

**Board of County Commissioners Minutes
Regular Meeting May 6, 2008**

The following meeting minutes regard public comments by Mr. Steven Webster, Executive Director of Florida Marine Contractors Association, at a regular Board meeting on May 6, 2008. These minutes serve as background information regarding Issue #4 in the enclosed staff-identified issues document. The end result was Board direction to submit a staff report regarding marine permitting. Specific identified goals included (1) simplified permitting, (2) the need to require licensed contractors, and (3) the protection of the public and waterways. The minutes are presented verbatim from the County Clerk of the Court website.

PUBLIC COMMENT, RE: STEVEN WEBSTER

Steven Webster, Executive Director of Florida Marine Contractors Association, stated he is present today to talk about a special opportunity they have in Brevard County to lend support to development of a simplified marine construction permitting process that would combine Natural Resources and the Building Department permits into one single permit countywide. He stated the regulators at the County level would require not only proper licensing of contractors but for the first time, would begin enforcing Florida Statute 440.103, which has to do with workers compensation. He submitted handouts to the Board.

Chairman Scarborough inquired if Mr. Webster is asking the Board to take some action this morning; stated he is reticent to encourage Mr. Webster to do that because he likes to be briefed by staff independently and make other inquiries; and so he will probably not be supporting Mr. Webster's request.

Mr. Webster advised his presentation is informational; the handout includes a brochure concerning how to hire a marine contractor; and he has discovered over the past five years in working with the Association that is something that very few people know about. He stated there is a copy of the scope of work for the new State Marine Contractor's License that was just adopted at the State level; there is a copy of the new State workers compensation class code for marine construction, which is Florida specific; and there is a summation of relevant State Statutes regarding unlicensed builders' and permitting agencies' obligation to enforce workers compensation requirements. He stated the Association would like to work with County staff in development of a model marine construction building code; it is a very timely issue as the Association just completed implementation of a State Marine Construction Specialty license; and it also just completed the development of the scope of work for the license, which is a list of everything that a marine contractor does. He stated three years ago the Board encouraged them to begin development of a model code in Brevard County; but some big winds that came ashore interrupted that process; but now is the time to come back to it and move forward with the process. He stated once they have the model code, they will combine building permits and have one permit and one place to go. He stated the Association would also vigorously support an effort to delegate Department of Environmental Protection (DEP) and Water Management District permitting to the County; the County has the staff in the field who do the structural, building, and zoning permitting work; the State does not know how to do that; it makes sense to put the regulation with the

people with the expertise; and over the years the County has demonstrated its ability to manage that. He stated the Association was founded ten years ago to untangle the insurance, licensing, and permitting issues that burden the industry statewide; and they are beginning to make good progress. He stated he lives in Brevard County; he knows the issues very well; and the Association welcomes the opportunity to work with the County on this. He stated three areas need help; and the first has to do with the complicated nature of getting a permit to build a dock or seawall. Mr. Webster stated currently a dock built on the river requires a permit from the State DEP for environmental matters, but there is no building permit; someone can build the dock so that it protects seagrass, but there is nothing to ensure that it is a safe structure; and if the Water Management Districts get involved it becomes even more complicated. He stated a Water Management District may or may not do the permit oversight for a dock at one's house depending on whether or not at some point in history a conservation easement was granted; and inquired how someone would know that. He stated the Water Management Districts do not know that, which is why they are not sure between Water Management Districts and DEP who should be handling what permit and when; and for consumers or builders, sorting that out is time wasting and expensive. He stated what they have right now is also very inconsistent; the Department of Environmental Protection will issue permits to unlicensed and uninsured builders; anybody can apply for a permit; and as long as it meets DEP's environmental standards, it will grant it. He stated the Building Department in Brevard County insists on a license but because of peculiarities in how the Florida Statutes are written, until this past year, there was not a legal affirmation that said it needed to enforce workers' compensation coverage; but that has been changed for the better. He stated the Natural Resources Management Office does not have the authority to require licensing at this point; and that is something that should be looked at. He stated the last issue is the cost, complexity, delay, and uncertainty; a sizable portion of not only Brevard marine construction work but marine construction work in most counties in Florida is being done by unlicensed or uninsured builders; and even in those instances where permits are issued, they are usually granted to improperly insured builders. He stated if he pulls a permit from the County and it is granted, and he has a certificate of exemption or something that says he has workers compensation coverage, under State law, if it is a longshore claim, which is federal, the State Act will not cover it; and that means if the County is issuing a permit to someone who does not have longshore coverage, it is also issuing a license for the homeowner or the person for whom the work is being done to be sued in the event of an accident because longshore will go until it finds the deepest pockets to pay the claim. He stated that has been changed in State law; in the attachments he provided there is a new State Act Code called 6006F, which handles all aspects of marine construction; and anyone working in Florida for marine construction who is not covered under that class code is violating Chapter 441.03, F.S., which requires permitting agencies to see proof of the minimum required coverage in order to secure a permit. He stated this is something that they are doing not merely to protect themselves from possible suit or to protect workers who otherwise could be uninsured in the event of accidents, but it is to fulfill the fundamental obligation of all permitting which is to do the minimum necessary or beyond to safeguard the public interest. He stated the Association's members are all licensed and insured contractors, including some in Brevard County; they are also firms that manufacture and distribute construction products; and they also include firms that provide professional services like legal permitting or insurance expertise. He stated what they would like to institute with the County is the combination of a

single permit in Brevard County for marine construction, environmental resource, and also building, handled by a single source for true one-step permitting. He stated they also want to ensure that those permits when issued go to licensed and insured contractors; and they want to ensure that due diligence is done to protect the public and the waterways.

Commissioner Nelson stated this is consistent with one of the elements of the marine maritime master plan; and it would be appropriate for the Board to get a staff report on the issues. He stated, having been in the permitting world at one point, one of the frustrations is knowing who is on first; and that is the most difficult question to get answered.

Motion by Commissioner Nelson, seconded by Commissioner Voltz, to direct the Natural Resources management Department provide a staff report on the possibilities for a simplified streamlined process of marine construction permitting that continues to provide protections. Motion carried and ordered unanimously.

Commissioner Voltz stated there have been several times since she has been on the Board that somebody has put in a dock without permits; the State says they do not need a permit; and then the County has shut them down, so it is not fair to the homeowners. Chairman Scarborough stated the homeowners do not know what they need or where to go; when someone hires someone, they have the assumption that they are protected; but they can find that is not the case and they are liable nonetheless. He stated those types of things have come up, so it is well advised for the Board to look at this issue.

Mr. Webster expressed appreciation to Commissioner Voltz and Commissioner Nelson for their work; and stated the County has the opportunity to lead the State in the development of this issue.