

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

Blue Sheet No. 20030382

1. REQUESTED MOTION:

ACTION REQUESTED: Request authorization to advertise for and conduct a Public Hearing on Tuesday, May 13, 2003, at 5:00 p.m., in Chambers to amend Lee County's Boca Grande Bayou Public Dock Ordinance 93-27.

WHY ACTION IS NECESSARY: Board must formally adopt Ordinance at a Public Hearing.

WHAT ACTION ACCOMPLISHES: Sets May 13, 2003, at 5:00 p.m. for the Public Hearing date and time and allows the process to go forward. Changes Lee County Ordinance 93-27 regulates parking and prohibits overnight sleeping in parking area.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

C12A

3. MEETING DATE:
04-22-2003

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE 93-27
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Attorney's Office
- C. DIVISION
- BY: Kristie L. Kroslack
Assistant County Attorney

7. BACKGROUND:

On January 31, 2003, the Lee County Sheriff's Office contacted the County Attorney's Office to inquire into regulations for overnight parking or camping in the easement and right-of-way, located at the public dock facilities, Boca Grande Bayou at Fifth Street. Lee County Ordinance 93-27 was enacted to allow the charter fishing industry and general public access to the dock facility on Boca Grande Bayou, subject to certain restrictions. As a result, visitors to the area park overnight and sleep in the easement area.

The Lee County Sheriff's Office has requested that 93-27 be amended to establish a regulation on sleeping overnight in the parking area.

Attachment: Draft of Ordinance to Amend Ordinance 93-27.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	202 A/9/03	OA RK 4/9	OM 4/10/03	RISK 4/10/03	GC 4/9/03	4-10-03

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY
COUNTY ADMIN. **rk**
4-9-03
2:20
COUNTY ADMIN.
FORWARDED TO: **02**

C

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AMENDING AND RESTATING LEE COUNTY ORDINANCE 93-27 RELATING TO THE REGULATION OF PUBLIC DOCK AND PARKING LOCATED ON THE BOCA GRANDE BAYOU AT FIFTH STREET, BOCA GRANDE, FLORIDA, PROVIDING FOR APPLICABILITY; PROVIDING FOR PURPOSE; PROVIDING OPERATIVE PROVISIONS; PROVIDING FOR PROHIBITED ACTIVITIES; PROVIDING FOR SIGNAGE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERRORS; PROVIDING FOR CONFLICTS OF WITH OTHER LAWS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Lee County duly adopted Lee County Ordinance 93-27 which provided certain controls and regulations on the use of the Boca Grande Bayou Public Dock Facilities; and

WHEREAS, the findings and purposes included within Lee County Ordinance 93-27 are hereby further confirmed, readopted and ratified; and

WHEREAS, Lee County Ordinance 93-27 needs to be updated and hereby revised in the interest of the public health, safety and welfare; and

WHEREAS, it is the intent of this Ordinance to amend Lee County Ordinance 93-27, to establish revised Lee County Boca Grande Bayou Public Dock Facilities regulations and use policies. To the extent not specifically amended hereby, all provisions, findings and terms of Lee County Ordinance 93-27 as duly adopted and hereinafter restated in full remain in full force and effect.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS of Lee County, Florida, that:

Lee County Ordinance 93-27 is hereby restated with the amendments thereto by respective Section as noted as follows with the new language shown by underlining and deleted language shown with strike-overs. Accordingly, Lee County Ordinance 93-27 is hereby duly amended to read as follows:

SECTION ONE: AREA OF APPLICABILITY

This Ordinance shall apply to the County owned Dock Facility located at Fifth Street and the Boca Grande Bayou on Gasparilla Island, in unincorporated Lee County, as well as the appurtenant County maintained water access parking area.

SECTION TWO: PURPOSE

The purpose of this Ordinance is to provide for the safe, orderly, and efficient use of a dock with five boat slips, located on submerged land adjacent to Fifth Street on Boca Grande, Gasparilla Island. Use of the dock is intended for members of the public, including the professional salt water fishing guides. The dock is intended as a point of pickup and discharge of passengers by charter fishing boats and other public uses. Public parking is permitted for users of the dock as depicted in the attached Exhibit "A".

SECTION THREE: OPERATIVE PROVISIONS

- A. Docking at the facility shall be regulated according to the following schedule:
 - 1. August - February

During the months of August through and including February, no vessel shall be docked at the facility for a period of time that exceeds two (2) hours.

2. March - July

During the months of March through and including July, no vessel shall be docked at the facility for a period of time in excess of ten (10) minutes.

- B. Docking at the facility shall be performed in a reasonable, prudent fashion, so as to prevent injury to individuals, the dock improvements, and personal property.
- C. Parking at the docking facility is allowed only in area depicted in the attached Exhibit "A".
- D. No overnight parking or sleeping in parking area is allowed.

SECTION FOUR: PROHIBITED ACTIVITIES

The following activities shall be prohibited:

- A. Exceeding specified time period for docking.
- B. Docking overnight.
- C. Leaving boat unattended during the period of March, through and including July.
- D. Parking overnight or sleeping in the parking areas.

SECTION FIVE: POSTING SIGNAGE

- A. It shall be unlawful for any individual or entity to erect signage within the prescribed dock area without the prior written consent of Lee County.
- B. The Lee County Department of Parks and Recreation will designate parking to be used by patrons of the docking facilities. No person shall park any

vehicle in any place other than that provided for by the Lee County Parks and Recreation with appropriate signage as depicted in the attached Exhibit "A".

C. Violations of any of the provisions in this Section (A. and B. above) shall subject the violator to vehicle removal or towing at violator's risk and expense and to other penalties as provided by law.

SECTION SIX: ENFORCEMENT AND PENALTIES

The terms of this Ordinance shall be enforced by the Lee County Sheriff's Department Office, and the Lee County Division of Code Enforcement through its citation procedure. Violation of the terms of this Ordinance shall constitute a ~~second-degree misdemeanor~~ civil infraction, punishable ~~as provided by Fla. Stat. §775.082 or 775.083 as may be amended~~ by a fine not to exceed five hundred dollars (\$500.00). Additionally, a violation established under the Code Enforcement citation procedure, shall be punishable as provided by Fla. Stat. ~~§162.21~~ §162.21, Florida Statutes, as may be amended.

SECTION SEVEN: SEVERABILITY

The provisions of this Ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this Ordinance would have been adopted had such unconstitutional provisions not been included herein.

SECTION EIGHT: INCLUSION IN CODE, CODIFICATION, SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code; and that Sections of this Ordinance may be ~~numbered~~ renumbered or relettered and the word "Ordinance" may be changed to "Section," "Article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the Code is accomplished, Sections of this Ordinance may be renumbered or relettered, and the correction of typographical errors which do not affect the intent, may be authorized by the County ~~Administrator~~ Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of the Circuit Court.

SECTION NINE: CONFLICTS WITH OTHER OF LAWS

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or Statute, the most restrictive requirements shall apply.

SECTION TEN: EFFECTIVE DATE

The provisions of this Ordinance shall become effective immediately upon receipt of official acknowledgment of the ~~Office~~ Secretary of the State of Florida that this Ordinance has been filed with said Office.

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

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

DULY PASSED AND ADOPTED THIS _____ day of _____, 2003.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairman

APPROVED AS TO FORM:

BY: _____
Office of the County Attorney