

**PUBLIC TO PRIVATE CONVERSIONS OF MARINAS, BOAT RAMPS,  
AND BOATYARDS IN FLORIDA: STRATEGIES TO ADDRESS  
DIMINISHING WORKING WATERFRONTS AND WATERWAY ACCESS  
IN FLORIDA \***

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## I. INTRODUCTION

Publicly accessible marinas, boatyards, and boat ramps in Florida are being displaced by private land uses. It exacerbates the problem that many areas of Florida lack physical space for new public access to the water. At the same time, the number of registered boats has increased,<sup>1</sup> creating a problem for both recreational boaters and commercial fishing in the State of Florida. Although some programs currently exist to preserve and increase access, access continues to decrease across the State. The issue has come to the attention of boaters, the boating industry, and members of the Florida Legislature. This report provides an overview of the problem, reviews current programs that seek to maintain access, and discusses current legislative initiatives. It also gives detailed accounts of public to private conversions in different Florida counties describes instances of similar problems in other states and how they addressed them. The report concludes with possible state and local strategies.

## II. THE PROBLEM

Florida has 1,197 statute miles of coastline that the public has a right to enjoy.<sup>2</sup> The state holds title to lands under navigable waters within state jurisdiction if those lands have not been alienated.<sup>3</sup> Under the Public Trust Doctrine, the state has the obligation to manage sovereignty submerged lands to protect the public's interest in such lands.<sup>4</sup> In the last twenty years, however, local governments and private interests have conceded access points to non-water dependent and restricted private interests.<sup>5</sup> One concluded that as many as fifty-seven marinas or boatyards that have been converted from public to private use in the last few years, with more sales expected.<sup>6</sup>

One manifestation of conversion to private use is called "dockominiums." Dockominiums are "a form of exclusive dockage which serve a limited number of boaters who can afford to purchase highly priced land adjacent to and including our nation's public trust lands and waterways."<sup>7</sup> This development has marked two shifts in the boating industry: first, waterfront boatyards, which repair boats, are decreasing because the industrial activity of boatyards does not fit into the new vision of marinas as residential communities. The second shift involves developers keeping marina boat docks, but instead of leasing boat slips, they sell the slips to boat owners.<sup>8</sup>

This shift to dockominiums can prevent boaters from being able to purchase or lease a slip. The dockominium rise has put slips financially out of reach for many boat owners. For example, in the Jacksonville area, Harbortown, a converted marina, charges \$101,000 for a slip that fits a 40ft boat.<sup>9</sup> The same size boat at Beach Marine in Jacksonville, which has not been

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<sup>1</sup> According to the Florida Fish and Wildlife Commission's latest statistics, Florida had almost one million registered vessels (982,907) in 2004. <http://myfwc.com/whatsnew/05/statewide/boatingstats.html>. The growth rate of number of vessels in Florida from 1987 to 2003 was about double the population growth for the same period. Florida Senate Interim Report 2005-122 (November 2004), at 5.

<sup>2</sup> <http://www.stateoflouisiana.com>.

<sup>3</sup> FLA. CONST. art. X, s. 11; FLA. STAT. ch. 253.12(1) (2004).

<sup>4</sup> See, e.g. FLA. STAT. ch. 253.034 (2004).

<sup>5</sup> Jane Costello, *Beach Access: Where Do You Draw the Line in the Sand?*, N.Y. Times, January 21, 2005 at 1.

<sup>6</sup> See, e.g., Kate Brennan, *Public marinas slip into private lands*, floridatoday.com, December 7, 2004, at 4.

<sup>7</sup> Catherine Robinson Hall, *Dockominiums: In Conflict With The Public Trust Doctrine*, 24 SUFFOLK U. L. REV. 331, 331 (1990).

<sup>8</sup> David Bauerlein, *Up the river without a paddle*, The Times-Union, April 15, 2004, at 2.

<sup>9</sup> David Bauerlein, *Up the river without a paddle*, The Times-Union, April 15, 2004 at 5.

converted, is \$4,560 per year and at Ortega River Boat Yard the lease is \$3,600 per year.<sup>10</sup> Dockominium proponents counter that there are positive gains for boat owners, such as when a boat owner buys a dockominium the owner has an investment that can increase in value because demand for a slip will continue to grow; therefore, from a financial perspective, it makes more sense to own than lease.

In addition, proponents assert that Florida law provides new developers with an option that will allow for continued public access at these facilities because Florida offers a 30% discount on the leasing rates for sovereignty submerged lands if the marina owner will agree to offer at least 90% of the slips to the public, not just those who own a home at a marina development.<sup>11</sup> This discount, however, is still apparently insufficient to outweigh the value of conversion in most cases.

The lack of access to waterways creates specific concerns for different sub-groups of the boating population. Large boat owners worry about losing wet slips and access to boatyards with the capacity for on-the-water repairs. These larger boats, typically thirty feet or longer, usually prefer direct waterfront access to the boatyards.<sup>12</sup> For example, in Jacksonville, boaters will have to travel by water to areas such as Green Cove Springs, St. Augustine, or Amelia Island to find a boatyard.<sup>13</sup> The lack of boat repair facilities also affects the small boat owners because the decreasing number of facilities means less choice and the need to travel on highways for repairs.

Small boat owners' concerns more often focus on the lack of public boat ramps and parking. Since many small boat owners store their boats out of the water, they are not as affected by the lack of slips. However, as many boat ramps are associated with the marinas and boatyards being sold to developers, access has decreased.

As boat registration numbers increase, public access has not kept pace. Boaters wait hours in line to put their boat in the water at one of the few available public access points and then experience problems finding suitable parking for their trailer. This increasing problem has spawned a new phrase within the nautical community: "Ramp Rage."<sup>14</sup> According to the Miami Herald, in Miami-Dade County there are more than 50,000 registered boats competing for the use of fifty-six boat ramps at six marinas.<sup>15</sup> According to charter boat captain Marty Locke, on weekends and when the weather is nice, "you'll see boats hitting boats, and sometimes people hitting people."<sup>16</sup> In addition, public marinas in Miami-Dade, such as Black Point Marina, have a limited number of parking spaces for the trucks and trailers; frustration only increases for a boat owner who is finally able to get their boat in the water, but who then may not be able to find a place to park their trailer.<sup>17</sup> Officials say Miami-Dade does not have land accessible to build new marinas, and there is no room to expand the marinas already in existence.<sup>18</sup> Areas of Florida such as Miami-Dade have few alternatives for increasing the number of access points, making the few remaining access points of vital importance.

For areas in Florida with enough space to increase water access, many believe current state and local policies make it difficult to get regulatory approval for marinas, and therefore

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<sup>10</sup> *Id.*

<sup>11</sup> FLA. ADMIN. CODE r. 18-21.011, (2005).

<sup>12</sup> David Bauerlein, *Up the river without a paddle*, The Time-Union, April 15, 2004.

<sup>13</sup> *Id.*

<sup>14</sup> Marjorie Rizzo, *Ramp Rage at Dade Marinas Stir Waves*, The Miami Herald, July 4, 2004, at 1B.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

hindering the ability to add new marinas and expand the existing ones. For example, the expansion of Julington Creek Marina in Jacksonville, which doubled in size to 102 slips, took more than three years to get approved.<sup>19</sup> The difficulty of regulatory approval contributes to the tight market for boat slips and long lines to get a boat on the water.<sup>20</sup> Other pending state applications are a seventy-five slip marina on the St. Johns River in downtown Jacksonville for The Strand and a thirty-two slip marina in the Riverside area of Villa Riva. These marinas, however, are tied to residential developments, are not boatyards, and are not 100% public marinas.<sup>21</sup>

Similarly, some believe that environmental regulation issues that discourage improvement or expansion force many public marina owners sell their land to developers because the owners are unable to improve or expand their facilities. New or expanded boat access typically requires a permit issued by the Department of Environmental Protection (DEP) or the applicable water management districts for certain facilities.<sup>22</sup> DEP's application also serves as the application for the U.S. Army Corp of Engineers, the federal agency with jurisdiction over such facilities.<sup>23</sup> Each permitting body reviews applications for things such as potential impact on sea grass, manatees, and water quality.<sup>24</sup> Applicants seeking to build a facility on sovereign submerged land, a facility with more than fifty slips, or projects of "heightened concern," must secure approval from the Florida Cabinet sitting as the Florida Board of Trustees of the Internal Trust Fund.<sup>25</sup>

Applications for approval of marinas with 150 or greater wet slips or 200 or more dry slips have an additional requirement; they must secure approval not only from the DEP, but also the Development of Regional Impact program, administered by the DCA.<sup>26</sup> Counties with a countywide marina site plan in the coastal management element of their comprehensive plan receive an exemption from this additional requirement.<sup>27</sup> Local governments may have their own environmental and land use regulations, which may be different or stricter than federal and state law.

### **III. CURRENT PROGRAMS**

This section reviews current programs available to increase access and reduce conversion pressure.

#### **A. Tax Relief**

Possible avenues for tax relief under current laws are examined on pages 16-17 of the Florida Senate Interim Summary Report 2005-122, attached as Appendix I.

#### **B. Financial Assistance**

Strategies to promote or preserve working waterfronts and public access to water often involve economic assistance to local governments. Current opportunities for financial assistance

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<sup>19</sup> *Id.*

<sup>20</sup> David Bauerlein, *Up the river without a paddle*, The Time-Union, April 15, 2004.

<sup>21</sup> *Id.*

<sup>22</sup> See FLORIDA SENATE INTERIM REPORT 2005-122, at 9 (2004).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 10.

<sup>27</sup> *Id.*

to promote or preserve working waterfronts and public access are identified and discussed on pages 10 to 13 of the full-length Senate Report 2005-122, attached as Appendix I. These programs include the Waterfronts Florida Partnership Program, the Florida Boating Improvement program, the Florida Recreational Development Assistance Program, the Land and Water Conservation Program, the Boating Infrastructure Grant Program, and the Florida Communities Trust.<sup>28</sup> In addition to these potential sources of direct funding, the state has allowed counties the option of increasing the boat registration fee.<sup>29</sup> Finally, two special taxing districts, known as inland navigation districts, have the capacity to provide funds to alleviate access pressure by use of taxes generated through ad valorem taxes.<sup>30</sup>

#### IV. LEGISLATIVE RESPONSE

##### A. 2004 Legislative Session

During the 2004 Legislative Session, Senator Atwater, aware of problems in his southeast Florida district<sup>31</sup> regarding a decrease in boat ramps and problems of limited waterfront access across the State of Florida, sponsored legislation concerning “working waterfronts.”<sup>32</sup> Senate Bill (SB) 2294 and its house counterpart, House Bill (HB) 777, defined the term “working waterfront;” provided requirements of counties and governmental entities with respect to working waterfronts; and required a study and report to the Governor and Legislature.<sup>33</sup>

The original legislation would have required each county government to provide a sufficient number of boat ramps to achieve a boat trailer parking capacity of five percent of the registered available vessels within its jurisdiction by July 1, 2014.<sup>34</sup> It would have required each local government that removes a working waterfront facility to replace the facility within its jurisdiction.<sup>35</sup> The bill provided for a working waterfront study to be commissioned by the DCA.<sup>36</sup> The study would have examined the economic trends of working waterfronts in the state, the economic impact of their loss, and other coastal/waterway developments trends.<sup>37</sup> The proposed legislation did not factor in the cost to local governments, the difficulty in replacing loss waterfront due to land use competing uses, and the fact that there is an increase in registered boats each year. These issues became problematic and the Senate Committee on Comprehensive Planning revised the original legislation.<sup>38</sup>

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<sup>28</sup> FLORIDA SENATE INTERIM REPORT 2005-122 (2004).

<sup>29</sup> *Id.* at 12.

<sup>30</sup> *Id.*

<sup>31</sup> Senator Atwater’s district includes Palm Beach and Broward Counties, which includes large numbers of registered boaters. See [flsenate.gov](http://www.flsenate.gov), senators, member pages.

<sup>32</sup> Information regarding this 2004 legislation can be found at:

[http://www.flsenate.gov/session/index.cfm?BI\\_Mode=ViewBillInfo&Mode=Bills&SubMenu=1&Year=2004&billnum=2294](http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&SubMenu=1&Year=2004&billnum=2294)

<sup>33</sup> [http://www.flsenate.gov/cgi-bin/view\\_page.pl?Tab=session&Submenu=1&FT=D&File=sb2294.html&Directory=session/2004/Senate/bills/billtext/html/](http://www.flsenate.gov/cgi-bin/view_page.pl?Tab=session&Submenu=1&FT=D&File=sb2294.html&Directory=session/2004/Senate/bills/billtext/html/)

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> [http://www.flsenate.gov/session/index.cfm?BI\\_Mode=ViewBillInfo&Mode=Bills&SubMenu=1&Year=2004&billnum=2294](http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&SubMenu=1&Year=2004&billnum=2294)

The committee substitute (CS) to SB 2294 provided legislative findings regarding “recreational and fishing working waterfronts,” and a definition of the term.<sup>39</sup> It required the FWC to undertake a comprehensive study of the future demand for, and economic impacts of, recreational fishing working waterfronts on all navigable waters of the state.<sup>40</sup> The findings of the study were to be presented to the Governor, the Cabinet, President of the Senate, and Speaker of the House of Representatives by November 30, 2007.<sup>41</sup> The CS specified the issues to be addressed in the study and provided funds for the study to be appropriated from the Office of Boating and Waterways.<sup>42</sup>

Even so, CS/2294 died in House Messages during the 2004 Legislative Session.<sup>43</sup> Nonetheless, the 2004 General Appropriations Act (GAA) awarded the FWC money to do essentially the same three-year study laid out in CS/2294.<sup>44</sup>

## **B. 2004 Senate Interim Project**

The Senate Committee on Community Affairs completed a Working Waterfront interim project that identifies options or strategies to help recreational and fishing working waterfronts remain economically viable, and to maintain or increase the availability of public access to navigable waterways and boating-related services in the state.<sup>45</sup>

## **C. 2005 Legislative Session**

In response to the January 11<sup>th</sup> Working Waterfront interim project presentation to members of the Senate Committee on Community Affairs, members asked staff to work on a proposed committee bill to improve public access to waterfronts.

SB 7040 would create section 342.07, F.S., Waterway Beautification and Improvement. This section provides legislative findings and definitions regarding recreational and commercial working waterfronts.<sup>46</sup> The term “recreational and commercial working waterfront” is defined as “a parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state.”<sup>47</sup> The term includes marinas, boatyards, boat ramps, mooring fields, and commercial-fishing support facilities, but does not include ports, meaning federally chartered or port authorities, nor does it include military waterfronts.<sup>48</sup>

Section 1 of SB 7040 would make several changes to Florida’s Local Government and Comprehensive Planning and Land Development Regulation Act (LGCPDLRA) language under s. 163.3177, F.S.<sup>49</sup> It requires coastal counties to encourage the preservation of recreational and

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<sup>39</sup> [http://www.flsenate.gov/cgi-bin/view\\_page.pl?Tab=session&Submenu=1&FT=D&File=sb2294c1.html&Directory=session/2004/Senate/bills/billtext/html/](http://www.flsenate.gov/cgi-bin/view_page.pl?Tab=session&Submenu=1&FT=D&File=sb2294c1.html&Directory=session/2004/Senate/bills/billtext/html/)

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> [http://www.flsenate.gov/session/index.cfm?BI\\_Mode=ViewBillInfo&Mode=Bills&SubMenu=1&Year=2004&billnum=2294](http://www.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&SubMenu=1&Year=2004&billnum=2294)

<sup>44</sup> 2004 GAA, Specific Appropriation 2070A, L.O.F. Chapter 2004-268, Part 5

<sup>45</sup> See FLORIDA SENATE INTERIM REPORT 2005-122 (2004).

<sup>46</sup> SPB 7040, 2005 Florida Legislative Session, at 12.

<sup>47</sup> *Id.* at 13.

<sup>48</sup> COMMUNITY AFFAIRS COMMITTEE, SPB 7040 SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT, at 2.

<sup>49</sup> SPB 7040, 2005 Florida Legislative Session, at 3.

commercial working waterfronts in their future land use element<sup>50</sup> and requires inclusion of waterways as part of the recreation and open space element of each county's comprehensive plan.<sup>51</sup> Section 2 of the bill would add a requirement that the coastal management element must include strategies to preserve recreational and commercial working waterfronts.<sup>52</sup>

Section 3 of the bill would amend s. 253.03, F.S. to require the Board of Trustees of the Internal Improvement Trust Fund to encourage the use of sovereign submerged lands for water-dependent uses and public access.<sup>53</sup> The Board of Trustees of the Internal Improvement Trust Fund is in charge of those lands held in trust for the use and benefit of the people of Florida.<sup>54</sup>

The bill would, in section 4, codify the existing Waterfronts Florida Program that is run by the DCA.<sup>55</sup> This program provides technical assistance to communities to revitalize waterfront areas in Florida.<sup>56</sup> One of the program's statutory priorities in the bill would be to provide public water access.<sup>57</sup> This section also codifies the existing practice of DCA coordinating with DEP to create the procedures and requirements governing program eligibility, application procedures, and application review.<sup>58</sup>

Section 5 of the bill requires DEP, with the FWC, to commence a study that would evaluate the current use of state parks for purposes of recreational boating and identify opportunities for increasing recreational boating access with the state park system.<sup>59</sup> The study would include recommendations on the most appropriate locations for expanding existing recreational boating facilities and identify state parks where new recreational boating facilities may be located.<sup>60</sup> In addition, the report would contain estimates of the costs to expand and construct recreational boating facilities at specific state parks.<sup>61</sup> The report would be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2006 and consist of a summary of the DEP's findings and recommendations.<sup>62</sup>

Section 7 of the bill would increase vessel registration fees for all classes of boats. The bill provides that these funds be used exclusively for the boating grant program established by s. 327.47, F.S.<sup>63</sup> This program awards local governments grants for the construction and maintenance of publicly owned boat ramps, piers, and docks.<sup>64</sup> The grants may also be used for boater education, deployment of manatee avoidance technology, and economic development initiatives that promote boating in Florida.<sup>65</sup> Vessel registration fees would likely increase approximately 25% across all classes of vessels.<sup>66</sup> This would generate about \$4.5 million of

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<sup>50</sup> *Id.* at 4-5.

<sup>51</sup> *Id.* at 6.

<sup>52</sup> *Id.* at 6-7.

<sup>53</sup> *Id.* at 7.

<sup>54</sup> FLA. STAT. ch. 253.001 (2004).

<sup>55</sup> SPB 7040, 2005 Florida Legislative Session, at 7.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 8.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 8-9.

<sup>62</sup> *Id.* at 9.

<sup>63</sup> *Id.* at 11.

<sup>64</sup> *Id.* at 9.

<sup>65</sup> *Id.*

<sup>66</sup> COMMUNITY AFFAIRS COMMITTEE, SPB 7040 SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT , at 5.

additional revenue for the competitive boating grants program each year.<sup>67</sup> Over ninety percent of vessels in Florida are less than 26 feet, and the increase for owners in this category would be five dollars or less per year.<sup>68</sup>

Section 8 of the bill would amend s. 328.76, F.S., regarding the Marine Resources Conservation Trust Fund, the vessel registration funds, and appropriation and distribution of these funds.<sup>69</sup> It would stipulate that funds designated as the boating grants portion of vessel registration fees not be included in the Marine Resources Conservation Fund for the uses set out 328.76, F.S.<sup>70</sup> This amendment is made to conform to the provisions set out in section 6 and 7 of the bill.

Section 9 of the bill is the new s. 342.07 that provides legislative findings and defines “recreational and commercial working waterfronts.”<sup>71</sup>

Section 10 of the bill would create ss. 197.304-197.3047, F.S.<sup>72</sup> These sections would create a tax deferral program for qualifying recreational and commercial working waterfronts.<sup>73</sup> This would allow the county to defer property taxes and put a lien on the property.<sup>74</sup> If the land use should cease to qualify the land as “recreation or commercial working waterfront,” the county would collect any taxes and interest due.<sup>75</sup>

Subsequently, the Senate’s Community Affairs Committee voted to introduce SPB 7040 as a committee bill, SB 1316. The Senate referred the bill 1316 again to the Community Affairs Committee, which after consideration and amendment, passed favorably on the committee substitute bill CS 1316. While much of SPB 7040 remains intact, CS 1316 added sections and made some changes within existing sections. CS 1316 added a new section 5 that mandates that DEP and water management districts adopt programs to expedite the processing of wetland resource and environmental resource permits for marina projects that reserve at least 10 percent of available boat slips for public use.<sup>76</sup> CS 1316 also added a new part into the current section 11. This new part makes a tax-deferral program for property taxes a measure that counties or municipalities *may* adopt whereas SPB 7040 made tax-deferral programs mandatory.

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<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> SPB 7040, 2005 Florida Legislative Session, at 11.

<sup>70</sup> *Id.*

<sup>71</sup> The definition in the proposed legislation states that

Recreational and working waterfront means a parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities commercial fishing facilities, boat construction facilities, and other support structures over the water. SPB 7040, 2005 Florida Legislative Session, at 7-8.

<sup>72</sup> *Id.* at 17.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> CS 1316, 2005 Florida Legislative Session, at 9.

## V. SELECTED COUNTY CASE STUDIES

### A. Brevard

In 2003 Brevard County had 4,031 wet boat slips, 3,203 dry slips, and the seventh-highest number of registered vessels in the State.<sup>77</sup> Public to private conversions in the county are diminishing public access. Indian Cove Marina and Island Point Marina have been converted from public to private access marinas.<sup>78</sup> Whitley Bay Marina, Cocoa's only public access marina, has been sold to developers who plan to convert it to a members-only yacht club.<sup>79</sup> The conversion to dockominiums will result in slips costing between \$70,313 and \$255,000.<sup>80</sup> Interestingly, in the Whitley Bay conversion much of the public was under the impression that the marina was suppose to stay open to the public, even with the condominium development.<sup>81</sup> The fact the public feels misled has increased public resistance over the development.<sup>82</sup>

Ninety marinas in Brevard county operate over submerged lands and seventeen meet the 90% public access requirement necessary to receive the 30% discount on leasing rates provided by chapter 18-21.011 of the Florida Administrative Code.<sup>83</sup> Twenty-three of the marinas require less than 90% access be given to the public and the fifty remaining marinas have no public access.<sup>84</sup> As Whitley Bay Marina continues its fight, eight other public-access marinas across Brevard are currently for sale, are considering selling, or under contract to sell.<sup>85</sup> If Indian Cove, Island Point, and Whitley Bay and the eight public marinas currently for sale all go private, this would result in "the average boater . . . be[ing] shut out of two-thirds of all marinas in the county."<sup>86</sup>

### B. Broward

Broward County hosts several examples public to private conversion of marinas. Chinock Marine on the New River in Fort Lauderdale is now a high rise condominium called Symphony House. Summerfield Boat Works, a Fort Lauderdale boatyard on the South Fork of the New River, may be converted to a megayacht facility. To date the boatyard offers marine services such as rigging and painting and covered and uncovered boat storage, but this will all change if the planned megayacht facility is approved.<sup>87</sup> Such loss of public access carries particular importance in Broward County because the county lacks available land to replace lost access.

### C. Charlotte

In Charlotte County the increasingly high cost of waterfront property is obstructing the ability of the county commissioners to buy land for public boat ramps.<sup>88</sup> The county raised \$2.6 million from the 2002 One-Cent Sales Extension, designating the money for boat ramps, but, after some land-acquisition failures, the county decided they could serve the boaters better by

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<sup>77</sup> Kate Brennan, *Public marinas slip into private hands*, floridatoday.com, at 5.

<sup>78</sup> Kate Brennan, *State tackles marina feud at meetings*, floridatoday.com, at 2.

<sup>79</sup> *Id.* at 1.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at 4.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 2.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> Telephone interview with a county representative (Nov. 2004).

<sup>88</sup> Bob Reddy, *Land buy of ramps on hold*, Sun-herald, March 10, 2004.

first using the money to improve existing boat ramps before buying more property to build new ramps.<sup>89</sup> Two improvement projects are already planned: expanding the Ainger Creek Boat Ramp on Placida Road and conducting similar improvements to the El Jobean Boat Ramp near Kerrigan Circle.<sup>90</sup> Once these improvement projects begin, the county will evaluate possible purchase of an eleven acre piece of land on O'Hara Drive, the Village at Holiday Lakes, off Gasparilla Road, and also adding facilities at Spring Lake Boat Ramp off Edgewater Drive.<sup>91</sup>

Charlotte County has lost several public access points to the water. For example, the county closed down the Tom Adams Bridge boat ramp due to traffic hazards to those on Beach Road.<sup>92</sup> The Holiday Inn that was destroyed in the 2004 hurricane season also included a marina; the Holiday Inn will convert to condominiums, but the future status of the marina remains in question.<sup>93</sup> The public boat ramp at Burnt Store Marina, the only public ramp within twenty miles of coast, was sold and will be closed down.

#### **D. Duval**

The Ortega River Boat Yard in Jacksonville, a 240-slip marina, is a historic boatyard that Julian LeCraw & Co. wanted to develop into town homes and condominiums, demolishing the existing buildings.<sup>94</sup> After much opposition and a fight to keep public access, LeCraw & Co. proposed to continue to provide boat repairs along with developing some of the area for condominiums.<sup>95</sup> Current site zoning is industrial waterfront, but the new proposal would change it to planned unit development.<sup>96</sup> Under the rezoning, "the marina would continue to provide refueling, sewage pump-out, and 'minor repair services', [but] the repairs would not involve removing boats from the water or taking engines off the boats."<sup>97</sup> The proposal passed the City Council unanimously; therefore, the site will be rezoned and LeCraw & Co. will be able to build condos with the boatyard remaining in business. Opponents point out that it was vital to keep the waterfront land zoned as industrial in order to keep the boatyards operating at their full capacity.<sup>98</sup>

The Ortega Boatyard plan continues to present difficult questions: Will there be enough parking on the site? Will rent for the marine-related businesses increase due to increased property values associated with the condominiums? Will the boatyard still have enough room to operate successfully? Will they have to be more selective in accepting boats for repair? Will large sailboats be rejected due to lack of space? Finally, if the boatyard must share the space and not operate in its full capacity, will city officials also keep boatyards from being built elsewhere? Furthermore, the 240-slip marina will be rebuilt as a 190-slip marina: a loss of 50 slips.<sup>99</sup> Live aboard boat owners will also have to find somewhere else to go as the rezoning at Ortega

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<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> Telephone interview with a county representative (Oct. 2004).

<sup>94</sup> David Bauerlein, *Boat yard, condo: Can they just get along?*, The Times-Union, April 3, 2004.

<sup>95</sup> David Bauerlein, *Panel OKs boatyard plan*, The Times-Union, April 7, 2004.

<sup>96</sup> David Bauerlein, *Up the river without a paddle*, The Times-Union, April 15, 2004.

<sup>97</sup> *Id.*

<sup>98</sup> David Bauerlein, *Panel OKs boatyard plan*, The Times-Union, April 7, 2004.

<sup>99</sup> David Bauerlein, *Up the river without a paddle*, The Times-Union, April 15, 2004.

prohibits live aboards.<sup>100</sup> The community will have to wait and see whether this combination approach of condominiums and a working waterfront presents a possible solution.<sup>101</sup>

Duval County has also lost the San Pablo Marina on the Intercoastal Waterway. San Pablos was converted to Harbortown,<sup>102</sup> a private condominium association. Harbortown dockominiums cost from \$101,000 to \$121,000 per slip.<sup>103</sup> The existing 110-slip marina will be increased to 150-slip, but the price may be unattainable for many boaters.<sup>104</sup> The first 75 slips will be sold as dockominiums exclusively to those purchasing a townhouse or condominium at Harbortown.<sup>105</sup>

Beach Marine, off the Intercoastal Waterway in Duval County, was sought by developer Wally Devlin for conversion to a yacht club and 500-unit condo.<sup>106</sup> The site proposal would have prohibited live aboard boat owners, thus displacing dozens of people, and many would not be able to afford the increase in price to lease a slip.<sup>107</sup> The sale of Beach Marina apparently fell through when the developer failed to get permission to build condominiums that would have exceeded the building height ordinances.<sup>108</sup>

### E. Franklin

Recently a marina that served as a regional public access point was sold. Condominiums will replace the fish camp, small restaurant, and marine shop formerly on the property. The county is seeking a grant through the FWC to build another public access point. Twelve potential new sites for boat ramps have been suggested, but the county does not want to spend the money to buy the land. The Apalachicola Bay and River area lacks sufficient public boat ramps. On a positive note, the FWC has acquired the Box Ranch, part of St. Joe's Property, and plans to put a public boat ramp there.<sup>109</sup>

Franklin County has also recently approved a marina plan on the Eastpoint waterfront.<sup>110</sup> Eastpoint, just across the Bay from Apalachicola and St. George Island, was originally home to a fishing community that housed oyster and shrimp boats. The marina plan for Eastpoint includes aspects of both recreational use and commercial fishing. In July 2004 the county approved a rezoning that was necessary for the marina and multi-use recreational project to move forward.<sup>111</sup> The projects seeks "to keep the local area intact, protect the environment for preserving what remains of the seafood industry, and to do something so that young people in the community will have more options."<sup>112</sup> The plan adds 49 slips to 10 existing commercial slips located at the Flowers Oyster House to create a 59 slip "hybrid marina."<sup>113</sup> The site may incorporate a boat ramp if space permits.

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<sup>100</sup> *Id.*

<sup>101</sup> Another boat yard on the Ortega River, Lamb's Yacht Center, plans to expand to make up for the loss of some services at the Ortega River Boat Yard and the boatyard that was closed in Pablo Creek. *Id.*

<sup>102</sup> David Bauerlein, *Boat yard, condo: Can they just get along?*, The Times-Union, April 3, 2004.

<sup>103</sup> David Bauerlein, *Up the river without a paddle*, The Times-Union, April 15, 2004.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> Caren Burmeister, *Beach Marine plans up in air as meeting looms*, Shorelines, April 15, 2004.

<sup>107</sup> David Bauerlein, *Up the river without a paddle*, The Times-Union, April 15, 2004.

<sup>108</sup> Telephone interview with a county representative (Nov. 2004).

<sup>109</sup> Telephone interview with a county representative (Oct. 2004).

<sup>110</sup> David Adlerstein, *Eastpoint Marina Plan Approved*, Apalachicola Times, July 22, 2004, at 1.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

Although both recreational working waterfronts and commercial fishing waterfronts appear to be decreasing, the recreational users tend to get the most press coverage. Franklin County, however, presents a situation where rapid development is closing down the fish, shrimp, and oyster houses. Further, even as recreational users struggle to maintain access, they add to the problem for commercial fisherman as recreational boaters' docks replace commercial docks. The disappearing shrimp industry in Carrabelle presents another example of this in Franklin County. "The old fish and shrimp houses have been, or are in the process of being replaced by crisp, cookie-cutter condominiums, well-manicured and paved over as rental weekend hideaways, resorts or 'vacation homes.'"<sup>114</sup>

## **F. Monroe County**

In Monroe County commercial fishing experiences the most critical problems, but recreational boating also encounters access problems. Oceanside Marina on Stock Island and Robbie's Marina have both been purchased for conversion from boatyards to dockominiums.<sup>115</sup> From Robbie's Marina the next closest boatyard is in Havana, Cuba. Rusty Anchor and Bama Seafood's are being converted from commercial waterfront use to recreational use.<sup>116</sup> Twenty years ago the entire Key West area converted from commercial to recreational and this has drastically limited the availability of docks for commercial fishing.<sup>117</sup> Stock Island is the last major commercially-oriented port, but increasing property values mean the port is being taxed based on its value were it condominiums; fishermen unable to afford this additional cost will be pushed out.

## **G. St. Johns**

The owners of the Conch House Resort Marina are considering developing the marina into condominiums.<sup>118</sup> The Conch House currently includes a 200-slip marina, restaurant, motel, and lounge.<sup>119</sup> A proposed development plan for the marina includes condominiums and conversion of much, if not all, of the marina to private slips exclusively for the condominiums.<sup>120</sup> The plan, including 50-80 luxury condos, was denied a permit due to lack of specific information in the permit application. As a result, the future of this marina remains uncertain.

The San Sebastian project, a waterfront development project in St. Augustine, will be built on 13 acres of vacant lots and includes 106 condos, 85 hotel rooms, and a 65 slip marina as well as a river walk along the river.<sup>121</sup> This waterfront development project will be built on the San Sebastian River at King and Florida streets.<sup>122</sup> Although this will add slips to the area, if prices follow the trend of higher-priced slips associated with a condominium development, many boat owners will not be able to afford to either purchase or lease them.

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<sup>114</sup> Laurel Newman, *Carrabelle Shrimping Industry Gone*, Apalachicola Times, July 15, 2004 at 1.

<sup>115</sup> Telephone interview with a county representative (Oct. 2004).

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> Telephone interview with a county representative (Nov. 2004).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> Kati Bexley, *San Sebastian project get initial approval from city*, St. Augustine Record, Dec. 14, 2004.

<sup>122</sup> *Id.*

## VI. POSSIBLE OPTIONS FOR PRESERVING AND INCREASING ACCESS

### A. State Government Level

#### 1. *Property Tax Relief*

The primary options discussed in the Senate Interim Report 2005-122 include creation of a tax deferral program for working waterfronts, possible expansion of the “agricultural classification” for tax deferral to include working waterfronts supporting commercial fishing, and “use-value,” or “income,” property tax incentives for working waterfronts. For more information on these programs, see Appendix I, Florida Senate Interim Report 2005-122, page 17.

#### 2. *Submerged Lands and Delegation*

Each state with coastal waters is able to establish their own rules and procedures for submerged land.<sup>123</sup> Florida requires authorization for any construction on or use of submerged lands owned by the state.<sup>124</sup> Such activities include dredging and filling and construction projects such as docks, seawalls, or piers, and dredging of access channels.<sup>125</sup>

State-owned lands are managed by the Board of Trustees of the Internal Improvement Trust Fund.<sup>126</sup> The trustees decide how the interests of Florida’s citizens are best served with regard to every project concerning submerged lands.<sup>127</sup> Subsection 7 of s. 253.03, F.S. authorizes and directs The Board of Trustees of the Internal Improvement Trust Fund to administer all state-owned lands and requires the Board to create “an overall and comprehensive plan of development concerning the acquisition, management, and disposition of state-owned lands so as to ensure maximum benefit and use.”<sup>128</sup> Further, it gives the Board the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of the act.<sup>129</sup> Part (b) of subsection (7) specifically provides for submerged lands regarding administering, controlling, and managing these lands.<sup>130</sup> It gives the Board the power to adopt rules

governing all uses of sovereignty submerged lands by vessels, floating homes, or any other watercraft, which shall be limited to regulations for anchoring, mooring, or otherwise attaching to the bottom; the establishment of anchorages; and the discharge of sewage, pumpout requirements, and facilities associated with anchorages. The regulations must not interfere with commerce or the transitory operation of vessels through navigable water, but shall control the use of sovereignty submerged lands as a place of business or residence.<sup>131</sup>

Statutory language requires the Board to “ensure maximum benefit and use” of sovereign submerged lands and that uses “be in the public interest and for a public purpose.”<sup>132</sup> Submerged lands authorizations for exclusive uses in a time of diminishing public access may be contrary to

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<sup>123</sup> See 43 U.S.C. §§.1301-1315.

<sup>124</sup> <http://www.dep.state.fl.us/water/wetlands/erp/ssl.htm>

<sup>125</sup> *Id.*

<sup>126</sup> FLA. STAT. ch. 253.03, (2004).

<sup>127</sup> <http://www.dep.state.fl.us/water/wetlands/erp/ssl.htm>

<sup>128</sup> FLA. STAT. ch. 253.03(7) (2004).

<sup>129</sup> FLA. STAT. chs. 120.536(1), 120.54, 253.03(7), (2004).

<sup>130</sup> FLA. STAT. ch. 253.03(7) (2004).

<sup>131</sup> *Id.*

<sup>132</sup> FLA. STAT. ch. 253.02, 253.03, (2004).

the public interest, in spirit if not in law. The Legislature could consider amending the statute to further promote the goal of ensuring that submerged lands of the state be used for public access facilities such as marinas, boatyards, and boat ramps. Requiring the Board to consider these additional factors may help preserve public access to navigable waters.

## **B. Local Government Level**

Local governments play a key role in public access to water. Local governments possess a plethora of mechanisms to increase access; primary among these are local government control of land-use decisions and property tax policy.

### *1. Local Tax Policies*

Local tax policies often influence land-use decisions. Most property taxes assess land based on the market value for its highest and best use. This means that as waterfront land values have increased, property taxes also increase even if the potential and actual income stream of a “mom and pop marina” does not change. Unchecked, this situation can result in forcing the marina to sell or change its business. “Use-value” or “income-basedz” taxation allows assessment based on the income-producing capacity of the existing use and not the market value of the property for a more profitable use. As an example, in Stamford, Connecticut, a preferential taxation regime has helped preserve a marina that otherwise would have been converted to condominiums and offices because of increases in property taxes.<sup>133</sup>

The Legislature could pass a Joint Resolution that would give Florida voters the opportunity to vote on a constitutional amendment that would provide local governments with the power to decide what type of property tax incentives to implement.<sup>134</sup> This would allow each county to work with what would be in the best interest for its concerns. Monroe County, for example, would be able to give its commercial fishing working waterfront tax incentives.

### *2. Comprehensive Planning*

Each Florida County has a comprehensive plan that the law requires be updated periodically.<sup>135</sup> Updates of plans are preceded by an Evaluation and Appraisal Report (EAR) on the adopted plan. The Florida DCA reviews the plan and determines if it is sufficient. Section 163.3177, F.S. provides required and optional elements of a comprehensive plan, subsection (6) (e) provides that the comprehensive plan include

a recreation and open space element indicating a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and public access to beaches, open spaces, and other recreational facilities.<sup>136</sup>

Subsection (6)(g) of 163.3177, F.S. sets out objectives for those counties who have a coastal management element requirement to their comprehensive plan. Section 163.3178, F.S. and

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<sup>133</sup> MARINE LAW INSTITUTE, *MANAGING THE SHORELINE FOR WATER-DEPENDENT USES: A HANDBOOK OF LEGAL TOOLS* 167 (1988).

<sup>134</sup> See BILL COOK, UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW CONSERVATION CLINIC, *CONSERVATION EASEMENTS, CONSERVATION PURPOSES & PROPERTY TAXES: AMENDING THE FLORIDA CONSTITUTION TO ENCOURAGE THE CONSERVATION OF LAND BY PRIVATE INTERESTS IN THE STATE OF FLORIDA* 23 (2004).

<sup>135</sup> FLA. STAT. ch. 163.3191 (2004).

<sup>136</sup> FLA. STAT. ch. 163.3177 (6)(e), (2004).

subsection (g) specifies that a coastal management element contain “a shoreline use component which identifies public access to beach and shoreline areas and addresses the need for water-dependent and water-related facilities, including marinas, along shoreline areas.<sup>137</sup>”

Future land use and coastal management element language in both Chapter 163 and Chapter 9j-5 could benefit from requirements to preserve and enhance public access to the water. This could include access such as boat ramps, marinas, and boatyards. For example, in February 2003, the City of Jacksonville revised its future land use element. The plan states, in part, that:

Jacksonville's estuarine system, which includes an extensive branching tributary system that feeds the St. Johns and Nassau Rivers, is the largest in the State. The City's waterways and wetland areas contribute a significant natural feature to virtually every identifiable geographic area. In fact, Jacksonville is best known as a shoreline city, and much of its appeal to residents and tourists alike focuses on its many water-related amenities.

Objective 2.7 Protect and enhance the City's shoreline areas, particularly for recreational uses, in order to improve quality of life and ensure continued function of these critical environmental systems, and enhance the City's economic development efforts.

#### Policies

- 2.7.1 Establish specific guidelines and standards for shoreline and coastal area development and redevelopment that will at a minimum:
  1. Aid in the creation of a river corridor open space system accessible to the public in urban and suburban areas;
  2. Promote visual access to waterways and their related vistas; and
  3. Promote recreational uses of shoreline and related areas.
- 2.7.2 Develop and implement open space/public access plans through the Parks, Recreation, and Entertainment Department to provide public access to the waterfront through a coordinated, functional system of public and private easements, rights-of-way, and open space.
- 2.7.3 Pursue the dedication of public access/visual easements along waterfront property by providing incentives to land owners in the development review process to provide public vistas, dedications of land interests, and pedestrian/bike paths that link public and private property within river corridors into a linear greenbelt system.
- 2.7.4 Require clustering of water oriented uses along the St. Johns River and its major tributaries, in order to avoid strip development.

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<sup>137</sup> FLA. STAT. ch. 163.3178,(2004).

- 2.7.5 Utilize public rights-of-way that adjoin the water for public access (e.g., street stub-outs), wherever economically and physically practical and in accordance with the Recreation and Open Space Element.<sup>138</sup>

Comprehensive plans could also incorporate harbor ordinances that help protect working waterfronts. Purchasing or transferring of development rights, as discussed earlier, may also be included in the plan. Use of such options can help preserve declining working waterfronts. In Harpswell, Maine, for example, the town made preserving working waterfronts a priority and revised its comprehensive plan accordingly.<sup>139</sup>

A local government might also incorporate a “no net loss of public access” policy into its comprehensive plan.<sup>140</sup>

### 3. *Zoning*

Zoning can guide, control, and assure water dependent uses of the waterfronts. Communities enact zoning laws in different ways: some specifically zone land only for water-dependent uses, while others may allow a mix of compatible water dependent and non-water dependent uses known as mixed-use zoning ordinances.<sup>141</sup> Communities with traditional zoning may choose to “emphasize certain types of water dependent uses, such as commercial fishing, recreational boating, specific industries or traditional working waterfront activities that enhance historic preservation efforts.”<sup>142</sup> Zoning ordinances may incorporate a setback provision requiring non-water dependent uses be located far enough from the water to guarantee sufficient availability of waterfront for the water dependent uses set out in the ordinance.<sup>143</sup> Other communities may choose mixed-use zoning because it allows for more development options. Some believe mixed-use zoning may have devastating repercussions for some facets of the working waterfront, but the approach may also enable private renters to cross-subsidize other uses that have a lower profit margin.<sup>144</sup>

While zoning is usually conceived of as a land-based regime, it may extend onto the water. In Maine, for example, harbor management planning has begun to take land use planning and zoning past the high water mark and to the water’s surface.<sup>145</sup> These harbor management plans were first developed to take care of the operational requirements of harbors.<sup>146</sup> This could include “a delineation of mooring space, rules for operating vessels and allocation of use for public facilities.”<sup>147</sup> A new trend is for these harbor management plans to encourage or require

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<sup>138</sup> 2010 Comprehensive Plan, Future Land Use Element, City of Jacksonville, February 2003.

<sup>139</sup> ROBERT SNYDER, ISLAND INSTITUTE, GOVERNMENTS HAVE A SMALL TOOLBOX TO PROTECT WORKING WATERFRONTS (2004).

<sup>140</sup> FLORIDA SENATE INTERIM REPORT 2005-122, at 18 (2004).

<sup>141</sup> Kenneth Walker & Matt Arnn, National Oceanic and Atmospheric Administration, *Preserving Waterfronts For Water Dependent Uses*, in STATE OF THE COAST REPORT (1998).

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> Robert Snyder, Island Institute, *Governments have a small toolbox to protect working waterfronts*, in THE WORKING WATERFRONT, July 8, 2004.

<sup>145</sup> Kenneth Walker & Matt Arnn, National Oceanic and Atmospheric Administration, *Preserving Waterfronts For Water Dependent Uses*, in STATE OF THE COAST REPORT (1998).

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

preservation and promotion of water-dependent uses.<sup>148</sup> The result of using the harbor management plan is that land-use permitting decisions are influenced by them.<sup>149</sup>

#### 4. *Public Funding/Investment*

Public funding and capital investment may present the best long-term strategy for local governments to protect working waterfronts. Working waterfronts require infrastructure such as boat ramps, parking, wharves, boatyards, marinas, and more. If local citizens initiate and direct a commitment of resources for such needs, “the nature of these investments are less prone to change with fluctuations in local political will or because of shifting demographic patterns.”<sup>150</sup>

Another possible option is a state program that matches the local investment commitment. In Maine, the Small Harbor Improvement Program (SHIP) is administered by the Department of Transportation. SHIP provides capital for local improvements and maintenance of working waterfronts, matching local funds.<sup>151</sup> New England cities such as Boston, Portland, and Provincetown have used public funding to finance capital improvements necessary for water dependent uses.<sup>152</sup> Communities in New England have paid for the construction of bulkheads, boardwalks and public fishing platforms.<sup>153</sup> Some communities have purchased waterfront property to guarantee there will be space for public water dependent uses such as boat ramps, boatyards, and marinas.<sup>154</sup>

#### 5. *Municipal Anchorages*

Local governments may choose to encourage managed municipal anchorages and mooring fields. This can be a cost effective way to safely store boats and promote access. A managed mooring field is a mooring area that is described in a lease between a municipality and the state for the submerged land.<sup>155</sup>

The Town of Fort Myers Beach has a municipal anchorage ordinance that establishes an Anchorage Advisory Committee that advises the Town Council on matters regarding the management and use of the waters for mooring and anchoring.<sup>156</sup> The Committee recommends the appointment of a Harbormaster to the Town Council and the Harbormaster has duties and responsibilities to manage the mooring field, some of which include: enforcing provisions of the plans and permits, assigning mooring spaces, maintaining records, and collecting fees.<sup>157</sup> Stuart and Vero Beach already have mooring fields and other communities are considering implementing them.

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<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> Robert Snyder, Island Institute, *Governments have a small toolbox to protect working waterfronts*, in THE WORKING WATERFRONT, July 8, 2004.

<sup>151</sup> *Id.*

<sup>152</sup> Kenneth Walker & Matt Arnn, National Oceanic and Atmospheric Administration, *Preserving Waterfronts For Water Dependent Uses*, in STATE OF THE COAST REPORT (1998).

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> Ordinance 02-05, Town of Fort Myers, Florida.

<sup>157</sup> *Id.*

## **VII. CONCLUSION**

Florida provides miles and miles of coastal and inland waters for the use and enjoyment of Floridians and visitors to the state. Waterfront marinas, boatyards, and boat ramps play a vital part in public access to and enjoyment of the coastal resources of the state, making it important to preserve them. Currently public access is being displaced by developments that favor of a small segment of the population. This trend has affected commercial working waterfronts and limits opportunities for recreational use of the state's coastal resources. Current state and local policy options have not been sufficient to arrest and reverse the trend.

The issue appeared in the 2004 legislative session and is again prominent in this year's legislative session. Whether the Legislature will act remains uncertain; but each year it fails to act contributes to the cumulative loss of waterfront access available to Floridians.

**APPENDIX I: SENATE INTERIM REPORT 2005-122 (2004)**

# Working Waterfronts

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*Report Number 2005-122*

November 2004

*Prepared for*  
The Florida Senate

*Prepared by*  
Committee on Community Affairs

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# Background

A diversified waterfront industry, both commercial and recreational, is an important component of the state economy. According to a recent study, the “marine industry represents a total economic output of over \$14.1 billion and is responsible for over 180,000 jobs in the state.”<sup>1</sup> Another study found that the marine industry in Broward County generated \$8.8 billion in total economic output in 2000, providing \$3 billion in wages and earnings. This study also found that the industry provided 109,820 full time jobs, making it among the county’s largest employment sectors.<sup>2</sup>

Additionally, a recent study commissioned by the Florida Fish and Wildlife Conservation Commission found that:

“Statewide, the total economic impact of public boat ramps is approximately \$1.3 billion per year. . . . In addition to the economic impact, over 25,000 jobs are created statewide and approximately \$128 million generated in state and local tax revenue.”<sup>3</sup>

Changes in Florida’s economy and land use may be affecting the economic viability of commercial-fishing and recreational working waterfronts.<sup>4</sup> It is reported that, increasingly, development interests are buying traditional working waterfronts and converting them to private and residential use. “Water-enhanced” and “water-related” activities are replacing traditional or “water-dependent” activities.<sup>5</sup> This has the effect of both decreasing the availability of waterfront property necessary to sustain commercial-fishing and recreational boating activities, and increasing the value of nearby working waterfront property. This increase in property value results in higher property taxes, which may cause the working waterfronts to be decreasingly profitable, thereby compounding the pressure to convert to the “highest and best” use of the property.<sup>6</sup>

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<sup>1</sup> “Florida’s Recreational Marine Industry – Economic Impact and Growth 1980-2000,” March 2001, by Thomas J. Murray & Associates, for the Marine Industries Association of Florida, Inc., p. iii.

<sup>2</sup> “Marine Industries Association of South Florida Master Plan,” published by the FAU Joint Center for Environmental & Urban Problems, 2002.

<sup>3</sup> “Assessing the Economic Impact and Value of Florida’s Public Piers and Boat Ramps,” Florida Fish and Wildlife Conservation Commission, March 2001, p. 8.

<sup>4</sup> The term “commercial-fishing and recreational working waterfronts” is defined as public or private-owned water-dependent facilities that are available to the public. It includes marinas, mooring fields, boat yards, boat ramps, and commercial-fishing support facilities. It does not include “Ports” (federally chartered or port authorities) & military waterfronts.

<sup>5</sup> “Watermarks: Technical Briefs on Coastal Waterfront Revitalization,” Volume 1, Issue 3. Department of Community Affairs, July 1997.

<sup>6</sup> This phenomenon in the state of Maine is profiled by *Maine Coastline*, a publication of the Maine Coastal Program at the State Planning Office, and *Preserving Commercial Fishing Access: A Study of Working Waterfronts in 25 Maine Communities*. Both resources are available at [www.maineoceanprogram.org](http://www.maineoceanprogram.org).

The local and regional economic benefit of converting working waterfronts to residential uses varies, depending on the specific social and economic circumstances. However, a recent study in Maine found that while such conversions initially invigorate the local economy (during the construction stage), the positive benefit diminishes over the long term – especially in small jurisdictions.<sup>7</sup>

Coastal residential development may also be decreasing the relative availability of public access to the water through boat ramps. Research indicates that the construction of new launch facilities has not kept pace with increases in annual vessel registrations. Escalating prices for coastal property make it difficult for state and local governments to purchase new access points to meet this growing demand.

Economic pressures to convert property from public accessible to private residential uses is not a recent development.

In 1983, the Governor appointed a Blue Ribbon Marina Committee to “investigate problems encountered by water-dependent activities in the state with an emphasis on marinas and recreational boating.”<sup>8</sup> The committee concluded that increasingly waterfront is being developed for private as opposed to public access.

In 1995, the Florida Coastal Management Program commissioned a study to develop a profile of Florida’s working waterfronts and the economic viability of those areas. The report found that

“...many working waterfronts are experiencing a decline in economic activity due to market forces and demands for waterfront property, the fishing net ban, and other trends affecting small-scale commercial fishing.”<sup>9</sup>

Consequently, loss of commercial and recreational waterfront to residential development and the relative diminishing access to boat launch facilities may have a long term adverse economic impact on our state and local economies.

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<sup>7</sup>[http://www.portlandphoenix.com/features/other\\_stories/multi3/documents/03919490.asp](http://www.portlandphoenix.com/features/other_stories/multi3/documents/03919490.asp) and *Profile of Working Waterfronts*, FAU/FIU Joint Center for Environmental and Urban Problems, 1995, p. 19. The service jobs created to support the residential community are typically less valuable than the waterfront jobs that are replaced, and in smaller communities that were highly dependent on those waterfront jobs, the impact is proportionally greater.

<sup>8</sup> *Economic Impact of Blue-belt Incentives on the Marina Industry in Florida*, by Frederick Bell, Department of Economics, FSU, July 1990. p. ii.

<sup>9</sup> *Profile of Working Waterfronts*, FAU/FIU Joint Center for Environmental and Urban Problems, 1995, p. v. As a result of the study, the Waterfronts Florida Partnership Program was created in 1997 to provide technical and limited financial assistance to participating communities for the development and implementation of a plan to revitalize their waterfront districts.

Access to public waterfront is an amenity that adds to our quality of life and makes Florida a desirable destination for residents as well as tourists.

## Methodology

Committee staff consulted staff of the Fish and Wildlife Conservation Commission, the Department of Community Affairs, the Department of Environmental Protection and other government entities, and surveyed local governments and representatives from the boating industries to obtain information and to identify strategies to maintain public access and assist working waterfronts.

## Findings

### Inventory of Facilities

Definitively documenting the conversion of working waterfronts to private and residential uses and the relative loss of access to boat ramps is problematic. First, a comprehensive current inventory of commercial-fishing and recreational working waterfronts in Florida (marinas, boatyards, and boat ramps) does not exist.<sup>10</sup> However, various estimates are available.

In 1995, the FAU/FIU Joint Center for Environmental and Urban Problems identified thirty-one “traditional” or **commercial-fishing working waterfronts** throughout the state.<sup>11</sup> These are working waterfronts with commercial fishing and workboat repair yards, seafood processing and fish-house facilities that “are not part of a commercial port and may represent a part of Florida’s history and culture threatened by urban development and market forces.”<sup>12</sup>

The Division of Recreation and Parks within the Department of Environmental Protection (DEP) maintains an inventory of all outdoor **recreational facilities and resources** in the state provided by federal, state, regional, county and municipal governments, commercial enterprises (which may include retail sales facilities), non-profit organizations, and private clubs.<sup>13</sup> Preliminary tallies for 2004 indicate that there were 62,954 boat slips in 1,546 fresh and saltwater

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<sup>10</sup> In part to address this problem, the Florida Fish and Wildlife Conservation Commission (FWC) is now commissioning a comprehensive statewide recreational boating facilities inventory for Florida. The inventory will include facilities (marinas, dry storage, mooring fields, boat ramps, and docks) in saltwater, freshwater, and brackish environments. It is projected that the inventory will be completed in 2 – 3 years.

<sup>11</sup> *Profile of Working Waterfronts*, p. 5-9. The report acknowledged that the inventory “probably is not exhaustive...”

<sup>12</sup> *Ibid*, p. iv. This term does not include “modern” working waterfronts, which are characterized by water-based recreation and tourism (tour boat charters, dive ships, marinas, etc.)

<sup>13</sup> *Outdoor Recreation in Florida – 2000, Florida’s Statewide Comprehensive Outdoor Recreation Plan*, (SCORP) Florida DEP, February 2002. p. 2-62. The estimate does not include private facilities, such as condominium slips or “dockominiums.” This information is self-reported.

marinas. The inventory also shows 35,908 dry storage slips. [See TABLE 1] The Division of Law Enforcement within DEP also maintains a database of public marinas across the state. As of July, 2004, the database lists 944 marinas.<sup>14</sup> Approximately 25 percent are “boatyards,” or boat repair facilities.<sup>15</sup>

The Florida Wildlife Commission recently estimated that there are approximately 8,000 **boat ramps** across the state.<sup>16</sup> However, the report noted that many of these ramps are not available to the public – the use is “limited to their owners or members of exclusive marinas and yacht clubs.”<sup>17</sup> The report found that there are an “estimated 1,300 ramps statewide operated by public agencies (federal, state and local) explicitly for public use.”<sup>18</sup> Approximately 200 of these ramps sites are maintained by the FWC.<sup>19</sup> TABLE 1 shows that DEP lists 2,714 public and private (non-residential) ramps with 3,404 lanes in the state.

However, measuring the change in access, as depicted in TABLE 1, is problematic because the information is self-reported and the totals for 2004 are preliminary. While the totals may capture new facilities, they do not capture facilities closed or converted from public to private use since the most recent Florida’s Statewide Comprehensive Outdoor Recreation Plan report (SCORP).

Given the limitations in the data presented in TABLE 1, it may be concluded that, since 1987, there has been no change in the number of marinas, a decline in dry storage units, and a small increase in marina slips and boat ramps (and ramp lanes).

Our limited research indicates that while the number of boat ramps and ramp lanes has increased slightly statewide over the past 17 years, the public’s relative access has declined due to the increase in the number of registered boats in the state.<sup>20</sup> This is especially apparent in Florida’s urban counties.<sup>21</sup>

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<sup>14</sup> July, 2004. See: [http://www.dep.state.fl.us/law/Grants/CVA/Marinas\\_Database.XLS](http://www.dep.state.fl.us/law/Grants/CVA/Marinas_Database.XLS)  
These figures differ from the SCORP database because they do not include private clubs and retail facilities.

<sup>15</sup> Jan Delaney, Div. of Law Enforcement, DEP. 7/04.

<sup>16</sup> *Assessing the Economic Impact and Value of Florida’s Public Piers and Boat Ramps*. FWC, March 2001, pp. 13-14.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*, p. 14. The FWC also found that “the distribution of public ramps is fairly uniform between the northern and central regions of Florida, with the south containing less than a quarter of the state’s ramps.” As to ramp use, the FWC found that “...of the roughly 5.5 million visits annually to publicly owned Florida boat ramps, over forty percent of these visits occur in the central region; nearly 40 percent more than south Florida and 20 percent more than north Florida.”

<sup>19</sup> <http://www.floridaconservation.org/fishing/ramps/>

<sup>20</sup> This may be a more significant problem in those counties experiencing conversions of working waterfronts to residential uses, as many public marinas also have boat ramps. See “Downtown boat ramp must stay put,” Editorial, News-Press Fort Myers, April 8, 2004, and “Boat ramps unlikely at Wall Springs Park,” St. Petersburg Times, August 4, 2004.

<sup>21</sup> The Palm Beach Post recently reported that “In Lee county, there’s about 47,345 boat owners, but only 13 public ramps. Sarasota and Manatee counties have a combined 24

While the launching capacity of boat ramps is the primary problem, lack of parking for vehicles and trailers is another indication that existing facilities may also be inadequate.<sup>22</sup>

## **Increased Demand for Recreational Access**

In 2003, Florida had 978,225 registered boats, a 29.5 percent increase from 1997, and a 51.7 percent increase from 1987.<sup>23</sup> This is approximately twice the rate of the population increase for the state over the same period.<sup>24</sup>

Visiting vessels registered in other states also require waterfront facilities. It is reported that Florida is the top ranked destination for marine recreation in the United States, with an estimated 4.3 million participants.<sup>25</sup> Consequently, it appears that our present inventory of waterfront facilities may be insufficient to meet current demand.

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ramps for about 40,000 boats.” “Boaters having trouble finding launch access,” Palm Beach Post, July 5, 2004. The Miami Herald reported that Miami-Dade County has more than 50,000 registered boats and 56 ramps at six marinas. “They call it ramp rage,” Miami Herald, July 4, 2004.

<sup>22</sup> It is reported that Palm Beach County has 550 parking spaces for the 26,000 boat trailers registered in the county. “Boaters having trouble finding launch access,” Palm Beach Post, July 5, 2004. Collier County’s only public boat ramp has 60 parking spaces for cars with trailers. “Trailer parking at a premium,” News-Press Bonita, March 13, 2004. The article does note that the county recently acquired property to expand access, with parking.

<sup>23</sup> Information available in the Florida Vessel Title Registration System. Of this total, 39,257 vessels are registered as commercial and 939,968 are registered as recreational. See *Boating Accidents, 2003 Statistical Report*, FWC, p. 3. Florida had 644,813 registered recreational boats in 1987. See *Economic Impact of Blue-belted Incentives on the Marina Industry in Florida*, by Frederick Bell, Department of Economics, FSU, July 1990. p. ii.

Florida ranks second only to Michigan in the number of registered recreational boats. (p. 15).

<sup>24</sup> The estimated statewide population increase was 14.2 percent, from 14.9 to 17 million. See <http://www.state.fl.us/edr/population/web7.xls>

<sup>25</sup> See *A Recreational Boating Characterization For Tampa and Sarasota Bays*, Sea Grant, University of Florida TP-130, June 2004, p. 1.

In addition, the FWC reports that Florida “waterways increasingly show the strains of congestion as each year brings more residents and visitors to utilize our abundant water resources and take advantage of our mild climate.” *Boating Accidents, 2003 Statistical Report*, FWC, p. 3.

**TABLE 1: DEP Estimate of Facilities\***

	<b>2004**</b>	<b>1998</b>	<b>1992</b>	<b>1987</b>
Fresh Water Marinas	480	511	342	344
Salt Water Marinas	1,066	1,123	1,073	1,201
<b>Total</b>	<b>1,546</b>	<b>1,634</b>	<b>1,415</b>	<b>1,545</b>
Fresh Water Marina Slips	12,369	12,237	11,417	11,183
Salt Water Marina Slips	50,585	45,839	45,436	49,499
<b>Total</b>	<b>62,954</b>	<b>58,076</b>	<b>56,853</b>	<b>60,682</b>
Fresh Water Dry Storage	4,052	4,980	3,800	4,298
Salt Water Dry Storage	31,856	33,791	31,052	33,476
<b>Total</b>	<b>35,908</b>	<b>38,771</b>	<b>34,852</b>	<b>37,774</b>
Fresh Water Ramps	1,639	1,558	***	***
Salt Water Ramps	1,075	1,055	***	***
<b>Total</b>	<b>2,714</b>	<b>2,613</b>		
Fresh Water Ramp Lanes	2,031	2,017	1,817	1,761
Salt Water Ramp Lanes	1,373	1,328	1,256	1,232
<b>Total</b>	<b>3,404</b>	<b>3,345</b>	<b>3,073</b>	<b>2,993</b>

\* This is an inventory of facilities owned by federal, state, regional, county and municipal governments, commercial enterprises (including retail sales facilities), non-profit organizations, and private clubs. It does not include condominium slips or "dockominiums."

\*\* These totals represent preliminary tallies, which historically capture new facilities, but not facilities closed since the last SCORP report.

\*\*\* Information not compiled in this category

SOURCE: Tables from *Florida's Statewide Comprehensive Outdoor Recreation*, years 2000, 1995, & 1990.

## **Conversion of Commercial-Fishing Waterfronts**

A number of specific factors have combined to exert pressure on the commercial-fishing industry to convert their property to other uses:<sup>26</sup>

- The constitutional net-ban adopted by the electorate in 1994 resulted in reducing the catch and consequently, the income potential, of commercial fisheries;
- Increased regulation on commercial fishing;
- Recent increases in imported seafood has depressed the prices for locally harvested seafood, further reducing income potential;
- Escalations in waterfront property values have resulted in higher property taxes, thereby increasing the operating costs; and
- Regulatory impediments to new marina development make existing commercial-fishing waterfronts attractive to residential developers.

In response to these pressures, it is reported that some commercial fishermen have “down-sized” their operations and modified portions of their properties to include mixed-use development (recreational/transient marinas, restaurants, tourism), or sold their property to residential developers. Commercial fishermen who sell their working waterfront property may remain in operation by docking in other commercial-fishing facilities, or in private residential slips or recreational marinas.<sup>27</sup>

We surveyed all counties and municipalities about changes in waterfront land use in their jurisdictions. In response to our survey, the ten counties<sup>28</sup> and ten municipalities<sup>29</sup> reported that commercial-fishing working waterfronts in their jurisdictions have been in the past five years or are currently being bought by private interests and converted to public or private marinas/dry docks.

## **Conversion of Recreational Waterfronts**

Newspaper articles have documented the recent increase in demand for condominiums,<sup>30</sup> for condominiums with marina access, and “marina

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<sup>26</sup> Jerry Sansom, Organized Fishermen of Florida, 8/04 & Bob Jones, Southeastern Fisheries Association, 8/04.

<sup>27</sup> Jerry Sansom, Organized Fishermen of Florida, 8/04.

<sup>28</sup> Broward; Citrus; Dixie, Franklin; Lee; Levy; Monroe; Pasco; Sarasota; and Walton.

<sup>29</sup> Apalachicola (Franklin); Clearwater (Pinellas); Madeira Beach (Pinellas); Destin (Okaloosa); Miami (Miami-Dade); Pensacola (Escambia); Port Richey (Pasco); Riviera Beach (Palm Beach); St. Augustine (St. Johns); and Sarasota (Sarasota).

<sup>30</sup>“Condo fever, fueled by historically low interest rates, a double-barreled demographic boom and scarcity of open land, is raging in the Tampa Bay area.” Nationwide, the National Association of Realtors report that sales of existing condos set a record in the second quarter of 2004. Condo prices are appreciating at twice the rate of single-family homes. The article also reports that condominium filings with the Florida Department of Business and Professional Regulation have more than doubled over the past three years. See “Living the High Life,” St. Petersburg Times, August 8, 2004.

condominiums” for boats.<sup>31</sup> This demand may be a significant factor contributing to the conversion of recreational waterfront property to private or private residential uses.<sup>32</sup> While this conversion probably may not decrease the relative number of slips statewide, it limits their availability.<sup>33</sup>

We surveyed all counties and municipalities about conversions of recreational working waterfronts in their jurisdictions. In response to our survey, thirteen counties<sup>34</sup> and twenty-three municipalities<sup>35</sup> reported that, within their respective jurisdictions and within the past five years, the public has lost access to recreational working waterfronts because such facilities are being bought by development interests and converted to private marinas/dry docks or to private residential uses.

Recreational boating industry representatives report that fifty-seven marinas or boatyards have recently converted to condominiums or other private uses, and a number of sales of such facilities are pending or have been proposed.<sup>36</sup> Finally, industry representatives note that the recent hurricanes have also affected the inventory of public-accessible waterfront facilities.<sup>37</sup>

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<sup>31</sup>“Homebuyers are flocking to condos, apartments with marinas.” South Florida Sun-Sentinel, August 1, 2004.

“Sanibel marina rides condo wave” Fort Myers News-Press, May 16, 2004.

<sup>32</sup> To include converting slips for larger boats or yachts, thereby decreasing the capacity for medium and small boats.

<sup>33</sup> There is some indication that private-owned slips are made available for lease. However, the cost of such leases likely corresponds to the cost of the slip, making it less affordable to the boating public.

<sup>34</sup> Brevard; Broward; Citrus; Dixie; Escambia; Franklin; Jefferson; Lee; Levy; Monroe; Sarasota; Taylor; and Walton.

<sup>35</sup> Apalachicola (Franklin); Clearwater (Pinellas); Cocoa (Brevard); Crystal River, currently being considered (Citrus); Destin (Okaloosa); Freeport (Walton); Hallandale (Broward); Holmes Beach (Manatee); Jacksonville (Duval); Longboat Key (Sarasota-Manatee); Marineland (St. Johns); Madeira Beach (Pinellas); Miami (Miami-Dade); Oldsmar (Pinellas); Palmetto (Manatee); Palmetto (Manatee); Pensacola (Escambia); Punta Gorda (Charlotte); Riviera Beach (Palm Beach); Sarasota (Sarasota); Shalimar (Okaloosa); South Pasadena (Pinellas); and Tampa (Hillsborough).

<sup>36</sup> This information was provided by members of the Florida Water Access Coalition, an organization of various boating interest groups in the state. Recent articles documenting this conversion include: “Boatyards becoming scarce: Waterfront projects replace some Tampa Bay marinas,” Tampa Bay Business Journal, June 11, 2004.

“\$50 million marina, rental complex nears completion,” South Florida Business Journal, June 18, 2004.

“Developers Eyeing marine industry land, South Florida Business Journal, June 18, 2004.

“Marina properties ebb as condominiums rise,” The Miami Herald, June 22, 2004.

“Aquaplex replacing marina,” St. Petersburg Times, August 8, 2004.

“Marina to make way for high-end condos,” St. Petersburg Times, August 26, 2004.

<sup>37</sup> On 8/20/04, DEP issued an emergency order authorizing the temporary and permanent repair or restoration of structures damaged by Hurricane Charley. (OGC No.04-1458.) In addition, s. 403.813(2)(d), F.S., allows for the repair of existing facilities without a permit from DEP. However, such repair and reconstruction is still subject to local requirements.

## Impediments to Development of New Access

Industry representatives identify two major impediments to development of new waterfront access: the cost to develop (land and infrastructure) and government approval of such development.

Balancing the demand for new marinas and boat ramps against protection of natural resources has proved to be difficult. Representatives of the marina industry report that obtaining the necessary permits for new marinas or expanding existing marinas is expensive and time-consuming.

To obtain a permit, applicants must obtain the approval of both the state and federal government. State permits are issued by DEP, or the applicable water management district for facilities in conjunction with larger commercial or residential developments.<sup>38</sup> Each permitting entity reviews the application for, among other things, potential impact on sea grass, manatees, and water quality. Permits for facilities of more than 50 slips, or projects of “heightened concern” are approved by the Florida Board of Trustees (the Florida Cabinet).<sup>39</sup> Permits for use of sovereign submerged lands are also approved by the Board of Trustees.<sup>40</sup>

DEP reports that over the past five years, 368 permits have been granted for either the expansion or construction of public and private water-related recreational facilities (marinas, boat yards, moorings, dry docks, or boat ramps).<sup>41</sup>

Applicants must also obtain a permit<sup>42</sup> from the U.S. Army Corp of Engineers.<sup>43</sup> In response to recent litigation in the federal courts addressing manatee protection, projects in specified areas of the state must be reviewed for their impact on manatees, and facility permits may not be approved unless certain measures are in place.<sup>44</sup> Over the past eleven years, an annual average of 450 permits have been

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<sup>38</sup> *Homeowner's Guide to Wetlands*, Florida Department of Environmental Protection, July 2002. pp. 18-21.

<sup>39</sup> Jim Stoutamire, DEP. August 18, 2004.

<sup>40</sup> *Homeowner's Guide to Wetlands*, Florida Department of Environmental Protection, July 2002. p. 20.

<sup>41</sup> This total does not include single family residential. Specifically, Commercial Marinas (99); Commercial fishing (8); Boat repair (6); and Condominiums (55). Jim Stoutamire, DEP. August 18, 2004.

<sup>42</sup> Or verification of existing permitted or authorized use, typically for single-family residential facilities such as docks.

<sup>43</sup> The state's application form serves as a joint application, reviewed by both the state and federal agencies. *Homeowner's Guide to Wetlands*, Florida Department of Environmental Protection, July 2002. p. 20.

<sup>44</sup> These measures include appropriate signage and speed zones, with enforcement. In addition, the federal government must ensure that Corps-permitted projects throughout manatee habitat are having no more than a “negligible” cumulative effect on the species and its habitat, which requires extensive analysis as to where such projects should, and should not be, built. <http://www.savethemanatee.org/news/fedsummary.htm>

granted for commercial, private, or public-owned recreational facilities.<sup>45</sup> However, in those Florida counties that have not adopted Manatee Protection Plans, permitting for new or expanded large-scale projects may be delayed or denied.<sup>46</sup>

In addition to the DEP permits, marinas with 150 or more wet slips, or 200 dry slips, must be approved through the Development of Regional Impact (DRI) program<sup>47</sup> through the Department of Community Affairs (DCA). However, counties that have adopted countywide marina siting plans into the coastal management element of their local comprehensive plans are exempt from the DRI program.<sup>48</sup> DCA reports that four marina DRIs have been approved by the department since 1997.<sup>49</sup>

## **State Strategies to Preserve or Increase Access**

There are several state or regional government programs to assist local governments and the private sector in their efforts to preserve or increase access for commercial or recreational boating activities.

DCA provides technical assistance and limited funding to small waterfront communities through the *Waterfronts Florida Partnership Program*.<sup>50</sup> This program helps participating communities develop a plan to revitalize, renew and

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<sup>45</sup> This tally also includes a limited number of private, single family residential projects which must undergo a high level of review. U.S. Army Corp of Engineers – Jacksonville, 8/23/04.

<sup>46</sup> Manatee Protection Plans are required by the state in thirteen counties: Brevard, Broward, Citrus, Collier, Miami-Dade, Duval, Lee, Indian River, Martin, Palm Beach, Sarasota, St. Lucie, & Volusia. To date, Broward, Palm Beach, and Volusia counties do not have approved plans in place. These plans have two primary components: identifying the need for creating new or revising existing manatee protection speed zones, and a boat-siting facilities plan to address the expansion of existing marina and the development of new marinas or other multi-slip boat facilities.

<sup>47</sup> Section 380.06, F.S., governs the DRI program and establishes the basic process for DRI review. The DRI program is a process to provide state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county.

<sup>48</sup> Section 380.06(24)(k), F.S., provides that a water-port or marina is exempt from the DRI process if the county or municipality has adopted a boating facility siting plan or policy which specifies preferred locations for boat facility development, considering factors such as natural resources, manatee protection needs, and recreation and economic needs as outlined in the Bureau of Protected Species Management Boat Facility Siting Guide dated August 2000. See <http://www.dca.state.fl.us/fdcp/DCP/marinasiting/Boatsite0800.pdf> This plan or policy must be included in the coastal management or future land use element of the local government's comprehensive plan.

<sup>49</sup> A total of 39 DRIs have been approved since 1974. All DRI applications were approved, after modifications or conditions. Ken Metcalf, Regional Planning Administrator, Div. of Community Planning, DCA. 8/04.

<sup>50</sup> <http://www.dca.state.fl.us/fdcp/dcp/waterfronts/waterfront.htm> & <http://www.dep.state.fl.us/cmp/grants/index.htm>

promote interest in their waterfront district. Waterfront revitalization targets environmental resource protection, public access, retention of viable traditional waterfront economies,<sup>51</sup> and hazard mitigation.

New Waterfronts Florida Partnership Communities are selected every two years and those communities receive technical assistance over a two-year period and a grant to reimburse the recipient for a portion of costs associated with preparing the plan.<sup>52</sup> Once the plans are complete, communities can begin the process of financing implementation of the plan from sources such as state and federal grants, bonds issuances, private borrowing, and tax increment financing districts.<sup>53</sup> Since 1997, DCA has designated 13 communities as Waterfronts Florida Partnership Communities. These communities have been the beneficiaries of 7,000 hours of volunteer services, \$143,362 in private donations, and \$7.4 million of other public investment. This program is funded, in part, by an award from the National Oceanic and Atmospheric Administration Award.

The *Florida Boating Improvement Program* of the Office of Boating and Waterways within the Fish and Wildlife Conservation Commission coordinates funding for projects to improve boating access.<sup>54</sup> In each fiscal year, a portion of the state taxes collected on motor fuel are transferred to the FWC to fund, in part, local projects that provide “recreational channel marking, public launching facilities, aquatic plant control, and other local boating related activities.”<sup>55</sup> In addition, a portion of taxes collected on motor and diesel fuels at marinas is transferred to the FWC to be used, in part, to “provide funding for construction and maintenance of publicly owned boat ramps, piers, and docks, directly and through grants to counties and municipalities.”<sup>56</sup> Also, a portion of vessel registration fees collected by the Department of Highway Safety and Motor Vehicles (DHSMV) is transferred to FWC to fund a variety of services, to include public launching facilities.<sup>57</sup>

Additional funding is available to local governments through the Florida Recreational Development Assistance Program,<sup>58</sup> the Land and Water

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<sup>51</sup> Eight of the 13 grants were for commercial-fishing working waterfronts.

<sup>52</sup> Up to \$10,000 in the first year, and up to \$25,000 in the second year.

<sup>53</sup> “Watermarks: Technical Briefs on Coastal Waterfront Revitalization,” Volume 1, Issue 1. Department of Community Affairs, July 1997.

<sup>54</sup> Section 20.331, F.S.

<sup>55</sup> Section 206.606(1)(b)1., F.S. A minimum of \$1.25 million must be used for this purpose. Section 206.606(1)(d), F.S., requires that \$5 million be appropriated in FY 2004-5, increasing to \$13.4 million in FY 2007/8, and each year thereafter.

<sup>56</sup> Section 370.0603(4)(c), F.S. In FY 2003/4, \$1.23 million was appropriated for 9 projects (out of 32 requests), primarily to repair or construct boat ramps and dock or to provide support facilities. In FY 2004/5, \$600,000 was appropriated for boating infrastructure.

<sup>57</sup> Section 328.76(1), F.S. However, to date, it appears that this money has never been appropriated for public launching facilities.

<sup>58</sup> Federal funds administered by DEP. See <http://www.dep.state.fl.us/parks/bdrs/>

Conservation Program,<sup>59</sup> the Florida Recreational Development Assistance Program,<sup>60</sup> and the Boating Infrastructure Grant Program.<sup>61</sup>

Counties have two sources of funds available to finance water access facilities. Counties receive a portion of recreational vessel registration fees, proceeds of which are used, in part, to provide public launching facilities.<sup>62</sup> They are also authorized to levy an additional fee (which is 50 percent of the state fee) on vessels registered in their jurisdiction. Fee proceeds may only be used for “the patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities...”<sup>63</sup> DHSMV reports that the fee has generated \$3.7 million in FY 03/04 in the 12 counties that levy the fee.<sup>64</sup>

The *Florida Communities Trust* (FCT) is a state land acquisition grant program administered by DCA.<sup>65</sup> FCT provides funding to local governments and eligible non-profit environmental organizations for acquisition of community-based parks, open space and greenways, and access to water that further outdoor recreation and natural resource protection needs identified in local government comprehensive plans.<sup>66</sup> Matching and full grants for land acquisition projects are provided to communities through an annual competitive application cycle. Approximately \$66 million is available to eligible applicants each year and applicants are eligible for up to 6.6 million.<sup>67</sup> Since 1991, the FTC has awarded 387 grants totaling \$563,074,185 to local communities for projects that provided public access to water for recreational uses.<sup>68</sup>

The *Florida Inland Navigation District*, an independent special taxing district comprised of all of the eastern coastal counties (Miami-Dade to Duval Counties), has two grant programs to, in part, assist local governments in increasing access to

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<sup>59</sup> Administered by DEP, last year, \$3.9 million in federal funds were available, with preference given to projects on water bodies.

<sup>60</sup> Administered by Bureau of Design and Recreation Services, Division of Recreation and Parks in DEP. However, DEP staff indicate that, historically, most funding is for recreational parks, not necessarily for boat ramps. Linda Reeves, DEP. September 23, 2005. <http://www.dep.state.fl.us/parks/bdrs/factsfrdap.htm>

<sup>61</sup> Administered by FWC, this program provides federal funds to local governments for tie-up facilities (slips, mooring buoys, docks, piers, etc.) for transient recreational boats 26' or longer. See <http://myfwc.com/boating/grants/bigp.htm>

<sup>62</sup> Section 328.72(1) and (15), F.S.

<sup>63</sup> Section 328.66, F.S.

<sup>64</sup> The 12 counties include: Broward (\$442,697), Charlotte (\$182,624), Collier (\$206,063), Hillsborough (\$309,852), Lee (\$405,901), Miami-Dade (\$495,901), Monroe (\$282,379), Palm Beach (\$37,682), Pinellas (\$434,241), Polk (\$183,442), Sarasota (\$192,699), and Volusia (\$194,414). Office of Legislative Affairs, DHSMV, 10/8/04.

<sup>65</sup> Sections 380.501 – 380.515, F.S.

<sup>66</sup> <http://www.dca.state.fl.us/ffct/>

<sup>67</sup> *ibid.*

<sup>68</sup> These water-recreation projects include fishing piers, observation decks, canoe launches and boat ramps. With matching funds, the total funds for land acquisition is an estimated \$922 million. Kathy Baughman McLeod, DCA. 9/25/04.

coastal waters.<sup>69</sup> The Waterway Assistance Program and the Cooperative Assistance Program award approximately \$7.2 million annually. Similarly, the *West Coast Inland Navigation District* has two similar grant programs: the Waterway Development Program and the Cooperative Assistance Program.

It has also been reported that the five Water Management Districts throughout the state may also have limited grants available to increase public access through boat ramps or similar facilities.

## **Local Initiatives to Preserve or Increase Access**

We surveyed counties and municipalities to ascertain any action undertaken to preserve or create recreational and commercial-fishing working waterfronts, or public access to the water through boat ramps. The following is a brief overview of these local efforts.

**Brevard** county reports that in 1984, the electorate approved the Beach and Riverfront program to provide for the renovation and development of boat ramp facilities. In 2000, the electorate approved additional funding for a boat ramp facility.<sup>70</sup>

Both the public and private sector in **Broward** County have been active in addressing the issue.<sup>71</sup> The Broward County Parks and Recreation Division, Marine Advisory Committee, and the Marine Industry Association are working together to develop an inventory of recreational waterfront facilities, occupancy rates, and recommendations to preserve and expand these facilities to meet future recreational boating needs. Their report should be completed by November, 2004. In 2002, the South Florida Marine Industries Association prepared a master plan to address, in part, retention of the marine industry in Broward County.<sup>72</sup> The county is currently developing its Manatee Protection Plan which will, in part, address marina siting issues.

The **City of Jacksonville/Duval County** reports that it has experienced the loss of boating access and marinas in recent years.<sup>73</sup> A subcommittee of the City Council's Waterways Commission is investigating the conversion of marina facilities from public to private use. The Department of Parks and Recreation is studying public boat ramp access, with a goal of having an inventory of facilities, recommending locations for new facilities, and developing strategies for accomplishing the expansion.

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<sup>69</sup> <http://www.aicy.org>

<sup>70</sup> Terry Stoms, Brevard County Planning Department. 8/23/04.

<sup>71</sup> Bob Harbin, Division of Parks and Recreation, Broward County. 8/20/04.

<sup>72</sup> "Marine Industries Association of South Florida Master Plan," published by the FAU Joint Center for Environmental & Urban Problems, 2002.

<sup>73</sup> Captain Steve Nichols, Marina and Waterways Coordinator Dept. of Parks, Recreation and Entertainment, Metropolitan Park and Marina, City of Jacksonville, 8/14/04.

The **Martin** County Growth Management Department recently hosted a public workshop regarding commercial waterfront lands.<sup>74</sup> This workshop is part of an ongoing effort to find ways to protect commercial waterfront lands, particularly from encroachment by residential development. This issue has been designated as one of the County Commission's strategic objectives. The City of **Stuart** recently received conditional approval from the Florida Board of Trustees to construct and operate a 69 space mooring field in the South Fork of the St. Lucie River.<sup>75</sup>

It is estimated that **Monroe** County has over 1,000 commercial-fishing boats operating and docking throughout the county. It is also estimated to have three or four times as many commercial recreational boats.<sup>76</sup> County officials report that residential waterfront development is increasing.<sup>77</sup> In response, staff of the Monroe County Planning Department have recently begun to develop a plan to preserve working waterfronts in the county.

When the Sailfish Marina and Resort on Singer Island was made available for sale, the **Palm Beach** County Commission recently considered options to provide funding or incentives to preserve public access to the marina.<sup>78</sup> These options included:

- purchase of development rights on waterfront property;
- purchase of waterfront property;
- Issue General Obligation bonds to finance the purchase of property or development rights to the property;
- partner with Riviera Beach to provide additional public access within Harbor Village and improve working waterfront;
- amend the county charter to require all waterfront properties to provide public access; and
- complete plans for the mooring fields with an anchorage management plan.

However, the property was sold for \$25.5 million to private interests, with the condition that the marina be available to the public for at least two years. It is anticipated that the county will try to purchase the development rights to the marina beyond 2006.<sup>79</sup>

On August 17<sup>th</sup>, the county commission approved a resolution to place on the November 2004 ballot a referendum for a bond issue not to exceed \$50 million.

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<sup>74</sup> David Quigley, Senior Planner, Growth Management Department, Martin County, 8/04.

<sup>75</sup> Florida Cabinet Meeting Agenda, 11/24/98.

<sup>76</sup> Douglas Gregory, Monroe County Extension Director, Florida Sea Grant, 8/04.

<sup>77</sup> In July 2004, four major parcels of commercial fishing waterfront sold for redevelopment in the Lower Florida Keys Stock Island area, to include two of the area's 4 dry docks. Douglas Gregory, Monroe County Extension, Sea Grant Marine Agent and County Extension Director, 8/04.

<sup>78</sup> Palm Beach County Commission minutes, 5/25/04.

<sup>79</sup> "Sailfish Marina owner sells site for \$25.5 M," Palm Beach Post, 6/16/04.

The money would be used for to protect, expand and improve public access to freshwater and saltwater bodies.<sup>80</sup>

**Sarasota** County reports that they are currently negotiating for purchase of boat ramp sites.<sup>81</sup>

Our research indicates that at least ten cities have working waterfronts within their **Community Redevelopment Areas (CRAs)**.<sup>82</sup>

It has been reported that the Treasure Coast Regional Planning Council, at the request of the Sustainable Treasure Coast Committee and Martin County, is conducting an economic impact study on the demise of the working waterfronts for Indian River, St. Lucie, Martin and Palm Beach Counties.<sup>83</sup>

## Conclusions and Recommendations

Public access to marinas and boat ramps may be diminishing for the recreational boating public. It appears that the capacity to launch and moor boats has not kept pace with increases in annual vessel registrations. In addition, there is evidence that, for both commercial-fishing and recreational working waterfronts, conversion from public to private use is contributing to this loss of access. Other contributing factors include:

- the unavailability of suitable waterfront property for access development, especially in urban areas;
- the cost of developing new facilities; and
- the cost and length of time necessary to obtain state and federal permits for new facilities.

However, there are programs and strategies available to either preserve or increase public access. The Legislature could consider expanding such programs or initiating new strategies to facilitate this preservation or increase in access.

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<sup>80</sup> [http://www.co.palm-beach.fl.us/PubInf/News\\_Room/08-04/08-17-04\\_BCCBriefs.htm](http://www.co.palm-beach.fl.us/PubInf/News_Room/08-04/08-17-04_BCCBriefs.htm)

<sup>81</sup> John McCarthy, General Manager, Sarasota Parks and Recreations Dept., 8/04.

<sup>82</sup> Boynton Beach, Ft. Pierce, Jupiter, Key West, Panama City, Punta Gorda, Riviera Beach, and Stuart; Citrus and Martin Counties.

Chapter 163, Part III, F.S., authorizes local governments to designate CRAs to finance redevelopment for targeted areas. There are currently over 140 CRAs in the state. Funding for CRAs is accomplished through “tax increment financing”, in which the value of property within the CRA is determined and “frozen” as of a fixed date. Taxing authorities continue to receive property tax revenues based on the frozen value. Any tax revenue from increases in the value of the property, referred to as ‘increment,’ are provided to the CRA to pay the debt service on improvements funded by the CRA. See <http://www.redevelopment.net/Default.aspx?tabid=56>

<sup>83</sup> Ted Guy, 8/5/04.

## Property Tax Relief: Currently Available

Article VII, s. 4 of the State Constitution requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value.<sup>84</sup> However, this section also provides exceptions to this requirement for agricultural land<sup>85</sup> and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, counties and cities may be authorized to assess historical property based solely on the basis of its character or use.<sup>86</sup>

Absent any change in law, owners of commercial-fishing or recreational working waterfronts currently have three options available to them to decrease or eliminate their property tax burden, to include:

- **Sell the property to the county** and contract with the county to operate the marina. Property owned by subdivisions of the state are not taxed, thereby lowering the operating costs of enterprises situated on high-value property.<sup>87</sup> If the property is leased back to a non-exempt entity, the lease-hold interest is subject to the intangibles tax.<sup>88</sup>
- **Sell the development rights** to a governmental (city or county) or non-profit entity, thereby substantially reducing the property tax burden. The property would be taxed on its current use, based on its “income stream,” and not the speculative value or value of a comparable property.
- Create a **Conservation Easement** for land used for “outdoor recreation or park purposes.” Section 193.501 F.S., allows property owners to contract with public agencies or charitable corporations to restrict the use of property for a variety of purposes, to include “boating” that is open to the general public<sup>89</sup> for a term of years,<sup>90</sup> thereby linking property values to the income

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<sup>84</sup> *Walter v. Schuler*, 176 So.2d 81.

<sup>85</sup> Implemented in s. 193.461, F.S.

<sup>86</sup> Implemented in s. 193.505, F.S.

<sup>87</sup> The courts have ruled that property of the federal government, the state, and the counties is immune from, or not subject to, taxation. See *Park-N-Shop, Inc. v. Sparkman*, 99 So. 2d 571 (Fla. 1957); *Orlando Utilities Commission v. Milligan*, 229 So.2d 262 (Fla. Dist. Ct. Appl. 1969); and *Dickinson v. City of Tallahassee*, 325 So.2d 1 (Fla. 1975). It does not appear that this favorable tax status is also available to cities owning marina property leased to a for-profit entity. The First DCA ruled in 1992 that a municipal marina leased to a private entity was exempt from taxation because it was used for a valid public purpose. *Page v. Fernandina Harbor Joint Venture*, 608 So.2d 520 (Fla. Dist. Ct. Appl. 1992). However, the Second DCA ruled in a similar situation the lease marina property was subject to taxation, as it was not used for a “public purpose” and therefore could not be exempt from taxation. *Mikos v. City of Sarasota*, 636 So.2d 83 (Fla. Dist. Ct. Appl. 1992). Likewise, the First DCA ruled against the City of Fernandina Beach in 1998. *Page v. City of Fernandina Beach*, 714 So.2d 1070 (Fla. Dist. Ct. Appl. 1998).

<sup>88</sup> Section 199.023(1)(d), F.S.

<sup>89</sup> Section 193.501(6)(g), F.S.

<sup>90</sup> Section 193.501(3)(a) and (b), F.S.

stream generated by the current use.<sup>91</sup> Current law provides for “recapture” of deferred taxes only if the covenant is rescinded.

- In a limited number of situations, some working waterfront property could qualify for an “**Historically Significant**” classification,<sup>92</sup> an **exemption** for the entire property,<sup>93</sup> or an **exemption** for improvements on the property.<sup>94</sup>

## Property Tax Relief: Proposed Options

The Legislature could modify existing property tax relief provisions, or propose amending the constitution to create new provisions to provide tax relief. These options include:

- Create a **Deferred Property Tax Program** for working waterfront property. Currently, such a program exists for qualified low-income persons entitled to claim homestead tax exemption may annually defer payment of their property taxes and special assessments.<sup>95</sup>
- Pass a Joint Resolution to allow the electorate to consider a constitutional amendment that expands the **Agricultural Classification** to include commercial-fishing working waterfront property used to support commercial fishing operations. Such a benefit should include a “recapture” provision for all deferred property taxes, up through the last 10 year period.
- Pass a Joint Resolution to allow the electorate to consider a constitutional amendment to allow for a property **tax differential or “use-value” or “income” assessments** for working waterfronts.<sup>96</sup> This preferential tax assessment should include a “recapture provision.”

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<sup>91</sup> For a discussion of this issue, see *Conservation Easements, Conservation Purposes & Property Taxes: Amending the Florida Constitution to Encourage the Conservation of Land by Private Interests in the State of Florida*, Bill Cook, University of Florida Levin College of Law, Conservation Clinic (A Conservation Clinic White Paper Presented to the Alachua County Property Appraiser), April 27, 2004.

<sup>92</sup> Under specified conditions, s. 193.505, F.S., allows property owners to covenant with county government to restrict the use of historically significant property, thereby potentially deferring a portion of their property taxes. Current law provides for “recapture” of deferred taxes only if the covenant is rescinded.

<sup>93</sup> Qualified properties may receive an exemption of up to 50 percent of the assessed value from county and municipal property taxes. Section 196.1961, F.S.

<sup>94</sup> Qualified properties may receive an exemption from county and municipal property taxes for improvements to designated historic properties. Section 196.1997, F.S.

<sup>95</sup> Section 197.252, F.S. The county maintains a lien on the property. When the property is sold, it collects the deferred taxes.

<sup>96</sup> See *Conservation Easements, Conservation Purposes & Property Taxes: Amending the Florida Constitution to Encourage the Conservation of Land by Private Interests in the State of Florida*, Bill Cook, University of Florida Levin College of Law, Conservation Clinic (A Conservation Clinic White Paper Presented to the Alachua County Property Appraiser), April 27, 2004. Also see *Economic Impact of Blue-belt Incentives on the Marina Industry in Florida*, by Frederick Bell, Department of Economics, FSU, July 1990.

## Industry/Intergovernmental Coordination

There may be no single program or strategy to preserve working waterfronts or increase public access to the water through boat ramps. Consequently, the industries should coordinate with appropriate state agencies and regional governments to craft long-term strategies. There are several state programs and regional governments whose policies impact waterfront industries, including the Florida Coastal Management Program,<sup>97</sup> the Florida Regional Planning Councils,<sup>98</sup> and the Florida Water Management Districts.

Perhaps the most important partners in crafting long-term strategies are the local governments with jurisdiction over the waterfront areas. These local governments are responsible for preparing comprehensive plans that, among other things, guide the use of land and water resources. Coastal communities must have a coastal management element to address the goals and policies for the coastal area. Affected industries should work with the local planning department in each community to assure that the comprehensive plan includes provisions and features that protect and preserve existing marine-dependent sites and give priority to these uses at suitable waterfront locations.<sup>99</sup>

Specific strategies to implement the goals established in local comprehensive plans may include:

- Conditional permitting or rezoning which would allow redevelopment only if it maintains or provides public access or retention/expansion of specified waterfront uses;
- Creating a waterfront zoning district or overlay, which would add special requirements to the underlying zoning category; and
- Creating an inventory of working waterfronts and establish a "**no net loss policy**,"<sup>100</sup> which would prohibit the rezoning of such property to residential uses.

Local governments could also invest directly in property preservation, either through **purchase of the property** or **purchase of the development rights** to the property. One strategy for funding these purchases includes using **tax increment financing** through a CRA.

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<sup>97</sup> This program coordinates the actions of ten agencies and five water management districts to protect Florida's coastal areas.

<sup>98</sup> Regional Planning Councils "assist local governments to resolve their common problems, engage in area-wide comprehensive and functional planning, administer certain federal and state grants-in-aid, and provide a regional focus in regard to multiple programs undertaken on an area-wide basis." Section 186.502(1)(b), F.S.

<sup>99</sup> Such provisions include adoption of marina siting plans into the coastal management element to facilitate permitting of new or expanded marinas. See recommendations offered in "Marine Industries Association of South Florida Master Plan," prepared by the Joint Center for Environmental and Urban Problems at Florida Atlantic University, 2002.

<sup>100</sup> This policy could be established either as a comprehensive plan amendment, amendment to the Land Development Regulations (LDR) or as an administrative policy.

Local governments could also “**trade**” for **development rights** with grants of density variances for adjoining or other property.<sup>101</sup>

The acquisition or expansion of boat ramp facilities could also be financed using these strategies. In addition, such facilities could be financed with local **launch fees**.<sup>102</sup>

Finally, industry and local governments should explore whether the **regional ports** have the capacity for new access facilities to provide public access to the water,<sup>103</sup> or whether additional access may be available through the construction of mooring fields.

## **Additional Proposed Options**

Additional strategies the Legislature could consider to preserve working waterfronts or increase public access to the water through boat ramps, include:

- Increase funding to expand the Waterfronts Florida Partnership Program;
- Expand access in appropriate state parks;
- Revise the fee structure for sovereign submerged land leases to encourage water-dependent uses and discourage water-enhanced and water-related uses; and
- Create a commission to coordinate and implement all public policy and projects for specific urban waterfront areas.<sup>104</sup>

The Legislature could also consider funding access acquisition in the following ways:

- Increase boat registration fees;
- Expand the boat registration fee base by including non-motorized craft (canoes, etc.);
- Provide a greater portion of marina motor fuel tax revenue to FWC for this purpose;
- Increase the local option vessel registration fee, designating the increase for regional use;
- Designate a portion of Florida Forever<sup>105</sup> bond revenue funds (which includes the Florida Communities Trust Program<sup>106</sup>) or Conservation and Recreation Lands Program funds,<sup>107</sup> for access acquisition; or

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<sup>101</sup> This concept was considered by Palm Beach County in the Sailfish sale.

<sup>102</sup> Pinellas County has recently implemented a \$5 (honor system) boat launching fee for all county ramps. Reports are that about 50% are paying the fee. Don Sweat

<sup>103</sup> Federally chartered or governed by port authorities.

<sup>104</sup> For example, the Miami River Commission was established in 1998 as the official entity tasked with improving the river and its surroundings, acting together with neighborhoods, environmental groups, civic organizations, shipping, recreational boating, marina and political jurisdictions to advance the quality of life and commerce on the Miami River. Section 163.06, F.S. <http://miamirivercommission.org/>

- Create a new bond program specifically to fund access preservation and acquisition.

## **Recommendations**

The Legislature should consider expanding current or initiating new programs and strategies to facilitate the preservation of commercial-fishing or recreational working waterfronts to facilitate the expansion of public access through boat ramps.

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<sup>105</sup> Section 259.105(3), F.S. Paragraph (4)(e) currently provides that purchases through this program include increasing “natural resource-based recreational and educational opportunities...”

<sup>106</sup> Sections 380.501 – 380.515, F.S.

<sup>107</sup> Section 259.032(3)(g), F.S. currently authorizes the Board of Trustees to allocate funds to “provide areas, including recreational trails, for natural resource based recreation and other outdoor recreation on any part of any site compatible with conservation purposes.”

**APPENDIX II: LIST OF MARINAS CONVERTED OR LOST TO PUBLIC USE**

**Marinas/Boatyards: Recent Public to Private Conversions 10/20/04**

(Converted, but may be open to the public)

COUNTY/City	Public Marina	New Name	# of Slips	Status	Year of Conversion
<b>BREVARD</b>					
7 Cocoa	Tingley's	?		For sale	
19 Cocoa	<u>Whitley's</u>	?	?	Private, but now open to public	?
	<u>Mariner Square</u>	?	?	Private, but now open to public	2003
	<u>Indian River Yacht Club</u>	?	?		?
7 Merritt Is.	<u>Island Marine</u>	?	?		?
19 Merritt Is.	<u>Island Point Marina</u>	?	?	Converted to Condo, open public?	2004
19 Merritt Is.	<u>Indian Cove</u>	?	?	Converted to Condo, open public?	2004
17 Merritt Is.	<u>Banana River Marine</u>	?	?		?
19 Merritt Is.	<u>Angel City Mariana</u>	?	?	Converted to Condo, open public?	2004
17 Titusville	<u>Nelson's Marina</u>	?	?		?
19 Melbourne	<u>Melbourne Harbor Marina</u>			Converted to Condo, open public?	
19	<u>Brevard Hotel &amp; Marina</u>	?	?	Converted to Condo, open public?	2000
<b>BROWARD</b>					
1 Ft.Lauderdale	?	Port Condo & Marina	dry, 125	?Conversion or new?	?
5 Ft. L	?	Falls at Marina Bay	wet, 150	?Conversion or new?	2004
6 Ft. L	The Ways			For Sale	2004
6 Ft. L	<u>Sun Power Diesel Marina</u>	[Cabi Developers]	?	Converted to Condo, open public?	2004
6/19 Ft. L	<u>Chinnock Marine BY</u>	Symphony Condominium	?	Blocked in	2002
9/19 Ft. L	<u>Summerfield Boat Works</u>	?		Converted to Condo, open public?	
19 Ft. L	<u>Marina 84</u>			Converted to Condo, open public?	
19 Ft. L	<u>Lt House Point Marina</u>		10	Converted to Condo, open public?	2000
19 Ft. L	<u>Port Everglades Boat Club</u>			Converted to Condo, open public?	
19 Ft. L	<u>Hidden Harbor</u>			Converted to Condo, open public?	
19 Ft. L	<u>Dry Marina</u>			Converted to Condo, open public?	
19 Ft. L	<u>Old "Blue Lagoon" on 15th Street</u>		30	Converted to Condo, open public?	
<b>COLLIER</b>					
12 Naples	Nichol's Marine	?	?	CLOSED	1998
12 Naples	<u>Turner Marine</u>	Naples Boat Club		Private, owners lease slips	2000
12/19 Naples	<u>Boat Haven</u>	Naples Bay		Converted – limited public access	2000
16/19 Naples	<u>Wiggins Pass Marina</u>	Coconilla		Converted to Condo, open public?	2004
19	<u>Bay Marine</u>			Converted to Condo, open public?	
<b>DUVAL</b>					
15 Jax	<b>Need Info....</b>	<u>one major full service private marina with repair facilities – converted</u> <u>Another large marina has been sold and is being prepared for conversion</u> A third large marina (Ortega?) has attempted to convert but ran into zoning problems			
<b>HILLSBOROUGH</b>					
19 Tampa	<u>Imperial Yacht</u>		400	Condo, Open to public?	2004
19	<u>Bahia Beach Marina</u>			Condo, open to public?	2004
19	Salt Creek Marina			sold	
19	<u>Ruskin Bahia Beach Resort</u>		40 wet	Condo	
19	<u>Ruskin Bahia Beach Marina</u>		250 wet	Condo	

19	<u>Bahia Del Sol</u>		125 wet	Condo	
19	Terra Verde Marina		180 high/dry	for sale	

COUNTY/City	Public Marina	New Name	# of Slips	Status	Year of Conversion
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**LEE**

2/19 Ft. Myers	<u>Sanibel Harbour Marina</u>	Sanibel Harbour Marina	dry, 500	Condo, now public access	2004
2 Ft. Myers	Pineland Marina	Pineland Marina	?	Destroyed by H Charlie	2004
10/19 Ft. Myers	<u>Ft. M Yacht Boatyard</u>	?Towers at Billy's Creek	?	Condo, Open to Public?	2004
18	Marina 31	?		Proposed	2004
18	Owl Creek Boatyard			Proposed	2004
18	<u>Deep Lagoon Marina</u>		will be converted	as soon as permitted	2004
19 N. Ft. Myers	<u>Caloosa Isle Marina</u>			Condo, Open to Public?	2001

**MANATEE**

19 Bradenton	<u>Perico Harbor Marina</u>		30 wet/75 dry	Condos	2005
19	<u>Holmes Beach Marine</u>		35 wet/75 dry	Condo	?
19	Jed's Landing			For Sale	
19	Perico Harbor Marina			For Sale	

**MARTIN**

3 ?	Seagate Marina	Seagate Marina	dry, 400-600	Proposed, rescinded	2004
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**MIAMI-DADE**

19 N. Miami	<u>Maule Lake Marina</u>			Converted to Condo	
19 N. Miami	<u>Ft Apache</u>			Converted to Condo, open public?	
19 N. Miami	Crandon Park Marina			? Status ?	

**MONROE**

19 Key West	<u>Robbie's Marina &amp; Boatyard</u>			Condo, Open to Public?	2005
19 Key West	Peninsular Marina			For Sale	
19 Key West	<u>Safe Harbor Marina</u>			Condo, Open to Public?	
19 Key West	<u>Oceanside Marina</u>			Condo, Open to Public?	
19 Marathon	<u>11th Street Marina</u>		100	Condo, Open to Public?	
19 Marathon	Bucaneer		15	Sold	
19 Marathon	Knights Key Campground		50+	Sold	

In July 2004, four major parcels of commercial fishing waterfront sold for redevelopment in the Lower Florida Keys Stock Island area, to include two of the areas 4 dry docks.

**PALM BEACH**

1 Aventura	?	Aventura Marina	30	currently leasing slips	2004
1 Aventura	?	Uptown Lofts	30	?Conversion or new?	?
1 Boynton Bch	?	Marina Village	40	?Conversion or new?	2004
1 Lantana	?	Moorings	70	currently leasing slips	2004
6 PB Gardens	E&H Boatworks			Proposed conversion	
19	Rybovich Spencer			Sold to developers	
19	Old Bridge Park			Selling to developers	

COUNTY/City	Public Marina	New Name	# of Slips	Status	Year of Conversion
<b>PINELLAS</b>					
4 & 14 Clearwater	<u>High &amp; Dry Marina</u>	Res. at Windward Passage dry, 300			2004
4 Clearwater	Ross Yacht Boatyard			Proposed	
4 Clearwater	Yacht Brokerage on Island Estates			Proposed	
11 St. Pete	<u>Huber Marina</u>	[First Dartmouth Homes]	200+ wet/150 dry		2004
13 St. Pete	<u>Maximo Marina</u>	[First Dartmouth Homes]	W, 300 & D, 300	Private after upgrades	2004
19 St. Pete	ABC Marina		60	Proposed sale to Developer	
19	<u>Clearwater Bay Marina</u>		30 wet/200 dry	Condo, Open to Public?	2004
19 St. Pet	<u>Defiant Marine</u>		30 wet	Condo, Open to Public?	2004
19 St. Pete	<u>Great American Marine</u>		250	Condo, Open to Public?	2004
19 St. Pete	<u>Johns Pass Marina</u>			For Sale	
19 St. Pete	Vikings Yachts Property		150	Home Dev.	
<b>SARASOTA</b>					
19 Siesta Key	Siesta Key Marina			Condo across street is looking to purchase	
19 Osprey	<u>Bob's Boat Yard</u>			Condo, Open to Public?	2004
19 Osprey	<u>Dockside Marie</u>			Condo, Open to Public?	
19 Casey Key	<u>Blackburn Point</u>			Condo, Open to Public?	
<b>VOLUSIA</b>					
8 Ponce Inlet	Lighthouse Boat Yard and Marina			Proposed	