**WATERWAYS COMMISSION COMMITTEE ON DERELICT VESSELS AND FLOATING STRUCTURES - November 6, 2019**

**Notes from meeting**

**Attendees:** Lindsey Brock, Marshall Atkison, Parks Dept. (Jim Suber, Bob Skalitsky, Brian Burket), OGC (Susan Grandin), JSO Marine Unit (Lt. Chris King and Officer Peter Goody), Andrew Kantor, State Attorney’s Office representing JSO, and City Council staff.

**Purpose:** The Committee was formed to address both Derelict Vessels (“DV”) and Floating Structures, but this is such an encompassing topic, the Committee is going to address just Floating Structures first, and then build upon that format for the additional topics of DVs and Live-aboards.

The difference between DVs and floating structures is not easily recognized, and takes into account many criteria, but for our purposes, and most other local governments, the statutory definition is used as a starting point. DV’s involve more inter-governmental relationships and overlapping jurisdiction.

**Three main focus areas exist with the floating structure issue: Regulation, Enforcement, and Funding.**

1. Definition of “floating structure.”
	1. Sec. 327.02(14), F.S.:  “Floating structure” means a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes, but is not limited to, an entity used as a residence, place of business or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term “vessel” provided in this section. Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a floating structure.
	2. Monroe County, Sec. 26-215: *Floating structure* shall mean a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes, but is not limited to, an entity used as a residence, place of business or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term "vessel" provided in this section. Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a floating structure. In the event it is disputed whether an entity constitutes a floating structure versus a vessel, such dispute shall be exclusively determined, under a preponderance of the evidence standard, by analyzing (1) whether it is capable of self-propulsion, (2) whether it has a rudder or other steering mechanism, (3) whether it has a raked hull, (4) whether it has a rectangular or a square bottom, (5) by comparing its draft to the drafts of vessels of a similar physical size, (6) its infrequency of documented past geographical movement, (7) whether it can be moved over meaningful distances without dangerously or hazardously swinging from side-to-side, (8) if it has a (lawful) capacity to generate or store electricity, (9) whether it has a bilge pump(s), (10) whether it has an approved marine sanitation device(s), (11) whether its above-water surface area(s) bear similarity to the interior or exterior of a land-based residential or commercial structure, (12) whether it has ordinary windows, open doorways, or unsealed doors, (13) whether it has any other physical features that might suggest to an objective reasonable observer a design to transport over water anything other than its own furnishings and related personal effects, and (14) whether it is titled and registered as a vessel. Payment of a tangible personal property tax regarding the entity in question or issuance or receipt of a tax exemption thereto, pursuant to F.S. § 192.001(17), shall constitute prima facie evidence that the entity in question constitutes a floating structure under this article.
	3. What about vessels that used to be sailboats but whose mast has been removed and there is no motor?
2. Regulation:
	1. The state legislature, through Sec. 237.60, F.S., has *expressly* enabled local governments to regulate Floating Structures in two[[1]](#footnote-1) ways:
		1. Prohibiting or restricting their LOCATION; and
		2. Requiring SEWAGE PUMPOUT.
	2. Eleven other local governments in Florida have regulations regarding floating structures
	3. **Locations allowed**:
		1. At a marina that:
			1. includes the utilities (elec., potable water, and facility to pump out sewage).
			2. Question as to whether to put a limitation on how many floating structures are allowed in a marina.
			3. Must have pump out facility or direct line to shore
		2. At a private dock through a Waiver process, applied for by the riparian upland owner, requiring:
			1. the upland riparian owner must be the floating structures owner;
			2. the riparian owner is responsible for supplying the permanent utilities (elec., potable water, and sewage) to the floating structure ;
			3. annually renewed insurance naming COJ as additional insured, or a bond naming COJ as (beneficiary ?) for an amount that would be required to remove the structure.
		3. All other locations are prohibited. (No anchoring, mooring, pulling up onto vacant or occupied property)
	4. **Sewage pump out:**
		1. Other local governments have instituted some form of regulation.
	5. In other areas that we discussed regulating, the legislature has not *preempted* our involvement, as listed below:
	6. **Building permit:**
		1. Some local governments require permit per Florida Building Code or similar.
	7. Requiring insurance or a bond
	8. Initial permit required for bringing a floating structure into Duval County with an annual permit renewal. Portion of funds to go into a trust fund for removal of Floating Structures (see **4. Funding** below)
	9. Maximum height:
		1. Key West is 2 stories.
3. **Enforcement**
	1. Code Enforcement could be authorized to enforce this ordinance
	2. Monroe and Palm Beach Counties, Destin, and North Palm Beach authorize their Code Enforcement officers, and other law enforcement officers, to enforce
	3. Memorandum of Understanding could memorialize the agreement between FWC and JSO regarding areas of the river and ICW to patrol (*cover at next meeting*)
	4. Authorized enforcement entities could call on private companies
	5. Make distinction that “removal” is not just impound, but is removal and immediate destruction and disposal.
4. **Funding**
	1. COJ has two Trust Funds to deal with derelict vessels or floating structures. Currently there is $42,000 in Sec. 110.413, Ordinance Code, and $0 in Sec. 110.414, Ordinance Code, the derelict vessel removal fund. These need to be revised to remove restrictions.
		1. 110.413 - revise to reflect proper funding source and identify what funds can be used for
		2. 110.414 – revise to allow funds in account to be used without specific Council approval for floating structure or derelict vessel removal. Grant funds helpful, but not required
		3. Perhaps a separate TF for floating structure enforcement
5. **Future meetings**
	1. Derelict vessel regulation, enforcement and funding
	2. Existing COJ Trust Fund ordinance revisions
	3. HB 417 and SB 606 regarding no anchorage in Ortega River and Cedar River
	4. Live-aboard regulation, enforcement and funding
	5. Impoundment area

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1. A third authorization relates to any “vessel” that is abandoned or lost and affixed to a public dock. The process in Sec. 705.103, F.S. is extended to local law enforcement (705.103 is just for Code Enforcement staff) to provide notice via a sticker on the vessel, and can remove and destroy it after 24 hours. [↑](#footnote-ref-1)