



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## New Business - Development and Environmental Services Group

I.1.

11/14/2023

### **Subject:**

Legislative Intent and Permission to Advertise, RE: Anchoring Limitation Areas

### **Fiscal Impact:**

Up to \$35,000 for the installation of waterway signage and buoys, \$25,000 of which has been pledged by the City of Melbourne and up to \$10,000 from Brevard Boating Improvement Program Funds (3113/330040)

### **Dept/Office:**

Natural Resources Management Department

### **Requested Action:**

Staff is seeking legislative intent and permission to advertise amendments to Chapter 122 Waterways, to allow for the establishment of four Anchoring Limitation Areas lying within the City of Melbourne's and Brevard County's waterways and authorization to use up to \$10,000 in Brevard Boating Improvement Program Funds for signage and buoys.

### **Summary Explanation and Background:**

Over the years, Brevard County and the City of Melbourne have received numerous complaints from upland property owners concerning vessels that appear to be anchored haphazardly and long-term in our shared waterways. These vessels pose potential threats to nearby public infrastructure, private marine facilities, and residential docks. The complaints have included: improper vessel storage and abandonment; vessels used as full-time residences (live-aboard vessels); dumping of untreated sewage; derelict vessels; and vessels at risk of becoming derelict. Several anchored vessels have broken loose and collided with both public and private docks and marine infrastructure.

In July of 2021, the Florida Legislature amended Florida Statute 327.4108 to provide an allowance for counties meeting certain criteria to establish Anchoring Limitation Areas (ALAs) to manage vessels moored and/or stored long-term on our shared waterways. Requirements for the designation of ALAs within Florida Statute 327.4108 are as follows: the areas must be within an urban area with residential docking facilities and significant recreational boating traffic; areas may not exceed 100 acres in size and shall not include any mooring fields; and the areas must be clearly marked with signage and buoys. The ALAs prohibit a vessel, whether occupied or unoccupied, from anchoring for more than 45 consecutive days within a six-month period.

Law enforcement may request proof that a vessel has not exceeded the limitation and request evidence that the vessel was in a location at least one mile away and not in another ALA within a period of 45 days before the inquiry. Vessels found in violation by authorized law enforcement may be subject to impoundment and/or removal. If a vessel is the subject of more than three violations within 12 months, and the citations result in

dispositions other than acquittal or dismissal, the vessel can be declared a public nuisance or a derelict vessel, subject to the procedures established in sections 705.103 and 823.11, Florida Statutes.

County staff collaborated with members of the Florida Fish and Wildlife Conservation Commission, staff from the City of Melbourne's Police Department, Community Development, and the City Attorney's Office to propose four anchoring limitation areas based upon the process provided in the Florida Statutes. Three of the four proposed ALAs are directly adjacent to the City's shoreline, with the fourth area lying along unincorporated Brevard, adjacent to the County managed Eau Gallie boat ramp. The creation of this ALA network provides a management tool for the shared anchorages in this region and intends to manage vessels that are non-operational, potential sources of sewage, and at risk of becoming derelict.

On February 16, 2023, County staff along with law enforcement officers from the Florida Fish and Wildlife Conservation Commission and the City of Melbourne presented information on the proposed ALAs to the Brevard Marine Advisory Council (BMAC). The BMAC voted unanimously in favor of recommending the four ALAs and asked staff to pursue the necessary actions at the state and local levels to implement the appropriate areas.

Per Florida Statute, only counties are given the authority to establish ALAs. Therefore, municipalities wishing to establish the areas within a city's jurisdiction must petition their county. On March 14, 2023, the City of Melbourne passed a unanimous resolution requesting that the County Commission establish four ALAs within the City of Melbourne's and Brevard County's navigable-in-fact waterways. These City-proposed ALAs are the same areas being brought forward for County processing and approval.

The Florida Fish and Wildlife Conservation Commission, the City of Melbourne Police Department, and the Brevard County Sheriff's Office have jurisdiction to enforce the boating laws of the State of Florida, and a mutual aid agreement exists between the City and the Sheriff allowing Melbourne Police Officers to enforce state law outside the jurisdictional boundaries of the City but within the jurisdictional boundaries of Brevard County. Enforcement of the proposed ALAs will rest under the jurisdiction of the Florida Fish and Wildlife Conservation Commission, the City of Melbourne Police Department, and the Brevard County Sheriff's Office.

All anchoring limitation areas must be clearly marked with signs that provide reasonable notice to boaters identifying the duration of time beyond which anchoring is limited and include a citation of the county ordinance section. Additionally, the areas must be delineated with buoys marking the boundary of the area. Staff estimates the cost of the signage and buoys to be approximately \$35,000, with the City of Melbourne authorizing up to \$25,000 for the project and the County contributing up to \$10,000 from existing Brevard Boating Improvement Program funds if costs exceed \$25,000. Additionally, the City and County will work together to obtain any required marker signage and buoy installation permits from the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the United States Coast Guard, and the Army Corp of Engineers.

Staff requests legislative intent and permission to advertise amendments to Chapter 122 Waterways, to allow for the establishment of four Anchoring Limitation Areas lying within the City of Melbourne's and Brevard County's shared navigable-in-fact waterways and authorization to use up to \$10,000, after the City's \$25,000 commitment, in Brevard Boating Improvement Program Funds for signage and buoys.

**Clerk to the Board Instructions:**

None



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November 15, 2023

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item I.1., Legislative Intent and Permission to Advertise for Anchoring Limitation Areas

The Board of County Commissioners, in regular session on November 14, 2023, granted permission to advertise amendments to Chapter 122 Waterways, allowing for the establishment of four Anchoring Limitation Areas lying within the City of Melbourne's and Brevard County's waterways; and authorized the use of up to \$10,000 in Brevard Boating Improvement Program Funds for signage and buoys.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS**  
**RACHEL M. SADOFF, CLERK**

*for: Donna Scott*  
Kimberly Powell, Clerk to the Board

/ds

cc: Finance  
Budget



**Melbourne City Council**  
**March 14, 2023**  
**City Manager's Item Report**

Department:	Community Development
Presenter:	Cindy Dittmer
Council District:	N/A
Reading Number:	N/A
Public Hearing:	Yes
Quasi-judicial Item (Disclosure Required):	No
Item Number:	C.12.

**Subject:**

A resolution requesting the Brevard County Commission to establish four Anchoring Limitation Areas within the City of Melbourne waterway jurisdiction.

**Background/Consideration:**

This is a request for approval of a resolution for the Brevard County Commission to establish four Anchoring Limitation Areas within the City of Melbourne waterway jurisdiction.

In July of 2022, the Florida Legislature amended Florida Statute 327.4108 to provide an allowance for counties meeting certain criteria to establish anchoring limitation areas adjacent to urban areas that have residential docking facilities and significant recreational boating traffic. The City has received numerous complaints over the years from upland property owners concerning vessels that are anchored in waters of the City near residential marine facilities. These complaints have included: improper storage and abandonment of vessels; vessels used as full-time residences but not meeting the definition of prohibited live-aboard vessels; dumping of untreated sewage by these vessels; derelict vessels; and vessels at risk of becoming derelict. Several anchored vessels have also broken loose and collided with private docking/marine facilities.

City staff from the Police Department, Community Development and City Attorney's Office have proposed a resolution requesting the establishment of four areas within the City's waterway jurisdiction to be designated as Anchoring Limitation Areas, based upon the allowances now provided in the Florida Statutes. Three of the Anchoring Limitation Areas are located near the Eau Gallie Causeway and one is located near the Melbourne Causeway. All four areas have a significant amount of recreational boating activity, along with the presence of residential marine facilities.

Staff consulted with Brevard County's Boating and Waterways Coordinator on the proposed areas and requirements. Any establishment of these areas must be enacted by the county in accordance with the statutes. If the resolution is approved by Council, staff will forward it to Brevard County and coordinate with County staff to initiate an ordinance for Brevard County Commission consideration.

The ordinance would prohibit vessels from remaining in excess of 45 consecutive days within an Anchoring Limitation Area. Further, the vessel must not move into any other Anchoring Limitation Area and must move at least seven miles away from the area that it was located. Enforcement of violations over the allowable 45 days will be in the form of a citation and violation of a citation could result in the City removing and impounding the vessel for up to 48 hours.



All anchoring limitation areas must be clearly marked with signs that provide reasonable notice to boaters identifying the duration of time beyond which anchoring is limited and include a citation of the county ordinance section. Additionally, the areas must be delineated with buoys marking the boundary of the area. Staff worked with Brevard County's Boating and Waterways Coordinator for an estimate of the cost of the signage and buoys and it is estimated that the cost will be approximately \$25,000. Additionally, we will need to obtain permits to install the signs and buoys from the Florida Department of Environmental Protection and Army Corp of Engineers.

**Fiscal/Budget Impact:**

N/A

**Requested Action:**

Approval of Resolution No. 4158.

## **Memorandum**

**To:** Jenni Lamb, Interim City Manager  
**From:** Cindy Dittmer, Community Development Director  
**Re:** **Resolution to Request Designation of Anchoring Limitation Areas**  
**Date:** February 28, 2023

### **Owner/Applicant/Representative**

Applicant/Representative – City of Melbourne

### **Proposed Action**

A resolution requesting the Brevard County Commission to establish four Anchoring Limitation Areas within the City of Melbourne waterway jurisdiction.

### **Location**

This action shall apply to four defined waterway areas within the City of Melbourne jurisdictional area.

### **History**

Prior to 2022, Florida Statute section 327.4108 (F.S. §327.4108) established designated anchoring limitation areas exclusively in Broward, Miami-Dade and Monroe Counties. Other sections of Chapter 327 prohibited the anchoring of vessels in specific locations:

- Within 150 feet of a marina or boat ramp or other launching facility (§327.4109(1)(a)1)
- Within 300 feet of a superyacht repair facility (§327.4109(1)(a)2)
- Within 100 feet of a mooring field (§327.4109(1)(a)3)
- Affixed to an unpermitted object affixed to the river bottom (§327.4109(4))
- Affixed to a uniform waterway marker (§327.42(1))
- Areas creating a navigation hazard, i.e., under bridges, adjacent to heavily traveled channels (§327.44(2))

Additionally, counties and municipalities are prohibited from regulating the anchoring of vessels outside the boundaries of marked mooring fields, except for live-aboard vessels and commercial vessels. F.S. §327.60(2).

Notwithstanding the prohibition set forth in F.S. §327.60(2), the Florida Legislature amended F.S. §327.4108 in 2022 to provide an allowance for counties meeting certain criteria to establish anchoring limitation areas adjacent to urban areas that have residential docking facilities and significant recreational boating traffic. The change would

allow the enactment of a county ordinance establishing areas within which vessels, whether occupied or unoccupied, may not anchor for longer than 45 days within a 6-month period. These areas must not be larger than 100 acres in size and may not exceed 10% of the Brevard County waterway area.

The City has received numerous complaints over the years from upland property owners concerning vessels that are anchored in waters of the City in close proximity to residential docking/marine facilities. These complaints have included: improper storage and abandonment of vessels; vessels used as full-time residences but not meeting the definition of prohibited live-aboard vessels; dumping of untreated sewage by these vessels; derelict vessels; and vessels at risk of becoming derelict. Several anchored vessels have also broken loose and collided with private docking/marine facilities.

### **Issues and Considerations**

City staff from the Police, Community Development and City Attorney's Office have collaborated over the last several months to propose four anchoring limitation areas based upon the allowances provided in the Florida Statutes change from 2022. Staff also consulted with Brevard County's Boating and Waterways Coordinator on the proposed areas and requirements. All four areas have a significant amount of recreational boating activity, along with the presence of residential docking/marine facilities. As a City with a residential population of 87,001 and a fully thriving commercial and industrial employment base, the proposed anchoring limitation areas are within an "urban area".

Any establishment of these areas must be completed by the county in accordance with the statutes. A resolution requesting the establishment of the areas has been prepared for Council consideration and, upon City Council approval, will be forwarded to Brevard County. City staff will work with county staff to get the anchoring limitation areas created through a county ordinance.

Requirements for the designation of an anchoring limitation area within Florida Statute 327.4108 are as follows: must be within an urban area with residential docking facilities and significant recreational boating traffic; the areas may not exceed 100 acres in size and shall not include any mooring fields; the areas must be clearly marked with signage and buoys; and prohibits a person from anchoring for more than 45 consecutive days within a six month period. Additionally, the county can require that a person have not anchored within another anchoring limitation area that is within 7 miles of another designated zone.

The resolution requests four areas within the City's waterway jurisdiction to be created:

Eau Gallie River Anchoring Limitation Area #1 (ALA #1), consisting of 89.90± acres of submerged land located along the western shore of the Indian River Lagoon, beginning south of the Eau Gallie (State Road 404) Causeway, running south along the western shore a distance of approximately 3,680 feet, and extending west into the Eau Gallie River, including the Eau Gallie River Basin, and the areas located on both the east and west sides of the Florida East Coast Railway right-of-way, as depicted on the attached map of ALA #1;



Indian River Anchoring Limitation Area #2 (ALA #2), consisting of 68.42± acres of submerged land located along the western shore of the Indian River Lagoon on the north side of the Eau Gallie (State Road 404) Causeway, as depicted on the attached map of ALA #2;

Indian River Anchoring Limitation Area #3 (ALA #3), consisting of 97.38± acres of submerged land located along the eastern shore of the Indian River Lagoon on the south side of the Eau Gallie (State Road 404) Causeway adjacent to the Brevard County boat ramp, as depicted on the attached map of ALA #3; and

Indian River Anchoring Limitation Area #4 (ALA#4), consisting of 39.69± acres of submerged land located along the west shore of the Indian River Lagoon on the south side of the Melbourne (State Road 192) Causeway adjacent to the Front Street boat ramp operated by the City of Melbourne and Kiwanis Park at Geiger Point operated by Brevard County, as depicted on the attached map of ALA #4.

### **Enforcement/Citations**

When enforcing the future County ordinance, F.S. §327.4108(6)(b) requires law enforcement officers to provide an opportunity for vessel owners or operators to provide law enforcement with proof that the vessel has not exceeded the 45-day anchoring limitation. The proof may consist of written documentation showing that the vessel was in a location at least 7 miles away within a period of less than 45 days before the inquiry, or consist of electronic navigational or tracking device data showing that the vessel was located at least 7 miles away within less than 45 days before the inquiry. If the vessel owner or operator fails to provide proof of compliance, the law enforcement officer may issue a citation for violation of F.S. §327.4108(6)

If the vessel operator, after being issued a citation, anchors the vessel in violation of the anchoring limitation within 12 hours after being issued the citation or refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer, the law enforcement agency is permitted to remove and impound the vessel for up to 48 hours. The vessel owner or operator must pay all costs associated with the removal, impoundment and storage of the vessel.

If a vessel is the subject of more than 3 violations of §327.4108(6) within 12 months and the citations result in dispositions other than acquittal or dismissal, the vessel can be declared a public nuisance, subject to the procedures for lost and abandoned property in F.S. §705.103.

### **Cost of Implementation**

All anchoring limitation areas must be clearly marked with signs that provide reasonable notice to boaters identifying the duration of time beyond which anchoring is limited and include a citation of the county ordinance section. Additionally, the areas must be delineated with buoys marking the boundary of the area. Staff worked with Brevard County's Boating and Waterways Coordinator for an estimate of the cost of the signage and buoys and estimates the cost to be approximately \$25,000. Additionally, the City

will need to obtain permits to install the signs/buoys from Florida Department of Environmental Protection and Army Corp of Engineers.

**Recommendation**

Approval of the resolution

RESOLUTION NO. 4158

A RESOLUTION OF THE CITY OF MELBOURNE, BREVARD COUNTY, FLORIDA, RELATING TO ANCHORING LIMITATION AREAS; MAKING FINDINGS; REQUESTING THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS ADOPT AN ANCHORING LIMITATION ORDINANCE IN ACCORDANCE WITH SECTION 327.4108(2), FLORIDA STATUTES; IDENTIFYING URBAN AREAS OF THE CITY WITH RESIDENTIAL DOCKING FACILITIES AND SIGNIFICANT BOATING TRAFFIC; PROVIDING AERIAL MAPS OF PROPOSED ANCHORING LIMITATION AREAS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

WHEREAS, the City of Melbourne has received numerous complaints from upland property owners over the years concerning vessels anchored in the waters of the City in close proximity to the residences and residential dock structures owned by the upland property owners; and

WHEREAS, the complaints about the vessels include but are not limited to improper storage and abandonment of vessels, vessels used as full-time residences but not meeting the definition of prohibited live-aboard vessels, dumping of untreated sewage, derelict vessels, and vessels at risk of becoming derelict; and

WHEREAS, several of such anchored vessels have, over the years, broken loose from their anchors, dragged their anchors, washed ashore or collided with private residential dock facilities, especially during frequently-occurring thunderstorms; and

WHEREAS, these anchored vessels present navigation hazards and challenges to boaters who operate their vessels and utilize boat ramps and docking structures in the areas where these anchored vessels are located; and

WHEREAS, the Florida Legislature recently amended F.S. §327.4108 to provide for counties meeting certain criteria to establish anchoring limitation areas adjacent to urban areas that have residential docking facilities and significant recreational boating traffic; and

WHEREAS, the City of Melbourne Police Department and the Brevard County Sheriff's Office have jurisdiction to enforce the boating laws of the State of Florida, and a mutual aid agreement exists between the City and the Sheriff allowing Melbourne Police Officers to enforce state law outside the jurisdictional boundaries of the City but within the jurisdictional boundaries of Brevard County, Florida; and

WHEREAS, City staff has identified four areas of navigable waters within Brevard County, Florida, that satisfy the criteria set forth in F.S. §327.4108 for establishing anchoring limitation areas, because each area is adjacent to urban areas that have residential docking facilities and significant recreational boating traffic, each area is less than 100 acres in size, the combined size of the areas is less than 10% of Brevard County's navigable-in-fact waterways, and none of the areas include a mooring field or marina; and

WHEREAS, the City Council desires to have the Brevard County Board of County Commissioners consider and adopt an ordinance establishing anchoring limitation areas in the four identified areas described herein; and

WHEREAS, the City Council desires that the County's anchoring limitation ordinance include provisions for applicability and enforcement as authorized by F.S. §327.4108; and

WHEREAS, this resolution constitutes the City Council's expression concerning the exercise of the legislative power granted by the Florida Legislature to the Brevard County Board of County Commissioners to adopt an ordinance establishing anchoring limitation areas in the designated areas of the waters within the jurisdictional boundaries of Brevard County, Florida.

BE IT RESOLVED BY THE CITY OF MELBOURNE, FLORIDA:

SECTION 1. That the following geographic areas be designated by Brevard County as Anchoring Limitation Areas:

(a) Eau Gallie River Anchoring Limitation Area #1 (ALA #1), consisting of 89.90± acres of submerged land located along the western shore of the Indian River, beginning south of the Eau Gallie (State Road 404) Causeway, running south along the western shore a distance of approximately 3,860 feet, and extending west into the Eau Gallie River, including the Eau Gallie River Basin, and the areas located on both the east and west sides of the Florida East Coast Railway, as depicted on the attached map of ALA #1;

(b) The Indian River Anchoring Limitation Area #2 (ALA #2), consisting of 68.42± acres of submerged land located along the western shore of the Indian River on the north side of the Eau Gallie (State Road 404) Causeway, as depicted on the attached map of ALA #2;

(c) The Indian River Anchoring Limitation Area #3 (ALA #3), consisting of 97.38± acres of submerged land located along the eastern shore of the Indian River and along the south side of the Eau Gallie (State Road 404) Causeway, as depicted on the attached map of ALA #3;

(d) The Indian River Anchoring Limitation Area #4 (ALA #4), consisting of 39.69± acres of submerged land located along the west shore of the Indian River on the south side of the Melbourne (State Road 192) Causeway adjacent to the Front Street boat ramp operated by the City of Melbourne and Kiwanis Park at Geiger Point operated by Brevard County, as depicted on the attached map of ALA #4.

SECTION 2. That the County's Anchoring Limitation Ordinance contain the following provisions:

- Prohibit the anchoring of vessels within anchoring limitation areas for more than 45 consecutive days in any six-month period without leaving all anchoring limitation areas for at least 24 hours to an area that is at least seven miles away from all anchoring limitation areas;

- Provide that compliance with the ordinance requires vessel owners and operators to move their vessels from an anchoring limitation area before the 44<sup>th</sup> day to an area that is at least seven miles away from all anchoring limitation areas for at least 24 hours;
- Provide that the ordinance does not apply to vessels owned or operated by governmental entities for law enforcement, firefighting, military or rescue purposes; construction or dredging vessels on active job sites; commercial fishing vessels; and vessels anchored or moored within the riparian rights of the owner of the vessel at a depth sufficient for safe anchorage.

SECTION 3. That the Brevard County Board of County Commissioners provide notice to the Fish and Wildlife Conservation Commission of the County's intent to establish anchoring limitation areas within the navigable-in-fact waterways of Brevard County, Florida.

SECTION 4. That this resolution shall become effective immediately upon its adoption in accordance with the Charter of the City of Melbourne.

SECTION 5. That this resolution was duly adopted at a regular meeting of the City Council on the            day of            , 2023.

BY: \_\_\_\_\_  
Paul Alfrey, Mayor

ATTEST: \_\_\_\_\_  
Kevin McKeown, City Clerk

[CITY SEAL]

Attachments: Eau Gallie Causeway Limitation Area Map (ALA #1, #2 and #3)

Melbourne Causeway Limitation Area Map (ALA #4)

Resolution No. 4158

**City of Melbourne, Florida**  
**Minutes – Regular Meeting Before City Council**  
**March 14, 2023**

A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 6:33 p.m. by Mayor Paul Alfrey.

**A. OPENING**

1. The invocation was given by Father Scott Circe, Holy Name of Jesus Catholic Church.
2. Pledge of Allegiance
3. Roll Call

Present:

Paul Alfrey	Mayor
Mark LaRusso	Vice Mayor, District 2
Tim Thomas	Council Member, District 1
Yvonne Minus	Council Member, District 3
Rachael Bassett	Council Member, District 4
Mimi Hanley	Council Member, District 5
Julie Sanders	Council Member, District 6
Jenni Lamb	Interim City Manager
Adam Conley	Acting City Attorney
Kevin McKeown	City Clerk

4. Proclamations and Presentations

Mayor Alfrey presented a proclamation to representatives of the Ancient Order of Hibernians declaring March 2023 as "Irish American Heritage Month."

James Cannon, Intergovernmental Coordinator of St. Johns River Water Management District, received a proclamation from Mayor Alfrey declaring April 2023 as "Water Conservation Month."

Vice Mayor Mark LaRusso welcomed the Boy Scouts of Troops 285 and 4285. The Scouts asked the Council several questions concerning local government.

5. Approval of Minutes - February 28, 2023 Regular Meeting

Moved by Thomas/Minus for approval. Motion carried unanimously.

6. City Manager's Report

Interim City Manager Jenni noted that staff is requesting that Item 9 be removed from the agenda. There were no objections from City Council.



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Ms. Sanders expressed concern with going from April to August and only soliciting the need for a contract when the opening took place. Chief Gillespie referenced that is the direction of the contract with the union and stated that he has attempted to get a two-year contract in place to deal with that exact type of issue. He expanded on the problem of officers taking the tests too early and then having the results expire before another vacancy occurs.

Mr. Thomas asked if this is a national trend that other police departments deal with. Chief Gillespie replied affirmatively and cited other local jurisdictions that follow a similar method.

Moved by Sanders/Bassett for approval of purchase of police promotional testing services for the ranks of Sergeant and Lieutenant, Morris & McDaniel, Inc., Alexandria, VA - estimated annual cost \$43,000; total estimated cost of contract \$215,000. Motion carried unanimously.

12. **Resolution No. 4158:** A resolution requesting Brevard County to establish four anchoring limitation areas within the City of Melbourne waterways consistent with the allowances provided by Florida Statute Section 327.4108(2).

Community Development Director Cindy Dittmer reported that in July of 2022, the Florida Legislature amended Florida Statute 327.4108 to provide an allowance for counties meeting certain criteria to establish anchoring limitation areas adjacent to urban areas that have residential docking facilities and significant recreational boating traffic. The City has received numerous complaints over the years from upland property owners concerning vessels that are anchored in waters of the City near residential marine facilities. She noted that these complaints have included: improper storage and abandonment of vessels; vessels used as full-time residences but not meeting the definition of prohibited live-aboard vessels; dumping of untreated sewage by these vessels; derelict vessels; and vessels at risk of becoming derelict. Several anchored vessels have also broken loose and collided with private docking/marine facilities.

Mrs. Dittmer advised that City staff from the Police Department, Community Development and City Attorney's Office have proposed a resolution requesting the establishment of four areas within the City's waterway jurisdiction to be designated as Anchoring Limitation Areas, based upon the allowances now provided in the Florida Statutes. She reported that three of the Anchoring Limitation Areas are located near the Eau Gallie Causeway and one is located near the Melbourne Causeway. All four areas have a significant amount of recreational boating activity, along with the presence of residential marine facilities.

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Mrs. Dittmer stated that staff consulted with Brevard County's Boating and Waterways Coordinator on the proposed areas and requirements. She noted that any establishment of these areas must be enacted by the county in accordance with the statutes. If the resolution is approved by Council, staff will forward it to Brevard County and coordinate with County staff to initiate an ordinance for Brevard County Commission consideration.

Mrs. Dittmer explained that the ordinance would prohibit vessels from remaining in excess of 45 consecutive days within an Anchoring Limitation Area. Further, the vessel must not move into any other Anchoring Limitation Area and must move at least seven miles away from the area that it was located. She noted that enforcement of violations over the allowable 45 days will be in the form of a citation and violation of a citation could result in the City removing and impounding the vessel for up to 48 hours.

Mrs. Dittmer reported that all anchoring limitation areas must be clearly marked with signs that provide reasonable notice to boaters identifying the duration of time beyond which anchoring is limited and include a citation of the county ordinance section. Additionally, the areas must be delineated with buoys marking the boundary of the area. She advised that staff worked with Brevard County's Boating and Waterways Coordinator for an estimate of the cost of the signage and buoys and it is estimated that the cost will be approximately \$25,000. Additionally, staff will need to obtain permits to install the signs and buoys from the Florida Department of Environmental Protection and Army Corp of Engineers.

Mr. Thomas stated that in 2017, the city was getting a lot of complaints about this issue and even had staff get on a boat and see the problem for themselves.

Council Member Rachael Bassett asked who would monitor length of stay. Mrs. Dittmer stated that would fall to the Police Department's marine unit. The vessel owners would be required to prove they are complying with length of stay regulations.

The Mayor opened the public hearing.

Patrick Meyer, 1061 Hyde Park Lane, referenced his history in the area and referenced an independent company called Blue Water Task Force that helps to monitor the health of the lagoon. He expressed his full support for these limitation areas.

Kris Baker, 3528 Reign Street, discussed the purpose of the Blue Water Task Force and stated that the health of the lagoon has to be a part of the conversation. Ultimately, limiting the anchoring stays will help with the health of the area's waterways.

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R.T. "Bo" Platt, 844 W. Whitmire Drive, submitted a photo of Ballard Park as of the morning of this meeting and approximately 20 boats are anchored in the Eau Gallie harbor. He referenced his familiarity with the marine unit and their frustration with only giving out citations to violators. He said that lack of regulation impacts the homeowners and those using the water as recreation. He expressed his support for this resolution.

Moved by LaRusso/Thomas for approval of Resolution No. 4158. Motion carried unanimously.

Vice Mayor LaRusso remarked that it is incumbent upon those who support this effort to contact the county commission.

13. **Ordinance No. 2023-08, Ordinance No. 2023-09 and Ordinance No. 2023-10, Dennis and Patty Stitzel - Miller Lane:** (First Reading/Public Hearing)  
Ordinances providing for annexation, Comprehensive Plan amendment and zoning designation on 0.54± acres located on the west side of Miller Lane and south of Trimble Road. (Owners/Applicants - Dennis and Patty Stitzel) (P & Z Board - 2/16/2023)

Mrs. Dittmer reported that the property owner has submitted a voluntary annexation application in order to receive city services (potable water). City Code requires property owners that are contiguous to the City's municipal boundary to voluntarily annex into the City in order to receive a connection to Melbourne's water or sewer systems.

Mrs. Dittmer stated that the site is currently vacant and the owners are proposing to build a single-family residential home. The requested Low Density Residential Future Land Use (maximum density of 6 units per acre) is an appropriate designation for the subject property since it is the City's functional equivalent to the existing County designation of RES-6 (maximum density of 6 units per acre). She explained that the proposed zoning of R-1A (minimum lot size of 7,500 square feet) is consistent with the existing County zoning of RU-1-13 (minimum lot size of 7,500 square feet).

Mrs. Dittmer advised that the property is bordered by single-family homes zoned R-1A to the north, south and east. A church is also located to the west of the subject site. The properties to the south are zoned RU-1-13 in the unincorporated County. Both of these zoning districts are single-family residential classifications.

Mrs. Dittmer concluded by advising that on February 16, 2022, the Planning and Zoning Board voted unanimously to recommend approval of the proposed amendments.

## **Brevard Marine Advisory Council (BMAC)**

February 16, 2023

Florida Room, Bldg.C., Florida Room C313

Government Center Viera, Florida

### **Members Present:**

Member	Present
John Mongioi	Yes
Kelly Haugh	Yes
Patrick Mulligan	Yes
Jay Woltering	No
Nick Sanzone	Yes
Frank Catino	Yes
Monique Miller	No
Anda Ray	Yes

### **Staff Present:**

Matt Culver, Boating & Waterways Program Coordinator

Jaculin Watkins, Council Secretary

Brandon Smith, NRM Environmental Specialist III, SOIRL

Aleah Ataman, NRM Associate Environmental Specialist, SOIRL

### **Public Present:**

See Attendance Sheet for full attendance.

### **I. Call to Order**

Mr. Sanzone called the February 16, 2023 meeting to order at approximately 6:00 p.m. The attendance review was conducted and a quorum was established.

### **II. Approval of Minutes**

Mr. Catino moved to approve the December 15, 2022 meeting minutes as written; seconded by Mr. Mongioi. Motion was unanimously approved.

### **III. Agenda Items**

#### **a. New Business**

##### **i. Election of Officers**

Ms. Haugh moved to re-elect Nick Sanzone as Chair and John Mongioi as Vice-Chair; seconded by John Mongioi. Motion was unanimously approved.

##### **ii. SOIRL Current Status of Restoration Efforts (Presentation)**

Brandon Smith, Natural Resources Management Department Environmental Specialist III, presented information on current projects that are on-going as part of the Save Our Indian River Lagoon (SOIRL) program.



Discussion ensued. Mr. Smith and Mr. Culver responded to the Council's questions.

**iii. City of Melbourne Potential Anchoring Limitation Area (ALA)**

Mr. Culver and Officer Ray Cybula of the Florida Fish and Wildlife Conservation Commission reported on the City of Melbourne's efforts to establish Anchoring Limitation Areas. The State of Florida passed new anchoring restrictions in 2021. These Anchoring Limitation Areas of 100 acres or less would allow for law enforcement action if a vessel has remained moored in an area for more than 45 days. Jacksonville and Broward County both have ordinances for this. Discussion ensued. Mr. Culver and Officer Cybula responded to Council's questions.

Ms. Haugh moved that the Brevard Marine Advisory recommend approving in general the Anchoring Limitation Areas proposed by the City of Melbourne. Seconded by Mr. Cantino. Motion was unanimously approved.

**b. Old Business**

**i. Brevard County Boating & Angling Guide – Updates and Revisions**

The *Boating and Angling Guide to Brevard County* has been delayed due to formatting issues and will be re-visited at a later meeting.

**ii. Dredging Projects Update**

Mr. Culver stated that as the meeting was running late, no additional information would be shared on dredging projects (Mr. Smith reported on some dredging activity during his presentation on SOIRL projects).

**IV. Reports**

**a. Council Reports**

Ms. Haugh reported that the 26<sup>th</sup> Annual CFFW Marine Flea Market will be held on April 1-2 at the Harbortown Marine, Sea Ray Drive, Merritt Island, Florida.

Mr. Sanzone reported that the Sampson Island Open House will be held on March 11th.

Ms. Ray provided Council members with several safe boating handouts, including information on Coast Guard Auxiliary free vessel safety checks, a Florida Boater's Guide, and booklet from the US Coast Guard on US Aids to Navigation Systems.

**b. Staff Report – Natural Resources Management Department**

None.

**c. Staff Report- University of Florida Institute of Food and Agricultural  
Sciences Brevard County Extension Office**

None.

**V. Public Input**

None.

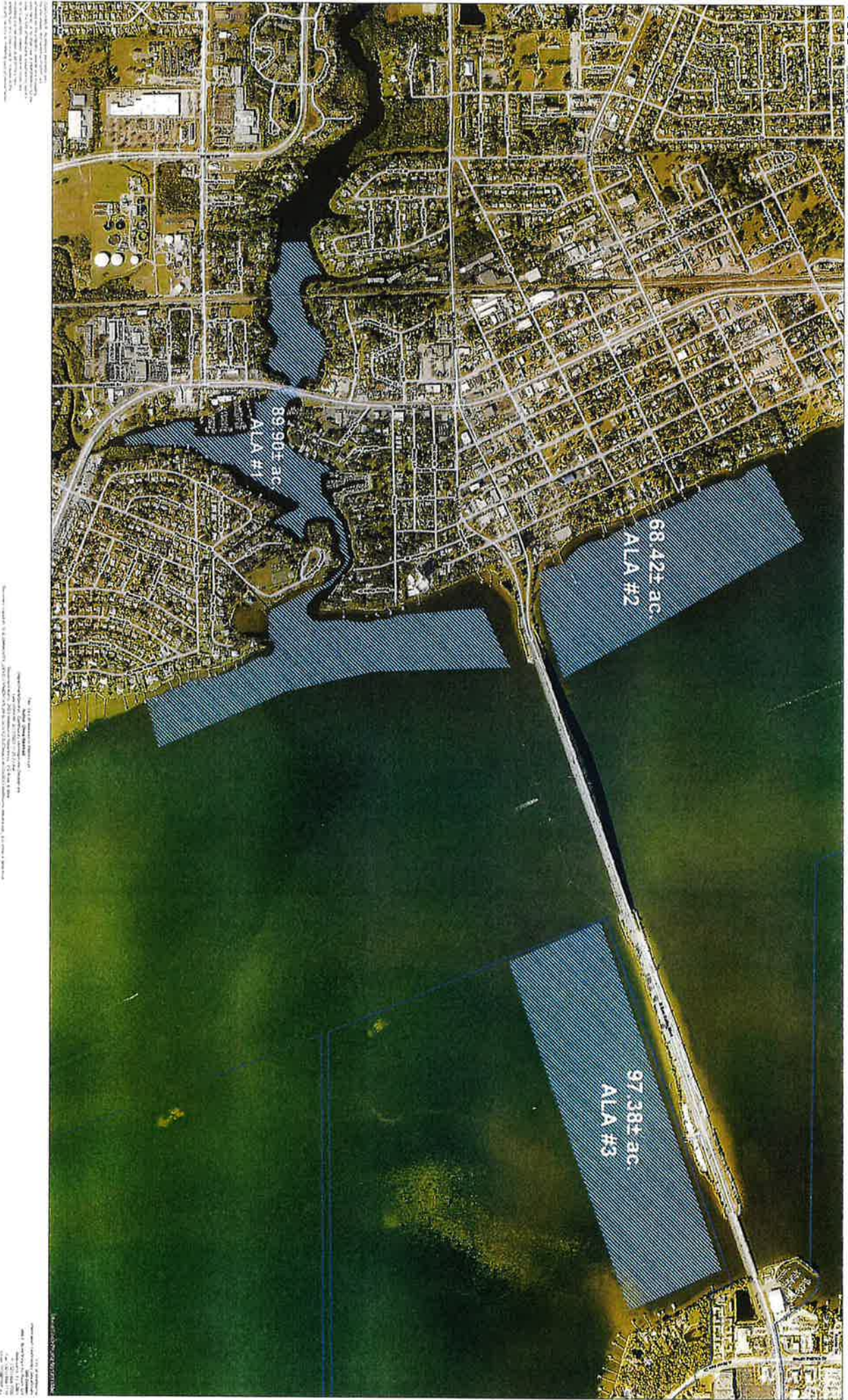
**VI. Adjournment**

The meeting was adjourned at 7:50 p.m.



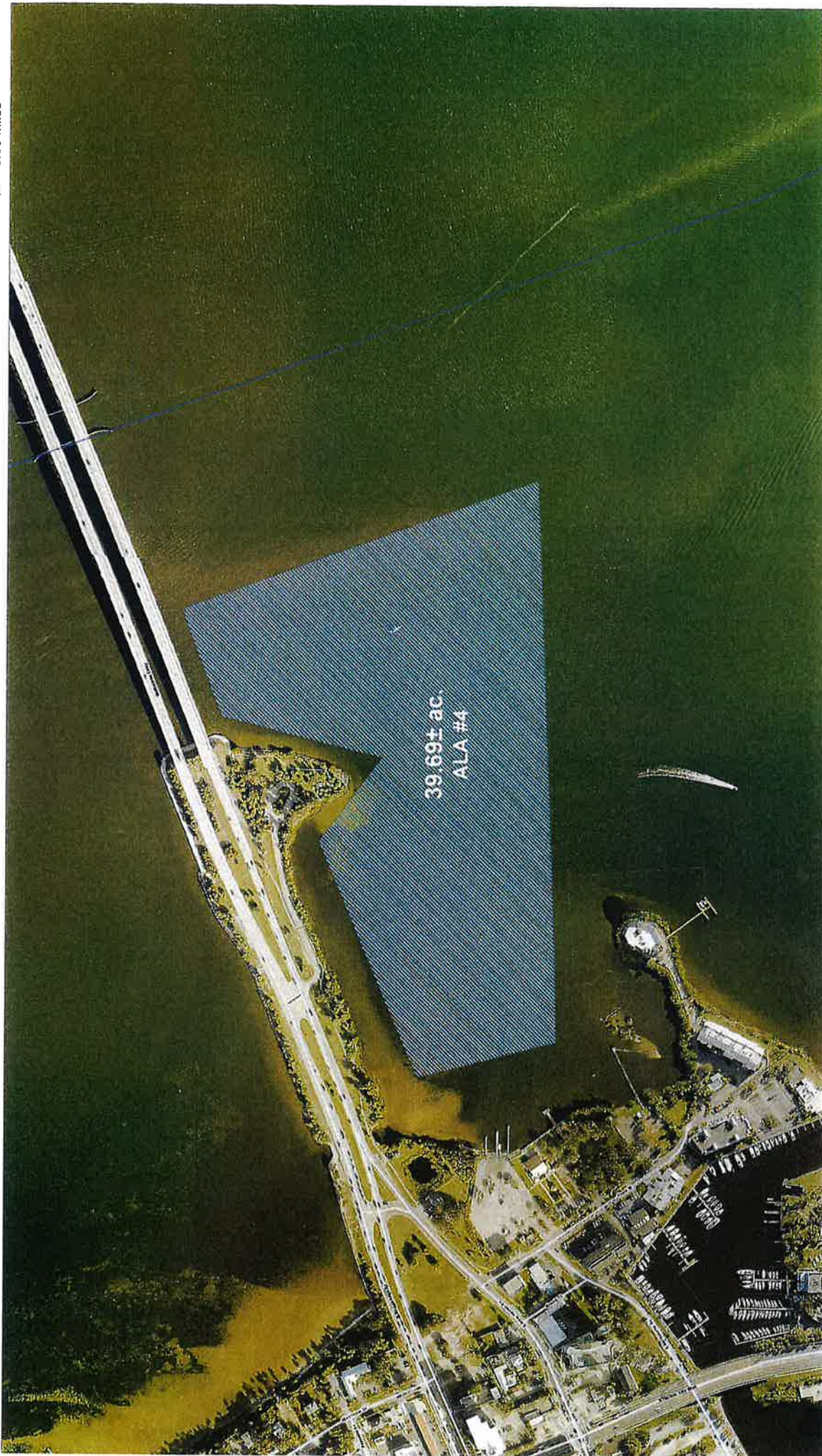
# City of Melbourne Waterways Eau Gallie River Area

GIS





City of Melbourne Waterways  
Crane Creek Area



The City of Melbourne Waterways  
Department/Division: Capital Construction Department  
Document Name: Melbourne Waterways - Crane Creek Area  
Map Scale: 1 inch = 0.03 miles  
Map Date: 10/15/2019

This map is a representation of the information provided and is not a guarantee of accuracy. The City of Melbourne Waterways is not responsible for any errors or omissions on this map. The City of Melbourne Waterways is not responsible for any damages or losses resulting from the use of this map.



**ORDINANCE NO. 23-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PERTAINING TO ANCHORING LIMITATION AREAS IN BREVARD COUNTY; AMENDING CHAPTER 122 WATERWAYS AND CREATING DIVISION 2, ANCHORING LIMITATION AREAS, OF ARTICLE II, BOATS AND WATER SAFETY, OF CHAPTER 122, WATERWAYS, CREATING SECTION 122-40 DEFINITIONS, CREATING SECTION 122-41 OFFICIAL ANCHORING LIMITATION AREAS MAPS, CREATING SECTION 122-42 DESIGNATED ANCHORING LIMITATION AREAS, CREATING SECTION 122-43 ENFORCEMENT, AND CREATING SECTION 122-44 EXEMPTIONS OF THE BREVARD COUNTY CODE OF ORDINANCES; ESTABLISHING ANCHORING LIMITATION AREAS WITHIN BREVARD COUNTY ADJACENT TO THE CITY OF MELBOURNE, FLORIDA; PROVIDING FOR SEVERABILITY, CONFLICTS, AREA ENCOMPASSED, AN EFFECTIVE DATE AND INCLUSION IN CODE.**

**WHEREAS**, Section 327.4108, Florida Statutes, grants counties the ability to establish anchoring limitation areas adjacent to urban areas that have residential docking facilities and significant recreational boating traffic; and

**WHEREAS**, the City of Melbourne, Florida passed Resolution No. 4158 on March 14, 2023, requesting Brevard County designate portions of its navigable-in-fact waterways as anchoring limitation areas; and

**WHEREAS**, the City of Melbourne has identified four areas of navigable waters within Brevard County that satisfy the criteria set forth in Section 327.4108, Florida Statutes for establishing anchoring limitation areas: each area is adjacent to urban areas that have residential docking facilities and significant boating traffic, each area is less than 100 acres in size, the combined size of the areas is less than 10 percent of Brevard County's navigable-in-fact waterways, and none of the areas include a mooring field or marina.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1. Recitals.** The foregoing recitals are incorporated by reference into this Ordinance.

**SECTION 2.** Brevard County Code of Ordinances, Chapter 122 Waterways is hereby amended and Division 2, Anchoring Limitation Areas is hereby created under Chapter 122, Waterways, Article II Boats and Water Safety, to read as follows:

**DIVISION 2. ANCHORING LIMITATION AREAS.**

**Sec. 122-40. Definitions.**

For the purposes of this article, the following terms apply:

*Anchor:* To firmly secure a vessel to the seafloor or river-bottom with an anchor; to moor.

*Anchoring Limitation Area:* an area in which a person may not anchor a vessel for more than forty-five (45) consecutive days in any six (6) month period, without leaving all anchoring limitation areas for at least twenty-four (24) hours and travelling to an area that is at least one (1) mile away from all anchoring limitation areas, subject, however, to the exemptions in Section 327.4108(4)-(5), Florida Statutes.

*Vessel:* Synonymous with "boat" as referenced in s. 1(b), Art. VII, Florida Constitution, and includes every description of watercraft, barge, and airboat, whether driven by an outboard or inboard motor, other than a seaplane on the water, used or capable of being used as a means of transportation on water. This includes all types of personal watercraft.

*Waters of the county/waterways of the county:* May be used interchangeably and mean any navigable waters of the United States within the territorial limits of Brevard County and all inland lakes, rivers, and canals under the jurisdiction of the county.

**Sec. 122-41. Official anchoring limitation area maps.**

(a) The anchoring limitation areas designated by the board of county commissioners shall be depicted on official anchoring limitation area maps.

(b) The director of the natural resources management department shall be custodian of the official anchoring limitation area maps.

(c) The official anchoring limitation area maps shall be amended by the director of the natural resources management department within ten working days from the date of action by the board of county commissioners to reflect any amendments to the anchoring limitation area maps or newly designated anchoring limitation areas within the county.

(d) The official anchoring limitation area maps shall be amended only by ordinance of the board of county commissioners under the procedure established in section 327.4108, Florida Statutes. Any ordinance establishing or amending an anchoring limitation area shall attach a map describing and clearly depicting the anchoring limitation area.

**Sec. 122-42. Designated Anchoring Limitation Areas.**

(a) The following geographic areas are designated as Anchoring Limitation Areas, subject to riparian rights and coastal setbacks:

- (1) The Eau Gallie River Anchoring Limitation Area #1 (ALA#1), consisting of approximately 89.90 acres of submerged land located along the western shore of the Indian River, beginning south of the Eau Gallie (State Road 404) Causeway, running south along the western shore a distance of approximately 3,860 feet, and extending west into the Eau Gallie River, including the Eau Gallie River Basin, and the areas located on both the east and the west sides of the Florida East Coast Railway
- (2) The Indian River Anchoring Limitation Area #2 (ALA#2), consisting of approximately 68.42 acres of submerged land located along the western shore of the Indian River on the north side of the Eau Gallie (State Road 404) Causeway.
- (3) The Indian River Anchoring Limitation Area #3 (ALA#3), consisting of approximately 97.38 acres of submerged land located along the eastern shore of the Indian River and along the south side of the Eau Gallie (State Road 404) Causeway.
- (4) The Indian River Anchoring Limitation Area #4 (ALA#4), consisting of approximately 39.69 acres of submerged land located along the western shore of the Indian River on the south side of the Melbourne (State Road 192) Causeway adjacent to the Front Street boat ramp operated by the City of Melbourne and Kiwanis Park at Geiger Point operated by Brevard County.

(b) Each Anchoring Limitation Area shall comply with Section 327.4108(2)(a)3, Florida Statutes and be clearly marked with all of the following:

(1) Signs that provide reasonable notice to boaters identifying the duration of time beyond which anchoring is limited and identifying the county ordinance by which the anchoring limitation area was created.

(2) Buoys marking the boundary of the anchoring limitation area.

(c) If a municipality requested an ALA adjacent to its urban area, such municipality shall install and maintain the signs and buoys required by section 122-42(b), which signs and buoys shall be subject to County approval.

**Sec. 122-43. Enforcement.** Enforcement shall be pursuant to Sections 327.4108(6)-(7) and 327.73(1)(z), Florida Statutes.

**Sec. 122-44. Exemptions.** Vessels owned or operated by governmental entities for law enforcement, firefighting, military or rescue operations; construction or dredging vessels on active job sites; commercial fishing vessels; and vessels engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets shall be exempted from the provisions of this Article.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause or provision and shall not be affected by such holding.

**SECTION 4. Conflict.** All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict with this ordinance are repealed.

**SECTION 5. Area Encompassed.** This ordinance shall be applicable within the waterways of Brevard County, Florida.

**SECTION 6. Effective Date.** A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing pursuant to law.

**SECTION 7. Inclusion in Code.** 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 Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

**DONE, ORDERED AND ADOPTED,** in Regular Session, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:  
COMMISSIONERS

BOARD OF COUNTY  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Rachel M. Sadoff, Clerk  
(SEAL)

\_\_\_\_\_  
Rita Pritchett, Chair

on \_\_\_\_\_

As approved by the Board

Reviewed for legal form and content:

\_\_\_\_\_  
Assistant County Attorney



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## New Business - Development and Environmental Services Group

old

I.1.

11/14/2023

### Subject:

Legislative Intent and Permission to Advertise, RE: Anchoring Limitation Areas

### Fiscal Impact:

Up to \$35,000 for the installation of waterway signage and buoys, \$25,000 of which has been pledged by the City of Melbourne and up to \$10,000 from Brevard Boating Improvement Program Funds (3113/330040)

### Dept/Office:

Natural Resources Management Department

### Requested Action:

Staff is seeking legislative intent and permission to advertise amendments to Chapter 122 Waterways, to allow for the establishment of four Anchoring Limitation Areas lying within the City of Melbourne's and Brevard County's waterways and authorization to use up to \$10,000 in Brevard Boating Improvement Program Funds for signage and buoys.

### Summary Explanation and Background:

Over the years, Brevard County and the City of Melbourne have received numerous complaints from upland property owners concerning vessels that appear to be anchored haphazardly and long-term in our shared waterways. These vessels pose potential threats to nearby public infrastructure, private marine facilities, and residential docks. The complaints have included: improper vessel storage and abandonment; vessels used as full-time residences (live-aboard vessels); dumping of untreated sewage; derelict vessels; and vessels at risk of becoming derelict. Several anchored vessels have broken loose and collided with both public and private docks and marine infrastructure.

In July of 2021, the Florida Legislature amended Florida Statute 327.4108 to provide an allowance for counties meeting certain criteria to establish Anchoring Limitation Areas (ALAs) to manage vessels moored and/or stored long-term on our shared waterways. Requirements for the designation of ALAs within Florida Statute 327.4108 are as follows: the areas must be within an urban area with residential docking facilities and significant recreational boating traffic; areas may not exceed 100 acres in size and shall not include any mooring fields; and the areas must be clearly marked with signage and buoys. The ALAs prohibit a vessel, whether occupied or unoccupied, from anchoring for more than 45 consecutive days within a six-month period.

Law enforcement may request proof that a vessel has not exceeded the limitation and request evidence that the vessel was in a location at least one mile away and not in another ALA within a period of 45 days before

the inquiry. Vessels found in violation by authorized law enforcement may be subject to impoundment and/or removal. If a vessel is the subject of more than three violations within 12 months, and the citations result in dispositions other than acquittal or dismissal, the vessel can be declared a public nuisance or a derelict vessel, subject to the procedures established in sections 705.103 and 823.11, Florida Statutes.

County staff collaborated with members of the Florida Fish and Wildlife Conservation Commission, staff from the City of Melbourne's Police Department, Community Development, and the City Attorney's Office to propose four anchoring limitation areas based upon the process provided in the Florida Statutes. On February 16, 2023, County staff along with law enforcement officers from the Florida Fish and Wildlife Conservation Commission and the City of Melbourne presented information on the proposed ALAs to the Brevard Marine Advisory Council (BMAC). The BMAC voted unanimously in favor of recommending the four ALAs and asked staff to pursue the necessary actions at the state and local levels to implement the appropriate areas.

Per Florida Statute, only counties are given the authority to establish ALAs. Therefore, municipalities wishing to establish the areas within a city's jurisdiction must petition their county. On March 14, 2023, the City of Melbourne passed a unanimous resolution requesting that the County Commission establish four ALAs within the City of Melbourne's and Brevard County's navigable-in-fact waterways. These City-proposed ALAs are the same areas being brought forward for County processing and approval.

The Florida Fish and Wildlife Conservation Commission, the City of Melbourne Police Department, and the Brevard County Sheriff's Office have jurisdiction to enforce the boating laws of the State of Florida, and a mutual aid agreement exists between the City and the Sheriff allowing Melbourne Police Officers to enforce state law outside the jurisdictional boundaries of the City but within the jurisdictional boundaries of Brevard County. Enforcement of the proposed ALAs will rest under the jurisdiction of the Florida Fish and Wildlife Conservation Commission, the City of Melbourne Police Department, and the Brevard County Sheriff's Office.

All anchoring limitation areas must be clearly marked with signs that provide reasonable notice to boaters identifying the duration of time beyond which anchoring is limited and include a citation of the county ordinance section. Additionally, the areas must be delineated with buoys marking the boundary of the area. Staff estimates the cost of the signage and buoys to be approximately \$35,000, with the City of Melbourne authorizing up to \$25,000 for the project and the County contributing up to \$10,000 from existing Brevard Boating Improvement Program funds if costs exceed \$25,000. Additionally, the City and County will work together to obtain any required marker signage and buoy installation permits from the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection, the United States Coast Guard, and the Army Corp of Engineers.

Staff requests legislative intent and permission to advertise amendments to Chapter 122 Waterways, to allow for the establishment of four Anchoring Limitation Areas lying within the City of Melbourne's and Brevard County's shared navigable-in-fact waterways and authorization to use up to \$10,000, after the City's \$25,000 commitment, in Brevard Boating Improvement Program Funds for signage and buoys.

### **Clerk to the Board Instructions:**

None