

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040538

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt by resolution, the creation of a Local Rule Review Committee for the purpose of reviewing manatee speed zones as proposed by the Florida Fish and Wildlife Conservation Commission.

WHY ACTION IS NECESSARY: Action required by Florida Statute 370.12 (2)(f).

WHAT ACTION ACCOMPLISHES: Provides local input to Florida Fish and Wildlife Conservation Commission on proposed manatee speed zones.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: CW

C 8 B

3. MEETING DATE: *05-11-2004*

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

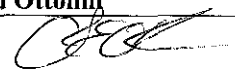
5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE 370.12(2)(f)
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Public Works
- C. DIVISION Natural Resources

BY: Roland Ottolini



7. BACKGROUND:

On April 9, 2004 the Florida Fish and Wildlife Conservation Commission (FWC) informed Lee County of its intention to consider new or amended manatee protection rules in Lee County. Pursuant to Florida Statute 370.12 (2)(f), the FWC shall submit any new or amended proposed manatee protection rules to the counties in which the proposed rules will take effect. Each County will then appoint a local rule review committee to provide comment on the proposed rules. The resolution outlines the creation, make-up, duties, and goals of the review committee as set forth in Florida Statute 370.12 (2)(f). Staff intends to hire a professional facilitator using existing funding.

The pending creation of permanent Federal manatee protection areas makes committee creation and appointment of members time critical.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	Risk	GC	
<i>J. Jander</i> <i>4/28/04</i>	N/A	N/A		<i>[Signature]</i> <i>4/29/04</i>	<i>P.M.</i> <i>4/27/04</i>	<i>[Signature]</i> <i>4/29/04</i>	<i>OK</i> <i>4/29/04</i>	<i>[Signature]</i> <i>4/29/04</i>	<i>J. Jander</i> <i>4/28/04</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
 Date: *4/29/04*
 Time: *9am*
 Forwarded To:
Co. Admin
4/29/04

RECEIVED BY
 COUNTY ADMIN: *PM*
4/29/04
 COUNTY ADMIN
 FORWARDED TO: *PP*
4/29/04
3pm

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION DESIGNATING AND ESTABLISHING A LOCAL RULE
REVIEW COMMITTEE
FOR MANATEE PROTECTION SPEED ZONES

WHEREAS, the creation of speed zones to regulate vessels in Lee County for manatee protection is important in protecting the endangered Florida manatee; and,

WHEREAS, the Florida Fish and Wildlife Conservation Commission (FWC) is the primary agency responsible for creation of manatee protection speed zones in Lee County; and,

WHEREAS, the FWC notified Lee County on April 9, 2004 of its intention to consider new or amended manatee protection rules in Lee County; and,

WHEREAS, pursuant to Florida Statute 370.12 (2)(f) proposed rules shall be submitted to the counties in which the proposed rules will take effect for review by local rule review committees; and,

WHEREAS, it is in the public interest and benefit to create such a committee.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA THAT:

A Local Rule Review Committee is hereby created by the Board of County Commissioners for the sole purpose of review and creation of recommendations pertaining to proposed state manatee speed zones in Lee County.

SECTION I. COMPOSITION AND TERMS OF OFFICE

A. APPOINTMENT

The Local Rule Review Committee shall consist of no more than ten (10) members. As outlined in F.S. 370.12(2)(f)3, the Committee shall consist of an identical number of waterway users, and manatee and other environmental advocates.

All appointments shall require an affirmative vote of a majority of the Board of County Commissioners at a regularly scheduled meeting. Each County

Commissioner shall appoint two (2) members to the Committee, one representing waterway user viewpoint and one representing an environmental advocate viewpoint. Members shall serve without compensation. A County Commissioner may choose not to appoint members to the Committee, provided that there are at least six members already serving on the committee.

B. TERM OF OFFICE

The Local Rule Review Committee is a standing committee, to be utilized when needed to review manatee protection rules proposed by FWC for Lee County waters. Members serve as appointed or until they resign or are removed by the Board of County Commissioners. The committee shall be called into action when the FWC submits a Notice of Rule Development to the Florida Administrative Weekly.

C. QUALIFICATIONS

Each member of the Local Rule Review Committee shall be a person of integrity, responsibility and general ability. All members shall be full-time residents of Lee County with the ability to commit the time necessary to complete the rule review within the sixty-day time limit specified in statute. Members must be waterway users, or manatee or other environmental advocates as required by statute.

D. REMOVAL

A member of the Local Rule Review Committee may be removed with or without cause from the Committee by an affirmative majority vote of the Board of County Commissioners at a regularly scheduled meeting.

E. VACANCIES

Vacancies on the Local Rule Review Committee shall be filled according to the procedures as set out here in as soon as possible.

F. NON-VOTING PARTICIPANTS

Pursuant to F.S. 370.12 (2)(f)4, the County may extend invitations to other agencies including but not limited to the U.S Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, and local municipalities to participate as non-voting members of the Local Rule Review Committee.

SECTION II. OFFICERS, RULES OF PROCEDURES, MEETINGS, VOTING AND RECORDS

A. OFFICERS

Pursuant to F.S. 370.12 (2)(f)6, the Local Rule Review Committee shall elect from its voting members a Chairman and a Recording Secretary. Each Officer shall serve in his/her respective capacity until his/her successor is elected.

1. Chairman - The Chairman shall be responsible for convening and adjourning meetings as well as observing Robert's Rules of Order during meetings. The chairman shall also be responsible for designation of meeting times and space, with the assistance of County Staff.
2. Secretary - The Secretary shall be responsible for review of the minutes as provided by County staff and recording attendance of committee members and all others at the meetings.

B. RULES OF PROCEDURES

1. The Local Rule Review Committee shall adopt rules for the transaction of their business; and shall conduct all meetings pursuant to the provisions of all applicable Resolutions, Regulations or Administrative Code provisions of the Board of County Commissioners.
2. Committee members will be subject to the Sunshine Law and public records requirements. As such, all written materials, including email, will be treated as public records. Additionally, Committee members may not discuss matters that may come before their Committee outside of the context of a properly noticed and convened meeting. Knowingly violating the sunshine law is a second degree misdemeanor. Violators can be sentenced upon conviction to up to 60 days in jail and/or up to a \$500 fine.

C. MEETINGS, VOTING AND RECORDS

The Local Rule Review Committee shall meet as many times as necessary in order to produce the desired results prior to the sixty-day time limit placed upon it by Florida Statute 370.12 (2)(f)2. Duration and time of the meetings shall be set by group consensus. If a meeting exceeds the time that has been scheduled for the meeting, the Chairman may continue the meeting to a date, time and place certain.

1. The County shall hire a professional facilitator to direct the meetings and assist in creation of the written report.
2. All meetings of the Local Rule Review Committee shall be open to the public.
3. County Staff shall record all proceedings of each meeting and distribute copies of the minutes according to County policy. The elected committee Secretary shall be responsible for review and approval of the minutes prior to dissemination.

4. The committee may request data from the Florida Fish and Wildlife Conservation Commission in their review of the proposed rule.
5. The committee may seek public testimony in their review of the proposed rule.

SECTION III. DUTIES AND RESPONSIBILITIES

The Local Rule Review Committee shall have the following duties and responsibilities:

- A. Pursuant to Florida Statutes 370.12 (2)(f), the committee shall review all proposed rules of the Florida Fish and Wildlife Commission that propose to govern the speed and operation of motorboats for purposes of manatee protection.
- B. Within 60 days of formal receipt of the proposed rules, the committee shall submit a written report to the Florida Fish and Wildlife Commission members and staff. The report may include:
 1. Recommended changes to the proposed manatee speed zones and protection zones.
 2. A recommendation on adoption or non-adoption, if it is the decision of the committee.
- C. The committee may address factors such as whether the best available scientific information supports the rule, the applicability of seasonal zones, and other factors needed to balance manatee protection and public access to Lee County waters.
- D. The written report submitted by the committee shall contain a majority opinion. If the majority opinion is not unanimous, then the minority opinion shall also be included.

SECTION IV. SEVERABILITY

If any word, sentence, phrase, clause, section, or portion of this resolution shall be held invalid or unconstitutional by any court of competent jurisdiction, such word, sentence, phrase, clause, section, or portion shall be deemed as separate and independent, and invalidity of the part shall not affect the validity of the whole.

SECTION V. EFFECTIVE DATE

This Resolution shall become effective upon its adoption by the Board of County Commissioners of Lee County.

The foregoing Resolution was offered by Commissioner _____, who moved for its adoption. The motion was seconded by Commissioner _____; and, being put to a vote, the vote was as follows:

BOB JANES _____
DOUGLAS R. ST. CERNY _____
RAY JUDAH _____
ANDREW W. COY _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED this _____ day of _____, 2004.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____

BY: _____

APPROVED AS TO FORM

BY: _____
OFFICE OF COUNTY ATTORNEY