



Petition 04-PA-01

**Proposed Text Amendment to the Environmental
Protection Chapter**

Submitted by City of Sarasota

Staff Report and Recommendation

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To: City Commission

From: David L. Smith, AICP, Senior Planner

Date: October 18, 2004

Subject: Staff Report and Recommendation for Petition Number 04-PA-01, Text Amendment to the Environmental Protection Chapter

This report analyzes a comprehensive plan amendment petition that proposes to revise the text of the Environmental Protection Chapter of the *Sarasota City Plan*. The proposal would incorporate the Sarasota County Manatee Protection Plan, which includes a Boat Facility Siting Plan, into the Environmental Protection Chapter as an adopted Plan component.

This report is organized into four sections. **Section 1** contains the proposed text revisions along with an analysis and recommendations of the proposal. **Section 2** contains an analysis of consistency with state and regional goals and policies for the proposed amendment. **Section 3** contains technical memoranda and minutes from previous meetings. **Section 4** contains the Objections, Recommendations, and Comments report from the Florida Department of Community Affairs.

The complete Sarasota County Manatee Protection Plan was previously provided to each Commissioner.

Section 1

Proposed Revisions, Analyses, and Recommendation

I. Introduction

This proposed amendment was submitted by the City of Sarasota in order to incorporate the recently completed Sarasota County Manatee Protection Plan (MPP) as an adopted component of the Sarasota City Plan. The Sarasota County Manatee Protection Plan was prepared by Mote Marine Laboratory and other agencies and adopted by Sarasota County on September 24, 2003. The Florida Fish and Wildlife Conservation Commission (FWC) approved the MPP on February 11, 2004. Although the Manatee Protection Plan has received State approval, its protective measures are not officially a component of the Sarasota City Plan or incorporated into the City's Zoning Code. This proposed amendment would begin the incorporation process and would strengthen the City's environmental protection policies.

The MPP consists of two interrelated components – (1) a Manatee Protection Plan and (2) a Boat Facility Siting Plan. The Manatee Protection Plan is designed to reduce human-related threats to manatees and their habitats. In this regard, it addresses the protection of manatees, wetlands, and seagrasses. In addressing the siting of boat facilities, the MPP regulates the expansion/construction of facilities with five or more wet or dry slips. It does not regulate single-family boat docks or facilities with less than five slips. The MPP includes:

- An inventory of boat facilities (marinas, docks, boat ramps, etc.);
- An assessment of boating activities;
- Manatee sighting and mortality information;
- A boat facility siting plan to determine the best areas for new marinas, boat ramps, etc.;
- Information on aquatic preserves, Outstanding Florida Waters, manatee refuges, etc.;
- Manatee protection measures, such as boat speed zone regulations;
- An education and awareness program for the public and boaters, divers, and schools;
- A water quality and habitat protection program; and
- An implementation schedule/timeline for completion.

Planning and Redevelopment Department staff proposes to add a new Action Strategy 1.12 to the Environmental Protection Plan and additional text regarding manatee protection and boat facility siting to the Support Document.

After reviewing the proposed amendment, the Florida Department of Community Affairs (DCA) raised an objection to the text of the proposed action strategy, which stated that the City adopts only the Implementation Section of the MPP. This objection was based in part on comments provided by the Florida Fish and Wildlife Conservation Commission

and Sarasota County. DCA recommends that the City adopt the complete MPP by reference into the *Sarasota City Plan*. Planning staff is in agreement with this recommendation and has revised the proposed action strategy accordingly as displayed below using underline and strikethrough to represent changes made since transmittal.

1.12 Specific Natural Resource Protection Initiatives – Manatees:

Manatee Protection Plan: The City hereby adopts the Sarasota County Manatee Protection Plan (~~Implementation Section~~), dated September 24, 2003, as a component of the *Sarasota City Plan* in order to reduce human-related threats to manatees and their habitat. The City shall follow and implement the ~~management resource protection strategies, objectives, and policies~~ in the Sarasota County Manatee Protection Plan aimed at protecting manatees. The City shall amend its land development regulations to include a requirement that ~~all~~ development proposals ~~that may impact manatees~~ be consistent with and further the Sarasota County Manatee Protection Plan.

Boat Facility Siting Plan: The development ~~location~~ of new and/or expansion of existing boat facilities of five or more wet or dry marine slips ~~or greater~~ shall be consistent with the Boat Facility Siting Plan component of the Sarasota County Manatee Protection Plan (~~Implementation Section~~). The City shall amend its land development regulations to include a requirement that the location of all boat facility development proposals be consistent with the Boat Facility Siting Plan.

The proposed language for adoption is displayed on the following pages excerpted from the Plan (blue page) and Support Document text (yellow pages) of the chapter using double underline representing additions.

1.11 **Specific Natural Resource Protection Initiatives - Dredging:**

Dredge Spoil Sites within the City: The City will allow the disposal of dredge material within the City limits for the renourishment of Lido Beach, subject to approval by the City.

Dredge Spoil Sites Outside the City: The City shall coordinate with the West Coast Inland Navigation District and the Soil and Water Conservation Service and other appropriate state and federal agencies, nearby local governments and counties, and the public in identifying dredge spoil disposal sites. A dispute resolution process shall be adopted based on the Coastal Resources Interagency Management Committee process.

Whitaker Bayou Dredging: To mitigate potential environmental impacts and prevent the dispersion of existing sediments and any possible deposits of heavy metals in Whitaker Bayou, the City or other applying agency will secure all required permits prior to any potential dredging for navigation or flood control purposes.

1.12 **Specific Natural Resource Protection Initiatives – Manatees:**

Manatee Protection Plan: The City hereby adopts the Sarasota County Manatee Protection Plan, dated September 24, 2003 as may be amended, as a component of the *Sarasota City Plan* in order to reduce human-related threats to manatees and their habitat. The City shall follow and implement the resource protection strategies in the Sarasota County Manatee Protection Plan aimed at protecting manatees. The City shall amend its land development regulations to include a requirement that development proposals be consistent with and further the Sarasota County Manatee Protection Plan.

Boat Facility Siting Plan: The development of new and/or expansion of existing boat facilities of five or more wet or dry marine slips shall be consistent with the Boat Facility Siting Plan component of the Sarasota County Manatee Protection Plan. The City shall amend its land development regulations to include a requirement that the location of all boat facility development proposals be consistent with the Boat Facility Siting Plan.

Objective 2 - Historical and Archeological Resources in the Coastal Area

The City's Historic Preservation program shall continue to identify historic and archeological resources in the coastal area and to promote the conservation and restoration of said resources through site plan review.

Sea Turtles, Manatees and Dolphins

Vertebrates dependent on Sarasota Bay's ecosystem include Atlantic Loggerhead turtles, the bottlenose dolphin, and West Indian manatees. Sea turtles use barrier island beaches for nesting and their success depends in part on beach management practices. Dolphins probably use the Bay as a breeding ground and are stable in number. The West Indian manatee, however, are an endangered species that use the Bay's ecosystem for feeding and reproduction. The manatee is most threatened by high speed recreational boat traffic.

In order to protect the West Indian manatee, Mote Marine Laboratory in conjunction with government agencies prepared a Manatee Protection Plan for Sarasota County and the municipalities located within the county. The Sarasota County Manatee Protection Plan is designed to reduce human-related threats to manatees and their habitats. In this regard, it addresses the protection of manatees, wetlands, and seagrasses. Additionally, the Manatee Protection Plan includes a Boat Facility Siting Plan that addresses the siting location of boat facilities and regulates those facilities with five or more boats slips. The Plan does not regulate the siting of single-family boat docks or facilities with less than five wet boat slips. The City has adopted the complete Sarasota County Manatee Protection into the *Sarasota City Plan* (see Action Strategy 1.12).

Threatened and Endangered Species

Illustration EP-6 lists threatened and endangered animal species likely to occur in the area. There are three basic reasons for the decline of wildlife populations in Florida. Habitat destruction, such as bird and animal feeding and nesting sites, is cited by the U.S. Fish and Wildlife Service as the foremost cause. The other two are direct exploitation (e.g. hunting the gopher tortoise for food) and human disturbance (e.g. reduction of the water table and boating) which affect wildlife and their habitat. For more detailed information on important sea grasses, green algae and endangered plants, readers should consult the sources listed at the bottom of Illustration EP-6.

The species of seagrasses and algae in Illustration EP-7 are not threatened or endangered, but should be considered important because of their habitat value and the limited distribution in Sarasota County. They are also protected under Florida law. One species of seagrass is considered endangered, *Halophila johnsonii*, but it is not believed to be present in Sarasota Bay. There are numerous threatened and endangered plant species listed for Florida and Sarasota County, but many are located inland. The species listed in Illustration EP-7 are known to occur in the beach areas within Sarasota County, and possibly within the City. For more detailed information on endangered species, threatened species, and species of special concern, readers should consult the sources listed at the bottom of Illustration EP-7.

COASTAL SYSTEMS AND LAND USE

The coastal area as defined in Florida Statutes, Chapter 9J-5, includes the entire City. Generalized existing land uses are inventoried in the Land Use Chapter. The issues addressed in this Chapter are related to management of coastal and shoreline land uses. The City has a variety of land uses that compete for the limited land areas adjacent to Sarasota Bay and the Gulf of Mexico. Most of the coastline is developed and adequate access for recreational uses is a concern.

Water-Dependent and Water-Related Uses

Water-dependent uses are those activities which require direct shoreline access. They include marinas, boat ramps, bay access sites such as parks and beaches, and fishing piers.

Water-related uses are those which do not require direct shoreline access, but which provide goods and services that are associated with water-dependent uses. They include facilities related to shoreline access including parking areas, as well as facilities which serve waterborne and shoreline activities such as concessionaires and resorts.

Illustration EP-8, produced from information in the Open Space and Recreation Chapter, presents an analysis of needed and existing water-dependent uses. Illustration EP-9 identifies the location of these facilities.

Illustration EP-8. Water-Dependent Uses

Activity Type	Population Standard	Facility 2005	Needs 2010	Current Facilities
Marina / Dry Storage	1 / 20,000	3	3	4
Boat ramps	1 / 10,000	6	6	10
Bay Access	1 / 7,000	9	9	11
Beaches	1 / 30,000	2	2	3
Piers	1 / 25,000	3	3	6

Source: City of Sarasota Planning Department and Sarasota County Parks and Recreation, 1997.

The City's shoreline is a finite resource and there are many uses which compete for development along length of it. Although Illustration EP-8 indicates there should be adequate facilities through the planning period, the Plan section of this Chapter encourages water-dependent and water-related uses along the shoreline when redevelopment occurs. Further, the City has adopted a Sarasota County Manatee Protection Plan, which includes a Boat Facility Siting Plan that is used in the regulation of water-dependent and water-related uses within the municipal limits.

Sarasota City Plan – Environmental Protection Plan
EP-40

Adopted November 10, 1998

II. Analysis

If adopted, proposed Action Strategy 1.12 will incorporate (by reference) the Sarasota County Manatee Protection Plan into the Environmental Protection Plan of the Sarasota City Plan.

Currently, the Environmental Protection Plan includes one action strategy that does provide a degree of protective measures for manatees:

1.6, Specific Natural Resource Protection Initiatives – Wildlife/Wildlife Habitats: *The City will continue to support and comply with applicable regulations which protect fisheries, wildlife and wildlife habitats.*

However, the plan lacks the specific protective measures found in the Sarasota County Manatee Protection Plan. The addition of proposed Action Strategy 1.12 will strengthen the Environmental Protection Plan by providing additional protection that will reduce threats to manatees and protect manatee habitats within the city limits. Further, adoption of this proposed action strategy aids in implementing Action Strategy 1.4, which calls for exploring methods to protect native habitats.

Action Strategy 1.4, Specific Natural Resource Protection Initiatives – Vegetation: ... Native Habitat Restoration and Management: *The City will explore the creation of a native habitat restoration and management strategy.*

The adoption of proposed Action Strategy 1.12 will benefit marina development within the city. Chapter 380, Florida Statutes, exempts marinas from the Development of Regional Impact process if a local government has adopted a boat facility siting plan and policies that protect manatees in its comprehensive plan.¹

The Sarasota County Manatee Protection Plan is applicable to the entire county and most of the document's implementation is the responsibility of Sarasota County. However, if adopted into the Sarasota City Plan, specific provisions will be the responsibility of the City to implement. The City responsibilities are: reviewing the location of proposed or expanded marina development and associated facilities in regards to the Boat Facility Siting Plan, assisting other agencies in enforcing marine laws that are designed to protect manatees, and eliminating potential manatee entrapments.

The City defers the permitting of 5 or more boat slips to the Florida Fish and Wildlife Conservation Commission and to the U.S. Fish and Wildlife Service (FWS). These

¹ Section 380.06(k)1. Any waterport or marina development is exempt from the provisions of this section if the relevant county or municipality has adopted a boating facility siting plan or policy which includes applicable criteria, considering such factors as natural resources, manatee protection needs and recreation and economic demands as generally outlined in the Bureau of Protected Species Management Boat Facility Siting Guide, dated August 2000, into the coastal management or land use element of its comprehensive plan (the Environmental Protection Plan is a combination of the state mandated conservation and coastal management elements).

agencies have oversight for the protection of manatees and, therefore, must review such permit applications. During these reviews, those state and federal agencies would examine the permit application for consistency with the MPP.

The FWC has informed staff that the FWC will review projects within the City for consistency with the Sarasota County Manatee Protection Plan whether or not the City adopts this plan amendment

County staff has also been advised by the FWC that any local government within the County that does not adopt the MPP may be subject to the same regulatory requirements as local governments that have not an adopted MPP. In other words, the City could be subject to further regulations or restrictions levied by the State. Additionally, the State could designate the City as an area that must complete and adopt an MPP under Section 370.12, Florida Statutes. However, the FWC states that choosing not to adopt the plan amendment does not automatically mean that the State considers the City to have inadequate protection for manatees since there currently exist one or more of the following manatee protection measures in the City: speed zones, appropriate signage for such zones, and enforcement of such speeds.

III. Recommendations and Motion

Parks, Recreation, and Environmental Protection Board

The proposed amendment was reviewed by the Parks, Recreation, and Environmental Protection Board on August 19, 2004. That Board recommended approval by a vote of 3-2.

Planning Board

The Planning Board held an adoption public hearing on October 13, 2004 and recommended that the City Commission not adopt the amendment (a motion to approve the amendment was defeated by a vote of 1-3). Further, the Planning Board recommended to the City Commission that the City develop its own Manatee Protection Plan (vote of 4-0).

During the Planning Board discussion, there was discussion regarding the wording “as may be amended” that was included in their staff report as displayed in the text below:

... **Manatee Protection Plan:** The City hereby adopts the Sarasota County Manatee Protection Plan, dated September 24, 2003 ***as may be amended***, as a component of the Sarasota City Plan in order to reduce human-related threats to manatees and their habitat...

Sarasota County staff suggested that the City include the “as may be amended” phrase as part of the action strategy. As a result of the discussion by the Planning Board, Planning staff reconsidered this phrase and also contacted the Department of Community Affairs on October 14 to determine DCA’s position on the proposed text. DCA indicated that the City should not include this particular phrase as part of the amendment. Therefore, staff proposes to remove this phrase from the proposed action strategy to be considered by the City Commission.

Planning and Redevelopment Department

Planning and Redevelopment Department staff recommends **approval** of this petition to revise the text of the Environmental Protection Plan and Support Document of the *Sarasota City Plan* with the following motion:

Planning staff recommends a motion, based upon the analysis in the staff report and testimony in the record, that the City Commission adopt Comprehensive Plan Amendment Petition No. 04-PA-01, which adds new Action Strategy 1.12 to the Environmental Protection Plan and to remove the phrase “as may be amended” from the action strategy.

Section 2

Consistency with State and Regional Goals and Policies

The proposed text/map amendment is consistent with and furthers the following from the State Comprehensive Plan and the Southwest Florida Strategic Regional Policy Plan.

I. State Comprehensive Plan (Chapter 187, Florida Statutes).

(8) COASTAL AND MARINE RESOURCES.

(a) Goal. Florida shall ensure that development and marine resource use and beach access improvements in coastal areas do not endanger public safety or important natural resources. Florida shall, through acquisition and access improvements, make available to the state's population additional beaches and marine environment, consistent with sound environmental planning.

(b) Policies.

4. Protect coastal resources, marine resources, and dune systems from the adverse effects of development.
5. Develop and implement a comprehensive system of coordinated planning, management, and land acquisition to ensure the integrity and continued attractive image of coastal areas.
6. Encourage land and water uses which are compatible with the protection of sensitive coastal resources.
7. Protect and restore long-term productivity of marine fisheries habitat and other aquatic resources.
10. Give priority in marine development to water-dependent uses over other uses.

(9) NATURAL SYSTEMS AND RECREATIONAL LANDS.

(a) Goal. Florida shall protect and acquire unique natural habitats and ecological systems, such as wetlands, tropical hardwood hammocks, palm hammocks, and virgin longleaf pine forests, and restore degraded natural systems to a functional condition.

(b) Policies.

1. Conserve forests, wetlands, fish, marine life, and wildlife to maintain their environmental, economic, aesthetic, and recreational values.
2. Acquire, retain, manage, and inventory public lands to provide recreation, conservation, and related public benefits.
3. Prohibit the destruction of endangered species and protect their habitats.
4. Establish an integrated regulatory program to assure the survival of endangered and threatened species within the state.

7. Protect and restore the ecological functions of wetlands systems to ensure their long-term environmental, economic, and recreational value.

(15) LAND USE.

(a) Goal. In recognition of the importance of preserving the natural resources and enhancing the quality of life of the state, development shall be directed to those areas which have in place, or have agreements to provide, the land and water resources, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner.

(b) Policies.

2. Develop a system of incentives and disincentives which encourages a separation of urban and rural land uses while protecting water supplies, resource development, and fish and wildlife habitats.
6. Consider, in land use planning and regulation, the impact of land use on water quality and quantity; the availability of land, water, and other natural resources to meet demands; and the potential for flooding.

II. Southwest Florida Strategic Regional Policy Plan.

Planning staff did not identify any component of the Strategic Regional Policy Plan that the proposed amendment is inconsistent with.

ISSUE – PUBLIC AWARENESS

Goal 1: The Region's environmental awareness educational programs will be modernized and directed to all citizens of the region.

Action 4. Local, regional and state agencies should establish non-regulatory, educational urban non listed wildlife programs, which include:

The identification of wildlife living in urban areas;

Public education concerning the behavior and needs of urban wildlife, and the benefits of maintaining urban wildlife;

Measures to avoid conflicts between urban wildlife species and man, and the means to resolve such conflicts.

Goal 2: The diversity and extent of the Region's protected natural systems will increase consistently beyond that existing in 2001.

Strategy: To identify and include within a land conservation or acquisition program, those lands identified as being necessary for the sustainability of Southwest Florida, utilizing all land preservation tools available.

Action 2. Support continued acquisition of lands targeted for conservation and recreation by Public Land Acquisition Programs including CARL, SOR, Florida Communities Trust, Lee County CLASAC, CREW, WRDA and other efforts in the Region.

ISSUE – LIVABLE COMMUNITIES

Goal 4: Livable communities designed to improve quality of life and provide for the sustainability of our natural resources.

Strategy: Promote through the Council’s review roles community design and development principles that protect the Region’s natural resources and provide for an improved quality of life.

Actions:

6. Working in cooperation with agencies and local governments insure that new public facilities, facility expansions and additions avoid designated natural resource protection areas.
9. Insure that opportunities for governmental partnerships and public/private partnerships in preserving wildlife habitats are maximized.

ISSUE – REGIONAL COOPERATION

Goal 5: Effective resource management is maintained across the borders of sovereign public agencies.

Strategy: All plans concerning the same resource shall have as objectives the same effective results.

Actions:

1. Assist in the creation of proactive boating siting and management programs that will protect the West Indian Manatee, seagrass areas, sanctuaries, fisheries habitat and other necessary natural features and at the same time identify and maximize the use of available land most suitable for public access to the natural resource.
2. The Region shall continue to support the Southwest Florida Regional Harbor Board non-regulatory resource protection program for boating facilities and provide technical assistance in the development of a regional waterway management plan.

Section 3
Technical Memoranda and Minutes

Section 4
Objections, Recommendations, and Comments Report