MEMORANDUM

Agenda Item No. 7(H)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: October 2, 2007

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance creating the Miami-Dade County Manatee Protection Plan Review Committee

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The accompanying ordinance was prepared and placed on the agenda at the request of Chairman Bruno A. Barreiro.

R. A. Cuevas, Jr.
County Attorney

RAC/bw

Memorandum

MIAMI-DADE COUNTY

Date: October 2, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance relating to the creation of the Miami-Dade Manatee Protection Plan Review Committee

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The ordinance creating the Miami-Dade Manatee Protection Plan Review Committee will have an estimated fiscal impact of up to $700,000 over a two year period. This includes the cost for an outside contractor to produce a boating study and the direct and indirect cost for the Department of Environmental Resources Management staff that will be working on the plan. Section 2-629 (a) of the proposed ordinance authorizes the disbursement from the Biscayne Bay Environmental Enhancement Trust Fund of these costs. While this item authorizes up to $700,000 be used for this effort, the actual associated cost is likely to be less.

Henry F. Sori
Executive Assistant to the County Manager

fis02507

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: October 2, 2007

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 7(H)

Please note any items checked.

____	"4-Day Rule" ("3-Day Rule" for committees) applicable if raised
✓	6 weeks required between first reading and public hearing
✓	4 weeks notification to municipal officials required prior to public hearing
____	Decreases revenues or increases expenditures without balancing budget
____	Budget required
____	Statement of fiscal impact required
____	Bid waiver requiring County Manager's written recommendation
✓	Ordinance creating a new board requires detailed County Manager's report for public hearing
____	Housekeeping item (no policy decision required)
____	No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(H)
10-02-07

ORDINANCE NO. _____

ORDINANCE CREATING THE MIAMI-DADE COUNTY MANATEE PROTECTION PLAN REVIEW COMMITTEE; PROVIDING FOR PURPOSE, MEMBERSHIP, ORGANIZATION, JURISDICTION, FACILITIES AND STAFF SUPPORT; AUTHORIZING DISBURSEMENT OF FUNDS TO DERM FROM THE BISCAYNE BAY ENVIRONMENTAL ENHANCEMENT TRUST FUND TO COMPILE DATA AND INFORMATION REQUIRED TO UPDATE MANATEE PROTECTION PLAN; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in 1989 the Board of County Commissioners directed the preparation of a Manatee Protection Plan (MPP) in response to a mandate from the Governor and the Cabinet of Florida due to the high number of serious boating accidents and manatee mortalities; and

WHEREAS, the initial effort established vessel speed restrictions that were recommended by the Board and approved by the Governor and Cabinet in late 1991; and

WHEREAS, the State of Florida requires that local MPP's include a boating facility siting plan and imposes limitations on permitting the construction of new or expanded facilities until such plans are approved; and

WHEREAS, a citizen's advisory committee composed of balanced representation from environmental, manatee protection, boating, and business interests was established to assist Miami-Dade County in the development of the comprehensive plan; and

WHEREAS, after numerous drafts, public meetings, workshops and hearings, the Committee completed a comprehensive MPP, and pursuant to Resolution No. 1595-95 the Board submitted the MPP to the Florida Department of Environmental Protection, which approved the

same in 1995; and

WHEREAS, by Ordinance No. 96-148 the Board made conformance with the MPP an evaluation factor when considering permit applications under Chapter 24 of the Code; and

WHEREAS, in 2002 the Florida Legislature amended the Florida Manatee Sanctuary Act, Section 370.12(2), Florida Statutes (2002), which imposed a statutory requirement on specified counties to adopt a State-approved MPPs, as well as requiring inclusion of the boating facility siting element of those plans in the respective county's comprehensive development master plan; and

WHEREAS, Miami-Dade County included consistency with the marine facility siting element of the MPP as a policy into the comprehensive development master plan; and

WHEREAS, for the past decade Miami-Dade County's MPP has served to streamline the County-State-Federal permitting process for the construction or expansion of marina facilities in the county by providing a common set of guidelines utilized by all permitting agencies; and

WHEREAS, the Florida Fish and Wildlife Conservation Commission (FWC) is presently engaged in drafting a statewide Manatee Management Plan, which emphasizes the use of empirical monitoring data and measurable biological goals to assess the manatee population and assure continuing protection and recovery of the manatee; and

WHEREAS, State policies, statutes and rules establish additional requirements for ports and other large vessel facilities, and for the assessment of boating activities and manatee habitat that were not in place when Miami-Dade County's MPP was adopted; and

WHEREAS, local MPP are now required by Florida Statutes and must be approved by the FWC, which requires local plans to include detailed and updated empirical data on manatee

distribution, manatee deaths and injuries, boating patterns, habitat values and other factors affecting manatees and their habitat; and

WHEREAS, the local surcharge on vessel registration fees, which is deposited into the Biscayne Bay Environmental Enhancement Trust Fund and pursuant to section 7-22.1(d) of the Code is to be used for "[a]ctivities related to the preservation of manatees and their habitat", is a dedicated source of funds; and

WHEREAS, in addition to the aforementioned changes in State plans, statutes and rules, there have been significant changes in the trend of waterfront development in the county since the adoption of the County's MPP; and

WHEREAS, due to the foregoing changed circumstances and regulations, there is a need to review and update the County's MPP,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Article LV of Chapter 2 of the Code of Miami-Dade County is created to read as follows:

Chapter 2

ADMINISTRATION

ARTICLE LV.

Sec. 2-626. Creation; Purpose.

There is hereby created a Miami-Dade County Manatee Protection Plan Review Committee for the purpose of providing advisory recommendations to the Board of County Commissioners as to the need for amendments, revisions and additions to the Miami-Dade County Manatee Protection Plan (MPP), consistent with manatee protection regulations as may be proposed or adopted by the State of Florida.

Sec. 2-627. Committee Membership; Compensation.

(a) Within thirty (30) days of the effective date of this ordinance the Board of County Commissioners shall appoint the members of the Committee. The Committee shall consist of fourteen (14) voting members: thirteen (13) members appointed by the Board of County Commissioners and one (1) member appointed by the Mayor. The Committee shall be comprised of 50% waterway users and 50% manatee or other environmental advocates, and shall be appointed in the following manner: manatee/environmental advocates shall be appointed by the Mayor and by Commissioners who represent even numbered Districts; waterway users shall be appointed by Commissioners representing odd numbered Districts. The Chair of the Committee shall be appointed by the Chairman of the Board of County Commissioners. State, federal and local government agency representatives shall be invited to participate as non-voting members.

The Committee membership shall comply with the requirements of Florida Statutes 370.12(2)(f) and Sections 2-11.38 thru 2-11.39 of the Code of Miami-Dade County. Any member who can no longer serve shall be replaced in accordance with the manner and criteria used in making the initial appointment.

(b) The members of the Committee shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the discharge of their duties, subject to approval by the Committee.

Sec. 2-628. Initial Organizational Meeting; Quorum; DERM Presentation.

(a) Within thirty (30) days after the Committee has been established, the Committee Chairperson shall call the first meeting for purposes of organization. At this first meeting the Committee shall decide upon its organization, procedures and the frequency of meetings; however, the Committee shall meet no less than quarterly. A quorum of the Committee shall consist of at least half (1/2) of the members of the Committee.

(b) At this first meeting the Department of Environmental Resources Management (DERM) shall provide an informational presentation to the Committee. Upon the conclusion of DERM's presentation, the Committee shall discuss and set a date for a publicly noticed hearing for the purpose of receiving comments

from interested members of the public regarding the nature and scope of the information to be considered in the process of updating the MPP, in addition to the data and analysis otherwise required by State law.

Sec. 2-629. Updated Data Collection and Reports by DERM.

(a) Pursuant to Section 7-22.1(d) of the Code, the Board hereby authorizes the disbursement to DERM of $700,000.00 from the Biscayne Bay Environmental Enhancement Trust Fund for the purpose of compiling such information and data as is necessary to update the MPP, including empirical data on manatee deaths and injuries, boating patterns, habitat values and other factors affecting manatees and their habitat, as well as to document significant changes in the trend of waterfront development in the county since the adoption of the MPP and to support the activities of the Manatee Protection Plan Review Committee.

(b) During the process of data collection DERM shall provide quarterly status reports to the members of the Committee on the progress of its data and information collection efforts. Within 60 days of completion of the process of data collection, DERM shall submit to the Committee a final report documenting the same.

Sec. 2-630. Committee Reports.

After its initial organizational meeting, the Committee shall submit semi-annual progress reports, either oral or written, to the Board of County Commissioners. Within thirty (30) days of the Committee's receipt of the final report by DERM required by Section 2-629(b), 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 County Manatee Protection Plan. The recommendations shall be in accordance with the guidelines and requirements of the Florida Fish and Wildlife Conservation Commission (FWC) statewide Manatee Management Plan. The recommendations shall be based upon the DERM updated information, data and analysis, including but not limited to the requirements of the FWC, as well as such other relevant information identified in the publicly noticed meeting required by Section 2-628(b), including current trends of waterfront development in the county.

Sec. 2-631. Jurisdiction; Powers.

The Committee shall have no authority to commit Miami-Dade County to any policies, to incur any financial obligations or to create any liability on the part of the County. The actions and recommendations of the Committee are advisory only and shall not be binding upon the County.

Sec. 2-632. Staff Support; Physical facilities and supplies.

(a) The County shall provide the Committee with appropriate meeting facilities, together with necessary supplies and equipment.

(b) The County Mayor and Clerk of the Board shall provide appropriate staff support.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 5. This ordinance requires that the Department of Environmental Resources Management's data collection and reporting process and the Miami-Dade County Manatee Protection Plan Review Committee's final recommendations to the Board of County Commissioners be completed within the eighteen month period from the effective date of this

ordinance.

Section 6. This ordinance shall stand repealed eighteen (18) months from its effective date.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency: _____

Prepared by: RAD

Robert A. Duvall

Sponsored by Chairman Bruno A. Barreiro