



Agenda Item Summary

File ID: 19-0356

DEPT-5

Meeting Date: 2/26/2019

PLACEMENT: Departmental

TITLE:

COMMERCIAL USE OF MARTIN COUNTY OWNED BOAT RAMPS

EXECUTIVE SUMMARY:

On February 12, 2019 the Board of County Commissioners (BOCC) directed staff to return with an agenda item regarding the commercial use of County owned boat ramps.

DEPARTMENT: Administration

PREPARED BY: **Name:** George M. Stokus
Title: Assistant County Administrator

REQUESTED BY: Martin County Board of County Commissioners

PRESET:

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

Recently, it has come to the BOCC's attention that commercial activities are taking place at County docks and boat ramps. In particular, dock builders are using County boat ramps to load large building materials off of a supply truck and onto a barge, including the use of a crane. It has been represented that there are numerous commercial ventures that utilize these County facilities. Awareness of these activities has been raised by some of the commercial users as a result of enforcement action by the Martin County Sheriff's Office. This item provides historical background on the regulation of commercial activities at County docks and boat ramps and identifies issues for consideration if the BOCC desires to make amendments to the regulations.

The BOCC, through its Code of Ordinances (Code), has restricted commercial activities at County parks at least since the initial adoption of the Code in 1974. The language originally adopted deemed it unlawful "to sell, or to offer for sale to any person, any product" with a detailed exception for mobile food vendors. This restriction still exists in the Code as to all County parks, without the exception for mobile food vendors.

In 2003, pursuant to Ordinance 631, the regulations for Parks were moved from Chapter 5 to Chapter 17 of the Code and were essentially re-written. At that time, a provision was added that it is unlawful "to use County boat ramps for any other purpose than launching boats. Dockage of boats at County boat ramps is prohibited except during the launch or retrieval of the boat. Use of County docks or

boat ramps for commercial purposes is prohibited without express written authorization by the County.” This language was amended in 2004, pursuant to Ordinance 639, to allow use of County boat ramps “for fishing while the boat ramp is not being used by boaters” and to clarify that permission to use the boat ramps for commercial purposes would come from the Martin County Parks and Recreation Department. In 2017, pursuant to Ordinance 1035, the language was again amended, this time deleting the option for permission to conduct commercial activities.

In the eight (8) years prior to the 2017 ordinance change, there was one (1) request to use a County boat ramp for commercial purposes. That request was not approved by the Parks and Recreation Department due to the potential structural damage that could have resulted. Since late 2017, contractors hired by the County have been denied access to County boat ramps and instead required to utilize private boat yards to gain access to waterways.

The need for water-related public facilities has long been recognized in Martin County, and the BOCC has taken steps to satisfy these needs for recreational purposes. In 1991, with the adoption of the Comprehensive Growth Management Plan (Plan), the BOCC included a Policy in the Recreation Element of the Plan for improving fishing access and for developing boat ramps throughout the County. Consistent with the adopted Policies in the Plan, land acquisition for County docks and boat ramps has been made in various ways over the years. One of the funding sources contributing to such land acquisitions was Lands for You, referendum approved bond funds for acquisition of lands for recreation or conservation. In addition to locating docks and boat ramps on County owned lands, many of the County docks and one boat ramp are located on Submerged Lands Leases with the State and some are located on property owned by another governmental agency.

The County currently has 13 boat ramp locations (map attached):

Jensen Beach Causeway
Jensen Beach Boat Ramp
Stuart Causeway
Sandsprit Park
Pendarvis Park
Charlie Leighton Park
Hosford Park
Old St. Lucie Blvd. Boat Ramp
Owen Murphy Boat Ramp
Phipps Park
Timer Powers Park
Jimmy Graham Park
J & S Boat Ramp

The County docks and boat ramps have been constructed and repaired largely with the aid of grant funds from numerous agencies, most notably the Florida Inland Navigation District’s Waterways Assistance Program (FIND), the Florida Department of Environmental Protection’s Florida Recreation Development Assistance Program (FRDAP) and Land and Water Conservation Fund (LWCF), and the Florida Department of Natural Resources’ Florida Boating Improvements Program (FBIP).

ISSUES:

Staff has identified the following issues for consideration by the BOCC in relation to commercial activities at County docks and boat ramps. Due to location, the boat ramps at Hosford Park, Timer Powers Park and J & S Boat Ramp have not been included in this review.

Property Ownership:

The first matter to consider is who owns the property where the boat ramp is located and if there are restrictions with that ownership. Some of the boat ramps are located on County owned property, while some are on property owned by other governmental agencies. When property is deeded to the County, it is occasionally restricted by the grantor for a particular purpose. The County would be obligated to comply with any deed restrictions on County owned lands.

Staff has identified the following:

Jensen Beach Causeway - owned by Florida Department of Transportation, Licensed to County

Jensen Beach Boat Ramp - County owned

Stuart Causeway - owned by Florida Department of Transportation

Sandsprit Park - County owned, deed restrictions

Pendarvis Park - owned by South Florida Water Management District, Leased to County

Charlie Leighton Park - County owned, Submerged Lands Lease

Old St. Lucie Blvd. Boat Ramp - County owned right-of-way

Owen Murphy Boat Ramp - County owned

Phipps Park - County owned, deed restrictions

Jimmy Graham Park - County owned

The BOCC may direct staff to further investigate ownership restrictions on all or certain County boat ramp locations and if owned by another agency, discuss with those agencies the potential for commercial activities to be permitted at these locations.

Grant Restrictions:

Once property ownership is established and commercial activities are determined acceptable from an ownership standpoint, the next matter to consider is whether the property is encumbered by grant restrictions. Each grant program includes restrictions on use for at least a twenty-five (25) year period following the conclusion of the grant related activities (construction or repairs). FIND requires the property be dedicated to public use. FRDAP, LWCF, and FBIP all require the property be dedicated as an outdoor recreation area for the general public. Each time funding is provided by one of these four (4) programs, the entire park in which improvements are made with the grant funds is dedicated for the stated purpose, it is not limited to the docks and boat ramps. These grant programs also may have restrictions on charging fees, which will need to be reviewed in more detail.

The BOCC may direct staff to initiate discussions with the granting agencies regarding authorization of commercial activities at these facilities and options for fee structure.

Submerged Lands Lease Considerations:

Another way a property may be encumbered is by a Submerged Lands Lease. Charlie Leighton Park has been identified as the only boat ramp location encumbered by a Submerged Lands Lease. Submerged Lands Leases obtained by the County for public purposes are free. Commercial activities or fees charged for use of docks or boat ramps that are located within a Submerged Lands Lease require a fee be paid for the Submerged Lands Lease. The County currently has one commercial use related to a Submerged Lands Lease, and it is for operation of the Commercial Fishermen's docks in Port Salerno. The Commercial Fishermen's Association pays for the commercial use of the dock, and the County has an adjacent free public-use dock facility, which allows for transient use by the public on a first come, first serve basis. There is a related issue of use of the transient public-use dock by commercial users as a permanent parking location.

The BOCC may direct staff to initiate discussions with the Florida Department of Environmental Protection regarding commercial activities on lands encumbered by Submerged Lands Leases.

Land Use and Zoning:

Most County boat ramps are in parks with the Future Land Use Map (FLUM) designation of Recreational or General Institutional, and the PS zoning district. Pursuant to the Plan, lands designated Recreational FLUM may be developed only as public recreation areas or used for temporary storage of dredged spoil material resulting from the construction, reconstruction or maintenance of recreational facilities. The General Institutional FLUM designation accommodates public and not-for-profit facilities without a particular reference to recreation. The PS Public Servicing zoning district allows the land to be used only for the stated purposes, including parks, public recreation buildings, playgrounds and such other uses as may be deemed proper by the BOCC.

Staff has identified the following:

Jensen Beach Causeway - FLUM: Recreational; Zoning: PS

Jensen Beach Boat Ramp - FLUM: General Institutional; Zoning: PS-2

Stuart Causeway - FLUM: Unknown; Zoning: PS

Sandsprit Park - FLUM: Recreational; Zoning: PS

Pendarvis Park - FLUM: Recreational; Zoning: R-1A

Charlie Leighton Park - FLUM: Recreational; Zoning: Unknown, CRA

Old St. Lucie Blvd. Boat Ramp - is in the right-of-way, but the surrounding area is
FLUM: Estate Density 2UPA; Zoning: WE-1

Owen Murphy Boat Ramp - FLUM: Commercial Waterfront; Zoning: B-1, CRA

Phipps Park - FLUM: Recreational; Zoning: PS

Jimmy Graham Park - FLUM: General Institutional; Zoning: PS

The existing land uses of the parks, other than Owen Murphy Boat Ramp, do not appear to allow for commercial activity within the property. The BOCC may direct staff to initiate a change of land use and zoning specific to designated boat ramp and related park locations.

Risk Management and Liability Issues:

Staff has reached out to the County's insurance provider for a risk analysis.

Code Provisions - Chapter 17:

If the issues identified above were resolved, the final step in authorizing County boat ramps for commercial activities would be to amend the Code and create a program for such use. Currently, Chapter 17 of the Code prohibits commercial activities at County docks and boat ramps. The BOCC may direct staff to initiate Code amendments to allow for all or limited commercial activities at these facilities.

LEGAL SUFFICIENCY REVIEW:

Review of the legal issues related to this item are ongoing.

RECOMMENDED ACTION:

RECOMMENDATION

Move that the Board direct staff.

ALTERNATIVE RECOMMENDATIONS

None

FISCAL IMPACT:**RECOMMENDATION**

None

Funding Source	County Funds	Non-County Funds
Subtotal		
Project Total		

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

- ☐ Budget Transfer / Amendment ☐ Chair Letter ☐ Contract / Agreement
☐ Grant / Application ☐ Notice ☐ Ordinance ☐ Resolution
☐ Other:

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