. Illegal or unauthorized docking is ineligible for transfer.

4. Transfers require the consent of the property owner(s) involved (donor and receiving properties) and restrictive covenants running with the land in favor of Miami-Dade County must be recorded on the donor and recipient sites.

5. In order to preserve riparian property rights and to prevent net reduction of waterfront access sites, not all existing slips can be transferred away from a given donor site. At least one existing power boat slip per 100 feet of shoreline shall be retained at the donor site and shall not be eligible for transfer.

6. Slips located in areas recommended for expansion of commercial marinas, dry storage, transitory docks, boatyards, ramps, or large vessel (>100') berthing under the MPP do not qualify as donor slips.

7. Slip transfers may be allowed only if all federal, state, and local approvals at the receiving site are obtained for the proposed work and operations required for transfer."

The motion was **approved** by a vote of 7 to 5 as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Yes
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

Motion 7 made on September 9, 2009 by: Manny Prieguez

Seconded by: David Gardner

"I move that the MPP be amended to read: '*To be eligible for transfer, donor site wet or dry slips must have all required environmental and land use authorizations or permits in effect at the time of the application, excluding building permits. Only slips in compliance with all applicable regulations may be transferred. In lieu of obtaining actual permits from authorized governmental agencies, letters of intent from said agencies could be accepted for the transfer of slips.*'"

The motion **passed** with a vote of 8 to 4 as follows:

Brett Bibeau	Yes	Richard Bunnell	No
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	No

Motion 8 made on September 30, 2009 by: T. Spencer Crowley, III

Seconded by: Lynda Green

"Motion to approve the language that DERM drafted and submitted at our last meeting regarding single family docks and also to revise the remainder of the plan so that the plan is consistent with that language." [language follows below]

Within Essential Habitat Areas:

Single Family Residential Docks

~~Each single family residence shall be limited to two power boat slips, and vessels using those slips shall be registered to the upland property owners or residents~~. Single family dock construction is subject to local, state, and federal regulations and policies. Zoning, land use, building, and environmental standards, statutes, ordinances, or rules may determine or limit the size and configuration of a dock or number of slips that may be permitted at a particular location. It is not the intent of this Manatee Protection Plan to impose any additional restrictions on single family docks. Single family docks shall continue to be constructed according to ~~existing DERM coastal construction~~ all existing applicable regulations and guidelines.

The motion **passed** unanimously by all the members present.

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Yes	Julia Zaias, PhD	Absent

Motion 9 made on September 30, 2009 by: T. Spencer Crowley, III

Seconded by: Richard Bunnell

Mr. Crowley made a motion to amend the MPP to include the below language:

Broaden definition of transitory docks as follows:

Transitory Slip – docks, slips, and other shoreline structures used for the temporary mooring of vessels (less than one day, but may include overnight or multiple-day use if camping), including docks at nonfee public facilities (e.g., city boat ramps, public parks, etc.), facilities used for water-dependent public transportation (e.g., water taxis), designated day-use slips at restaurants and hotels, and staging docks, piers, seawalls and/or slips required for the operation of dry storage facilities or boat ramps. Transitory slips cannot be used for the permanent storage of vessels. Slips used for boat rentals or slips rented to patrons are not considered transitory.

Eliminate the "limited special use" designation downtown. Allow "Transitory Slips" from I-395 south to SE 15th Road and west up Miami River to 5th Street, including Watson Island, at a density of 1:50.

Transitory Slips shall be allowed at all publicly owned waterfront parcels countywide at a density of 1:100. The density of Transitory Slips at all privately owned waterfront parcels shall not be limited by the MPP, but instead shall be limited only by other relevant permitting considerations.

Amendment to motion by Manny Prieguez (accepted by Mr. Crowley):

"If and when a county or municipal water taxi project is contemplated by Miami Dade county or any of its municipalities, specific guidelines for operation of the water taxis shall be created in conjunction with FWC's specific input. These guidelines shall be created for, but not limited to, the increased protection of manatees and specific measures which would mitigate potential conflict between manatees and the water taxi service. Examples of these guidelines could be, for example, prop guards, strict adherence to speeds and other measures, which if not complied with could result in the revocation of the water taxi's operating license. The manatee protection plan would only contemplate a recommendation of a water taxi service if the aforementioned is complied with by the regulating government or agency."

The amended motion **passed** with a vote of 6 to 5:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

Motion 10 made on September 30, 2009 by: T. Spencer Crowley, III

Seconded by: Richard Bunnell

"I make a motion to change the language of the existing facility definition and retain the same dates that are in the plan right now." The Chair then clarified for the committee that the motion was to adopt DERM's recommended changes in the first two paragraphs (included as an insert below) but inserting the existing date into the last paragraph (included below after the insert):

f. Marine Facility Siting Criteria

The Marine Facility Siting Criteria in the Manatee Protection Plan generally apply to review and permitting of applications for new or expanded marine facilities for use by multiple boats, including boat ramps, wet and dry berthing, and transient or courtesy docks of all types. The siting criteria do not apply to docks associated with detached single-family residences. The siting criteria are guidelines that are intended to apply prospectively, to assure that the additional vessel docking and storage to meet future needs are accommodated so as to minimize and avoid impacts to manatees or their habitat associated with construction or vessel traffic generated by use of the facility. These criteria to not replace or supplant other permitting requirements, such as those related to water quality, aquatic or wetland vegetation, navigation or other environmental factors.

Criteria Relating to Continuing Use of Existing Facilities

It is not the intention of the Plan to impose new limitations on the number of wet or dry berths or types of vessels at facilities that are lawfully in use at the time of Plan approval, even if the facility occurs within sensitive manatee habitat. It is assumed that the reconstruction, repair, or reconfiguration of a facility that has been lawfully in use does not constitute a new or increased impact on manatees, provided that the number and types of vessels using the facility and frequency of vessel activities remains substantially the same. Therefore, with respect to manatee protection guidelines, AN EXISTING MARINE FACILITY SHOULD BE PERMITTED TO CONTINUE OPERATION OR UNDERGO REPAIRS AND RENOVATION SO LONG AS THE NUMBER AND TYPES OF VESSELS USING THE FACILITY ARE EQUIVALENT WITH PAST VESSEL USE. It is also recognized that there may be circumstances, such as natural disasters, fire, or financial matters that temporarily render a facility inoperable, even though it has been in use in the recent past.

The last paragraph of the aforementioned proposed DERM language with Mr. Crowley's amendment to retain the existing 1984 date would read as follows:

"For the purposes of application of Marine Facility Siting Criteria for manatee protection to permitting of such facilities, an 'existing marine facility' is one that has been in use and possessed all required environmental approvals at any time since October 28, 1984. Facilities that have not been in use at any time since October 28, 1984 or where vessel types or uses are not substantially the same as those that occurred previously, will not be considered existing and will be subject to manatee protection criteria for new or expanded facilities. A marine facility that meets this definition may be reconstructed with at least the maximum number of dry and wet berths that were lawfully in use since October 28, 1984. Berthing configuration or facility design may be modified, provided that the types of vessel uses and number of vessels remain consistent with past vessel uses."

The motion **passed** with a vote of 7 to 3 as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	No

Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

Motion 11 made on October 2, 2009 by: Lynda Green

Seconded by: Bob Karl

Motion to adopt the language in items number 1 and number 8 [of DERM's *Recommendations to Update the MPP Marine Facility Criteria*]: **(See language below)**

"Retain and support areas currently recommended for expansion of commercial marinas, ramps, dry storage and transient docks, including Haulover, Dinner Key, Crandon Marina, south Miami Beach to Government Cut, and Matheson Hammock. Recommend that boat ramps and dry storage that currently exist at these locations be retained or increased."

"Remove multi-slip residential designation for the tidal portions of the C-111 canal."

The motion **passed** unanimously as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Absent
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Yes	Julia Zaias, PhD	Absent

Motion 12 made on October 2, 2009 by: Mark Lewis

Seconded by: Kate Mansfield

Mr. Lewis moved to approve paragraph number 2 of DERM's *Recommendations to Update the MPP Marine Facility Siting Criteria* as written with the addition of the words 'residential use' in the first sentence after the phrase "...at the same density as..."

(See corrected language below)

"Remove "boatyard only" as recommended use in Aventura canals, and revise to recommend residential use at same density as residential use in other essential manatee habitats. Allow boatyards in other appropriately zoned parcels in Aventura, Sunny Isles Beach in Dumfoundling Bay and waters contiguous to the Florida ICW, provided that no dredging or filling of seagrass habitat would be required to construct or operate such a facility."

The motion **passed** with a vote of 8 to 2 as follows:

Brett Bibeau	No	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes

David Gardner	No	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 13 made on October 2, 2009 by: Kate Mansfield, PhD

Seconded by: Lynda Green

"I move to adopt number 3 [of DERM recommendations]." **(See language below)**

"Add FIU/Oleta State Park shorelines (not including the Oleta River) as recommended locations for public marinas, boat ramps, or transient/courtesy docks for shallow draft, trailerable-sized boats, provided that no dredging or filling of seagrass would be required to construct or operate such facilities. Remove designation as recommended for multi-slip residential docking."

The motion **passed** with a vote of 8 to 1 as follows:

Brett Bibeau	No	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Absent	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 14 made on October 2, 2009 by: T. Spencer Crowley, III

Seconded by: Richard Bunnell

"I move that we adopt number 4 [of DERM's recommendations] with that added language that I am going to read into the record…I'm going to read the entire thing as it would….Add the north shoreline of Fisher Island, south shoreline of Virginia Key and Marine Stadium basin along Rickenbacker Causeway, Sands Key, and Elliot Key as recommended locations for public transient or courtesy docks. Clarify existing text and maps to emphasize that all locations recommended for commercial marinas are also appropriate locations for such docks, *provided this provision does not limit the density of transitory docks set forth elsewhere in this Manatee Protection Plan.*"

Amendment to motion:

"Include the language that is listed in number 4 [of DERM's Recommendations to Update the MPP Marine Facility Siting Criteria] along with the clause that I added and with the caveat that this language does not amend or rescind the motion that was voted for approval at our last meeting."

(See corrected language below)

"Add the north shoreline of Fisher Island, south shoreline of Virginia Key and Marine Stadium basin along Rickenbacker Causeway, Sands Key, and Elliott Key as recommended locations for public transient or courtesy docks. Clarify existing text and maps to emphasize that all locations recommended for commercial marinas and ramps are also appropriate locations for

such docks, provided this provision does not limit the density of transitory docks set forth elsewhere in this Manatee Protection Plan. This language does not amend or rescind the motion that was voted for approval at our last meeting."

The amended motion **passed** with a vote of 9 to 1 as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion15 made on October 2, 2009 by: T. Spencer Crowley, III

Seconded by: David Gardner

"I move for approval of number 5 [of DERM's recommendations]." **(See language below)**

"Remove pre-determined limit on multi-slip residential dock density at Deering Bay/Chapman Field areas. Add area as recommended location for public-access ramp or upland dry storage for trailerable-sized boats, provided that vessels use existing basins and marked navigation channels in Deering Bay vicinity, and no dredging or filling of habitat currently being used by manatees (including seagrass habitat) would be required to construct or operate such a facility."

The motion **passed** with a vote of 7 to 3:

Brett Bibeau	No	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 16 made on October 2, 2009 by: T. Spencer Crowley, III

Seconded by: Kate Mansfield, PhD

"I'll move [to adopt number] 6 [of DERM's recommendations]." **(See language below)**

"Remove designation for multi-slip residential docking at Black Point Marina area. Recommend upland ground-level public storage for trailered boats be allowed on south side of Park at the site of the former "Pirates Spa", provided that access to the main channel is through Goulds Canal and existing boater non-compliance with posted channel markings is adequately addressed. No in-water construction is recommended in the no-entry zone."

The motion **passed** with a vote of 9 to 1 as follows:

Brett Bibeau	No	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 17 made on October 2, 2009 by: T. Spencer Crowley, III

Seconded by: David Gardner

"[I'll move [to adopt number] 7 [of DERM's recommendations]."

(See corrected language below)

"Add Homestead Bayfront Park/Convoy Point area as a recommended area for public marina, ramp, or transient/courtesy docks, especially for shallow draft trailerable-sized boats."

The motion **passed** with a vote of 8 to 2 as follows:

Brett Bibeau	No	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 18 made on October 2, 2009 by: Kate Mansfield, PhD

Seconded by: Mark Lewis

"I move that we adopt number 9 [of DERM's recommendations]." **(See language below)**

"Reduce area on south Miami Beach shoreline recommended for expansion of commercial marinas, dry storage, ramps, transient docks to the shoreline south of Venetian Causeway to Government Cut (current recommended area extends north of Venetian Causeway approximately ¼ mile)."

The motion **passed** with a vote of 7 to 3 as follows:

Brett Bibeau	Yes	Richard Bunnell	No
T. Spencer Crowley, III	No	Judith Futerfas	Yes
David Gardner	No	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 19 made on October 2, 2009 by: Brett Bibeau

Seconded by: Richard Bunnell

"I recommend that the Manatee Protection Plan Review Committee recommend the deletion of the word "major" on page 96 in front of the word "renovation", doing so would require any...currently the plan requires fenders county-wide. The only area that has a minor exception is the area in question, the 1600 foot area, that requires fenders upon, currently it says 'replacement or *major* renovation' so by deleting the word major we would now be requiring it County-wide and in the area in question upon replacement or any renovation not a major renovation...so I move for those purposes to delete the word 'major' in that sentence on page 96."

(See corrected language below)

"Replacement or ~~major~~ renovation of any large vessel berthing in a manatee habitat, including this portion of the Miami River will require standoff."

The motion **passed** with a vote of 6 to 4:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 20 made on October 2, 2009 by: Mark Lewis

Seconded by: Kate Mansfield, PhD

"The committee recommends DERM staff update the maps and technical information in the plan based on recently acquired data, as indicated on the document of July 2009 [*Miami-Dade Manatee Protection Plan Data Collection and Information Final Report*] and will also include a list of all technical data and maps provided to this committee."

The motion **passed** with a vote of 9 to 1 as follows:

Brett Bibeau	No	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 21 made on October 2, 2009 by: Lynda Green

Seconded by: Brett Bibeau

The final amended motion voted on was for the MPPRC to request that the County Commissioners include in the state legislative package a recommendation for boating licenses and a gradual implementation of mandatory boater education for all age groups.

The amended motion **passed** with a unanimous vote as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 22 made on October 2, 2009 by: T. Spencer Crowley, III

Seconded by: Mark Lewis

"I would move that we recommend Section I of my handout, entitled Manatee Protection Fund, as I have amended here..." **(See language below)**

"I. MANATEE PROTECTION FUND

Impacts to manatees associated with new slips will be offset by a program to improve public education and the enforcement of speed zones. Funding for this program is proposed through the combination of a Manatee Protection Fund (MPF) and municipal, County, and State cost-sharing. $5,000,000 per year, derived from the County's ad valorem taxes, will be dedicated to funding the MPF. When available, grants from State and Federal sources will be used to augment this funding.

The recommended annual distribution of funds from the MPF is as follows: 10% for public education, 40% for increased law enforcement and 50% for environmental restoration or mooring modification projects benefiting manatees.

Specifically, these funds will be allocated at the discretion of the County Manager for the following activities:

- *Development, production, and/or installation of manatee and seagrass conservation signs including access channel markers and seagrass protection markers.*
- *Development and implementation of public awareness programs to increase boater awareness of manatee protection issues.*
- *Development, production, and distribution of manatee speed zone fliers, pamphlets, and posters.*
- *Procurement and/or installation of manatee speed zone signage on County waterways, in partnership with FWC, which assumed responsibility for installation and maintenance of manatee speed zone signage as of July 1, 2006.*
- *Other measures deemed likely to reduce risks to manatees from boating activities in Miami-Dade County.*

- *Updates to the manatee distribution, boat use and activity, and boater compliance studies.*
- *Mooring modifications such as cantilevered seawalls or fenders which would decrease the likelihood of vessels crushing manatees against a bulkhead.*
- *Law enforcement personnel and equipment dedicated to speed zone compliance.*
- *Environmental restoration projects that create, preserve, or enhance manatee habitat. DERM will consult with the County Parks and Recreation Department, FWC, FIND, and other appropriate agencies to determine the most effective use of these funds, develop a budget, and explore cost-sharing opportunities. DERM will also periodically review its budget for manatee protection programs and request sufficient funding and staffing, as necessary, to ensure implementation of critical projects."*

The motion **passed** with a unanimous vote as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

Motion 23 made on October 2, 2009 by: Richard Bunnell

Seconded by: Kate Mansfield, PhD

A motion was made to adopt the recommended changes from DERM to the variance performance measures of the MPP. An amendment to this motion was made by Judith Futerfas and accepted by the motion maker, to add "Black Point Marina" as a cold-water aggregation area in paragraph number 1 of the Performance Measures.

(See language below with amendment)

"g. Performance Measures and Standard Procedures for Projects Seeking a Variance from Marine Facility Siting Guidelines

There may be circumstances when a new or expanded marina, dry storage facility, boat ramp, or other docking or mooring facility is proposed that is not consistent with Marine Facility Siting Criteria described in the preceding sections. Examples could include a proposal for more wet or dry powerboat slips than recommended at a location, or a proposal for a type of facility or operation that is not recommended at a particular location. Furthermore, types of facilities or vessel operations that were not specifically contemplated by this plan may be developed in the future. Also, technology or procedures may be developed in the future to mitigate or offset the potential impacts to manatees or their habitat that otherwise may have been caused by increased numbers of vessel trips associated with new or expanded facilities. It is recognized that in such situations, if it can be demonstrated that the non-conforming project and its operation does not adversely affect sensitive habitats and manatees, a process for consideration of a variance or exception should be available. This section of the MPP therefore provides performance measures and standard procedures for evaluation of

requests for variances for non-conforming projects, with assurance that manatee protection requirements will still be met. These procedural requirements, performance measures and evaluation factors are described below

In order to qualify for a variance or exception, the proposed project must be able to demonstrate that it meets a set of requirements and measures intended to avoid or minimize potential impacts to manatees and especially sensitive habitats that could arise from the facility or the vessel trips that it may generate. The measures address only regulatory requirements related to manatee protection, and do not replace or obviate need for compliance with all other applicable local, state, and federal environmental and land use regulations. The proposed project must demonstrate that all other specific permitting and land use requirements can be met, before requesting a variance. The specific requirements include documentation that the proposal is consistent with local land use and zoning requirements as well as documentation that approval of the submerged land owner has been obtained. For cases involving encroachment into federal navigation channels, approval by federal authorities, such as the US Coast Guard or US Army Corps of Engineers is required.

g.(1) Variance Performance Measures

Requests for higher ratios for multi-family residential docking facilities subject to the 1- powerboat-slip-to-100-feet-of-shoreline restriction, or requests for uses proposed in a location not shown in the preceding narrative sections and maps as an acceptable site for that particular type of facility may be considered if it is demonstrated that the facility and its use would not adversely impact manatees. This demonstration would be satisfied if the facility met applicable Performance Measures from the following list. However, adherence to these measures does not automatically ensure the applicant's ability to exceed the allowable powerboat restrictions as defined above. The plan restrictions will remain in effect, if at the time of review, additional information about manatees or the proposed facility indicates threats not addressed by these Performance Measures. Consideration can be given for additional site-specific factors or operating practices (e.g. seasonal operation, etc.) that may be proposed by either the applicant or the County, that may result in improved conditions for manatees or manatee protection. Any facility exceeding the allowable powerboat slip restrictions or use according to the Performance Measures defined below, must obtain and comply with an annual marina operating permit (MOP) and/or Class I Coastal Construction permit if required, and proffer a covenant in favor of the County which records the number and type of slips or berths. The applicable Performance Measures would be included as conditions of the MOP, Class I permit and covenant. The Performance Measures are:

1. The facility may not be located within a cold-weather aggregation area or other area where sensitive manatee behavior occurs, or in a sole travel corridor to or from the area. The cold-weather aggregation, sensitive sites, and travel corridors include Biscayne Canal, Little River, the Miami River/Tamiami Canal, Coral Gables Waterway, Black Point Marina, Virginia Key "no entry zone", and the vicinity of cooling canals at the FPL Turkey Point power plant. These areas are shown in Figure XXX.

2. The waters adjacent and marked or unmarked channels leading to the facility are designated "slow speed" or "idle speed" zones defined by state rule Ch. 68C-22.025 F.A.C., as authorized pursuant to the Florida Manatee Sanctuary Act, Ch. 379.231(2) F.S.

3. The facility must provide net benefit to manatees and/or their habitat above what would otherwise be required for the project. Mitigation needed to satisfy other local, state or federal government permitting cannot be applied to this requirement. For example, facilities may include creation or enhancement of a manatee "refuge" space as part of the design, a conservation easement, additional restoration of adjacent habitats or hydrology such as mangrove or seagrass to increase the net ecological value of the nearby area, reduced

nutrient input to receiving waters, or requiring prop guards on any high traffic vessels such as water taxis or rental boats.

4. The marine facility and channel construction and subsequent uses will neither destroy nor negatively impact coastal wetlands and benthic (seagrass, hard bottom, etc.) communities and the water quality.

5. The facility must have sufficient water depth (as defined herein) in the marina basin and in any marked or unmarked channel or waterway typically used for access to or egress from the basin , and does not require any new dredging or filling that would degrade shallow water habitat (this may exclude maintenance dredging, excavation into uplands or pile installation). Sufficient water depth shall mean water depth, measured at mean low tide, of 3 feet greater than the draft of vessels occupying the slips on a permanent basis, and/or 3 feet greater than the draft of vessels typically using the facility on a transient basis. Vessel drafts shall be obtained by using best available data. Entrance/exit channels near marinas shall be adequately marked, in accordance with state regulations, if marina repairs or expansion are proposed.

6. The site shall contain appropriate informational signage, and provide educational material to tenants advising boaters of essential manatee habitats and vessel speed regulations in the vicinity.

7. Multi-family residential docking facilities will require that all vessels moored at the site be registered to individuals residing at the site. Requests for more slips/berths than residential units at the site or at densities greater than 5 slips per 100 feet of shoreline shall not be approved.

8. Before expanding and exceeding the allowable powerboat slips defined above, an existing facility must demonstrate not less than 85% occupancy over the previous 2 years of operation."

The amended motion **passed** unanimously with the votes as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Absent	Julia Zaias, PhD	Absent

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MyFWC.com

February 3, 2010

Mr. Carlos Espinosa, P.E., Director
Miami-Dade Department of Environmental
Resources Management
701 NW 1st Ct.
Miami, Florida 33136

Subject: Preliminary Review of the Recommendations from the Miami-Dade County Manatee Protection Plan Review Committee (MPPRC)

Dear Mr. Espinosa:

The Florida Fish and Wildlife Conservation Commission (FWC) has received the Manatee Protection Plan Review Committee's Final Written Recommendations (dated October 12, 2009) in early November 2009. The Committee adopted 23 motions related to manatee protection and revisions to the Miami-Dade County Manatee Protection Plan (MPP). It is obvious from the information provided on your website that Miami-Dade County's DERM have compiled and reviewed a substantial amount of data and information, which was presented to the committee in this effort. The data analysis and information gathered and reported by DERM represents the type of information that should be the basis for a revision to the MPP, and this work is to be commended. However, it is not always clear from the Committee's adopted motions how objective data was considered. At this time, we would like to provide general comments on the Review Committee's recommendations and provide suggestions for the next steps in the process towards revising your MPP.

Our cursory review of the Committee motions is attached to this correspondence in a separate document. In it we discuss each motion individually, and consider the combined effects of the motions and how they might alter manatee protection provided by the MPP. In our comments we have tried to provide guidance regarding the proposed motions and whether they comply with guidelines and requirements of FWC for approvals of MPPs.

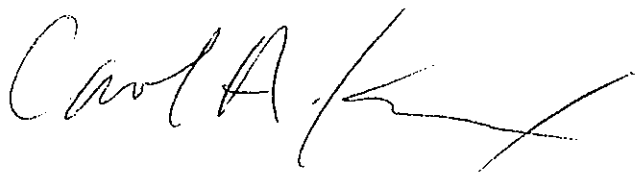
We understand that the Board of County Commissioners will determine when and whether or not to formally propose MPP revisions, however we recommend that the most expeditious path to revising an MPP is to ensure early discussions of the proposed changes and the data that supports the changes, among county, state, and federal staff. Since the county developed its first plan in 1995, the U.S. Fish & Wildlife Service (USFWS) has become an equal partner in MPP development and approvals. Early coordination among the agencies should ensure that the plan can be approved by all the agencies, which is important if the plan is to be implemented in the permitting process on all levels. It has been our experience that this initial coordination among the agencies facilitates the process for revising county MPPs and produces an MPP with the appropriate level of manatee protection. We would be happy to review with your staff in greater detail the process that has worked best in other counties. If the revised MPP is not approved by all three agencies it is possible that the wildlife agencies would need to revert to a case by case review of state and federal permits. This can result in more restrictive recommendations on all proposed developments, rather than what your current

MPP provides, which allows larger facilities in some areas but is more restrictive in sensitive manatee habitats.

While we are providing some early feedback concerning the Committee's recommendations at your request, our approval of revisions cannot occur until we have done an independent and thorough review and analysis of all new data and information available since the original approval of the MPP. As mentioned previously we will also need to confer with the USFWS during this assessment and review the edits to the MPP to ensure their concurrence can be provided.

As currently proposed it will be difficult for us to concur with several recommendations written by the Committee. Our concerns are outlined in the attachment, and resolution of these issues will be needed before moving forward with final revisions to assure approval. The FWC manatee program has had a long and successful history with Miami-Dade County as partners in our efforts to secure the long term conservation of manatees. We appreciate the County's work and time towards manatee conservation and look forward to continuing to work with you and your staff to revise your MPP. Please do not hesitate to call me at (850) 922-4330 or contact me at Carol.Knox@myfwc.com if you have any questions.

Sincerely,



Carol A. Knox, Biological Administrator III
Imperiled Species Management Section

CAK/md

Attachment: FWC review of the MPPRC recommendations

C:\MPPs\Miami-Dade\FWC.response.committee.recommendations.12.09.docx

cc: Kalani Cairns, USFWS
Lisa Davis – FWC

Attachment: Florida Fish and Wildlife Conservation Commission (FWC) review of the Miami-Dade County Manatee Protection Plan Review Committee (MPPRC) Recommendations

Motions 1 and 21

Motion 1: Recommend that the BCC urge the Florida Legislature to amend Florida Statutes so as to increase penalties for violations of manatee protection vessel speed zones.

Motion 21: Recommend that the BCC urge the Florida Legislature to amend Florida Statutes to require boat operator licenses and mandatory boater education for all age groups.

FWC response: These are interesting recommendations and the licensing and education has been pursued in the past by FWC with some success, however, those recommendations can only be carried out by the Legislature and are not appropriate as revisions to the MPP. It is important to note that the civil fine for violation of the manatee protection rules is the same as the boating safety rules.

Motions 2 through 7

These motions are all related to the removal of slips or berths in use at a location and transfer to another (g.(2)).

FWC Response: While we have provided some specific comments about the motions related to a potential slip transfer provision in the plan, FWC will need to thoroughly evaluate all new data and all proposed changes before concluding that such a provision will not inadvertently result in increased impacts to, or less protection for manatees. The current proposal, as described by these motions, has not been supported by supporting discussions or data that justify the proposed changes, and does not appear to adequately address manatee protection considerations. Also, in reviewing the minutes of the committee's meetings, we note that the committee did not reach full consensus on this issue. The series of motions is confusing and incomplete, and does not fully address the concept of transfer in most county waters, and generally requires clarification. Slip transfers can be complicated and difficult to implement and track, and may have negative effects on some property owners, so if the county pursues this option it will be important that it be vetted broadly in the community and with the FWC and FWS. Most importantly it needs to result in manatee protection.

Motion 2: FWC concurs that there should be no transfer of any slips from non-essential habitat into essential habitat. If a transfer of slips process can be developed, it must consider transfer of slips in essential habitat to less sensitive habitat areas. It is important to mention that the County, as well as FWC and the Service, need to do a thorough analysis of newer data for the entire County in order to determine if revisions to the boundaries of the essential habitat is needed.

Motion 3: FWC is unsure what this motion accomplishes. It appears to direct staff to develop text that would limit transfers from one region to another, but there is no follow up language

provided. FWC requests that DERM provide more information about the proposed language, and a recommendation concerning criteria for transfer from one area to another.

Motion 4: This motion appears to relate to the same issue as Motion 2. Please clarify the relationship of this motion to others in this group. The language that has been proposed by DERM may need clarification, and, FWC notes again that essential manatee habitat needs to be fully reassessed.

Motion 5: FWC agrees that if considered, transfers must provide a net benefit to manatees. However, the motion does not provide adequate guidance or definitions of the circumstances that would in fact benefit manatees. In order to further consider of this concept, FWC requests that the County provide narrative criteria or evaluation factors that define "net benefit to manatees".

Motion 6: FWC notes that this motion pertains only to the Miami River and we are not sure why it would be limited to the river and not include the whole county, if it is a consideration. The Miami River is one of most sensitive manatee habitats in the county, where human-related manatee deaths continue to occur. This motion does not appear to be consistent with the data that we have reviewed so far for the river. In particular, this Motion removes proposed mitigation criteria that are important in protecting the most sensitive habitats, and in assuring that the impacts from the removed slips are equivalent to the impacts from the added slips. In order for FWC to give further consideration to any proposal for transfer in areas where typically expansion would not be allowed, it must be clear that there is not an increased impact to manatees or their habitat, and that the transfer process is fair and equitable to land owners.

Motion 7: FWC favors this motion as it will benefit any slip transfer option that is developed because it is designed to help assure that slips to be transferred are viable slips, and that their removal would indeed offset increases in slips elsewhere. More details are likely needed to clarify the motion, such as the narrative criteria or requirements for transfer proposed by DERM. However this is the type of motion that can benefit MPP revisions.

Motion 8

Motion 8: Revise language in the MPP relating to single family docks to clarify that the MPP does not recommend any additional restrictions above and beyond current law including specific clarifying language.

FWC response: There has been an increasing recent trend towards multiple slips at single family home lots, with greater than three slips and sometimes up to ten slips. There needs to be a way to address this trend, particularly if slips are being rented or leased out to entities other than the property owners, in which case, they are not single family docks. We suggest that single family docks be defined as those with slips to be used by the owner or lessee of the upland property. Docks or slips used by persons not residing at the property should be required to comply with recommendations in the plan for multi-family or commercial facilities.

Motion 9

Motion 9: Amend the MPP to broaden the definition of transitory docks, increase the allowed density of such docks to 1 slip per 50 feet of shoreline at all locations in the downtown area from

I-395 to SE 15th Road and on the Miami River to NW 5th Street, and allow a density of 1 slip per 100 feet of shoreline at all publicly owned locations countywide; and to create specific requirements relating to the operation of water taxis.

FWC response: Transitory, or temporary, slips such as tour boats, water taxis, restaurants, hotels, day trips, etc. significantly increase the amount of boat traffic and congestion in a particular region. This high, intense use or frequent boat trips increases the likelihood of boat/manatee collisions or disturbance of sensitive areas. FWC believes such uses should be restricted to areas outside of essential manatee habitat areas, or only allowed at a very low density. New data documents that the area proposed for expansion of transitory docks has high vessel traffic and poor compliance, is intensely used by manatees, and also has relatively high occurrence of vessel-related manatee mortality. The current MPP allows transitory or courtesy docks in this area, however, it is at a low density (one for every 500 feet of shoreline). Because of the high manatee use in this area, the existing lower density (1:500) is more appropriate than the proposed 1 slip per 50 feet of shoreline. No justification has been provided to show that increasing the number of these types of slips will not adversely affect manatees.

This particular area of Miami-Dade can be considered similar to the "Non-Preferred" boat facility siting category areas in the Palm Beach County MPP. The Palm Beach MPP allows this type of use at a density of one slip for every one hundred feet of shoreline owned. However, these areas in the Palm Beach MPP do not experience the high numbers of boats experienced in this portion of Miami-Dade. The Palm Beach MPP also provides dedicated funding for law enforcement. It is therefore reasonable that the density for transient slips be lower in these manatee sensitive areas of Miami-Dade County. FWC notes that there may be other locations in Miami-Dade where new data supports revisions that would allow for more transitory or courtesy docks without increased risk to manatees, but determining this will take a more thorough review of the data than we have had the opportunity to do.

Motion 10

Motion 10: Revise the MPP to clarify the definition of "existing facility", while retaining the date of October 28, 1984 as stated in the current MPP.

FWC response: FWC supports the language clarifying the procedure for review and evaluation of reconstructing of existing facilities. However, we do not support retaining the October 1984 date. Typically when MPPs are initially developed, affected property owners are concerned about how new MPP provisions will affect what they can do in the future on their property. Also individuals with permit applications that are under review, but not completed when MPPs are approved, have concerns about how the MPP will affect the status of their permit. Different approaches have been used in the various counties, and all were designed to be fair to property owners within the county and provide a clear understanding of what to expect once the MPP was implemented. As the staff member who worked with the county in developing the first MPP, I am familiar with how the date in the plan was selected. It was negotiated among the members of the previous committee and it occurred not long after Hurricane Andrew had hit the community, so there was significant concern for allowing those affected by the storm to be able to rebuild with the same number of slips. Now that the MPP has been in place for approximately 14 years, the affected entities should have rebuilt by now and be accustomed to the provisions of the MPP.

Therefore we do not support maintaining the same date or any date. We recommend that facilities that are currently fully authorized with all appropriate permits be considered "existing facilities".

Motions 11 through 19

These motions propose site-specific changes to the provisions of boat facility siting within the MPP, almost all of which would allow greater boat activity in areas considered to be essential manatee habitat in the current MPP. Committee records indicate that the site-specific modifications were recommended by DERM. However, the motions do not include supporting data, and documents provided by DERM to the committee do not fully address these changes. We request that DERM staff provide a more detailed review of manatee, habitat, and boating activity data to support each of these recommended revisions. Until additional objective data is provided, it is premature for FWC to render an opinion on these proposed changes. In addition, consultation with the USFWS will be required during this data analysis and comparison.

Motion 20

Motion 20: Recommends that DERM update the maps and technical information in the MPP based on recently acquired data, as summarized in the Data Collection and Information Final Report dated July 2009, and also include a list of all technical data and maps provided to the Committee.

FWC response: MPP revisions can be minor or they can be major. Updates to data and the clarification of one or two sentences are considered minor. Changes in marine facility siting guidelines are considered major, and justification discussions need to accompany those changes in the MPP. We agree that it would be appropriate that much of the information provided by DERM should be incorporated into a revised MPP.

Motion 22

Motion 22: Recommend that the BCC establish a Manatee Protection Fund, funded by annual allocations of $5 million, from ad valorem revenues.

FWC response: We agree that it would be appropriate to find secure, stable funding for enforcement, education, data collection, and implementation of the provisions in the MPP. A discussion of this funding and how it will used to reduce existing and future human-related impacts should be included in the plan. Recently approved MPPs for other counties have incorporated enhanced law enforcement provisions that provide the planning and funding needed to accomplish additional on-water protection.

Motion 23

Motion 23: Revises and clarifies the section in the 1995 MPP that describes criteria for projects seeking a variance from marine facility siting guidelines.

FWC response: The background paragraphs appear to improve the description of variance criteria that is currently in the MPP. However, FWC has concerns about some of the revisions to the numbered criteria, and request that DERM staff provide further data or justification for the changes that have been proposed. In addition, whatever changes are made to how consideration

of variances are done, the MPP should reflect that the County, FWC, and USFWS all concur with any variances allowed.

In addition, in the existing Performance Measure Number 9, there is a sentence that addresses new facilities. This has been deleted, but no rationale is included. Please provide justification for this revision.