

Board of County Commissioners

Agenda Request

Date of Meeting: July 16, 2018

Date Submitted: July 12, 2018 **REVISED**

To: Honorable Chairman and Members of the Board

From: David Edwards, County Administrator
Heather Encinosa, County Attorney
Cody Solburg, Parks & Facilities Management Director
Jessica Welch, Communications & Public Services Director

Subject: Request Board Approval to Conduct the Public Hearing and Adopt the Ordinance Related to Boating and Skiing on Lake Ellen; the Lake Ellen Drive Water Access Area; and Swimming at County Parks and Facilities

Statement of Issue:

This agenda item requests Board approval to conduct the public hearing and adopt the Ordinance related to boating and skiing on Lake Ellen, the Lake Ellen Drive water access area, and swimming at County parks and facilities.

Background

On April 25, 2018 the BOCC held a Special Meeting and Executive Session to discuss the Steven P. Fults and Joseph W. Avara v. State of Florida Department of Environmental Protection and Wakulla County, DOAH Case No. 18-1631. During the Special Meeting, the BOCC approved to withdraw the County's permit exemption application with the Florida Department of Environmental Protection (FDEP) to build a concrete boat ramp on Lake Ellen and directed staff to proceed with installing a primitive ramp and to bring back an Ordinance to allow launching of vessels with 25 horsepower or below, to prohibit jet skis or other personal watercrafts from launching, and to provide the launch area be closed at night.

At the June 4, 2018 Board Meeting, the Board directed staff to amend the proposed ordinance to now allow swimming at County Parks and County Facilities, and directed staff to schedule the public hearing. The public hearing was noticed in the Wakulla News on June 14, 2018.

Analysis:

A summary of the proposed Ordinance (Attachment #1) is as follows:

- Repeals Section 21.003 of the County Code entitled "Boating and Skiing to or from Posted Areas of Lake Ellen Drive Prohibited".
- Repeals Section 21.004 of the County Code entitled "Swimming or Sunbathing on Certain Public Property Prohibited".

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- Amends Section 23.003 of the County Code entitled “Definitions”. This amends the definition of County Facilities and adds a definition of personal watercraft.
- Creates a new Section of the County Code entitled “Swimming at County Parks and County Facilities”:
 - Swimming at any County Park or County Facilities shall be at the swimmer’s own risk. The County does not provide any guarantees as to the water quality, safety, or suitability of County Parks and County Facilities for swimming. The County is not liable for any illnesses or injuries that may occur.
 - The County does not provide lifeguards or water safety equipment at any County Parks or County Facilities. All persons should exercise caution and provide proper supervision for minors and non-swimming persons.
 - All persons should exercise proper caution when swimming at any County Parks and County Facilities and be aware that boats and other vessels, snakes, alligators and marine life may be present, which could result in injury.
 - Water borne bacteria and parasites may be present in natural water bodies even if a swim advisory has not been posted. All swimmers may be at risk of contracting a serious illness from contact with natural water bodies. Swimmers should take precautions to minimize such risks by:
 - (1) Don't swallow the water;
 - (2) Shower after swimming;
 - (3) Wash hands before eating;
 - (4) Avoid water contacting an open cut, wound or skin infection;
 - (5) Pay attention to all surroundings and follow advisory signs; and
 - (6) Avoid entering the water if advised by a doctor or if at a heightened risk due to age, infirmity, or a compromised immune system.
- Creates a new Section of the County Code to be entitled “Lake Ellen Drive Water Access”:
 - The following additional rules, restrictions, and prohibitions apply to the Lake Ellen Drive Water Access area, which is an area approximately 50 feet in width on the north end of Lake Ellen Drive and about 100 feet in length from the waters' edge of Lake Ellen and then south to the county installed signage denoting the beginning of the “Lake Ellen Drive Water Access”:
 - Only vessels with a 25 horsepower or less motor in operation may be launched from the Lake Ellen Drive Water Access Area.
 - No Personal Watercraft, such as jet skis or water scooters may be launched from the Lake Ellen Drive Water Access area.
 - Nothing in this section shall be construed as an abandonment or discontinuation of use of Lake Ellen Drive by the county for public purposes.

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Budgetary Impact:

Upon approval of the proposed Ordinance, the County will incur the cost to file the Ordinance with MuniCode for \$19.50 per page for a total of \$78.00.

Options:

1. Approve to Conduct the Public Hearing and Adopt the Ordinance Related to Boating and Skiing on Lake Ellen; the Lake Ellen Drive Water Access Area; and Swimming at County Parks and Facilities.
2. Approve to Conduct the Public Hearing and Do Not Adopt the Ordinance Related to Boating and Skiing on Lake Ellen; the Lake Ellen Drive Water Access Area; and Swimming at County Parks and Facilities.
3. Board Direction.

Recommendation:

Option #1

Attachments:

1. Proposed Ordinance

ORDINANCE NO. 2018-___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF WAKULLA COUNTY, FLORIDA, REPEALING SECTION 21.003 OF THE WAKULLA COUNTY CODE OF ORDINANCES PERTAINING TO BOATING AND SKIING ON LAKE ELLEN; REPEALING SECTION 21.004 OF THE CODE PERTAINING TO SWIMMING OR SUNBATHING ON COUNTY PROPERTY; AMENDING SECTION 23.003 PERTAINING TO DEFINITIONS; CREATING A NEW SECTION 23.010 PERTAINING TO SWIMMING AT COUNTY PARKS AND COUNTY FACILITIES; CREATING A NEW SECTION 23.011 PERTAINING TO THE LAKE ELLEN DRIVE WATER ACCESS AREA; PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, the Wakulla County (“County”) Code of Ordinances (“Code”) contains regulations specific to Lake Ellen; and

WHEREAS, in furtherance of the health, safety, and welfare of the citizens of the County, the County wishes to repeal certain regulations provide for comprehensive regulation of all boat ramps and launches as well as swimming and other activities conducted in the vicinity of same.

NOW THEREFORE, be it ordained by the Board of County Commissioners of Wakulla County, Florida, as follows:

SECTION 1. INCORPORATION OF RECITALS.

The above recitals are true and correct and are hereby incorporated by reference.

SECTION 2. REPEAL OF SECTION 21.003 OF THE WAKULLA COUNTY CODE OF ORDINANCES.

Section 21.003 of the Wakulla County Code of Ordinances, entitled “Boating and Skiing to or from Posted Areas of Lake Ellen Drive Prohibited,” is hereby repealed in its entirety.

SECTION 3. REPEAL OF SECTION 21.004 OF THE WAKULLA COUNTY CODE OF ORDINANCES.

Section 21.004 of the Wakulla County Code of Ordinances, entitled “Swimming or Sunbathing on Certain Public Property Prohibited,” is hereby repealed in its entirety.

SECTION 4. AMENDMENT OF SECTION 23.003 OF THE WAKULLA COUNTY CODE OF ORDINANCES.

Section 23.003 of the Wakulla County Code of Ordinances, entitled “Definitions,” is hereby amended as follows:

Sec. 23.003. - Definitions.

For the purposes of this chapter, the following words have the meaning indicated below:

* * *

County facilities: Any improvements or structures, either natural or artificial, including, but not limited to, buildings, shelters, benches, tables, playground equipment, walls, fences, fountains, walkways, toilet facilities, boat ramps and launches not within a County Park, and signs owned or controlled by the county.

* * *

Personal Watercraft: A vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

* * *

[Underline indicated additions; ~~striketrough~~ indicates deletions]

SECTION 5. CREATION OF SECTION 23.010 OF THE WAKULLA COUNTY CODE OF ORDINANCES.

Section 23.010 of the Wakulla County Code of Ordinances, to be entitled “Swimming at County Parks and County Facilities,” is hereby created to read as follows:

Sec. 23.010. – Swimming at County Parks and County Facilities.

(a) Swimming at any County Park or County Facilities shall be at the swimmer’s own risk. The County does not provide any guarantees as to the water quality, safety, or suitability of County Parks and County Facilities for swimming. The County is not liable for any illnesses or injuries that may occur.

(b) The County does not provide lifeguards or water safety equipment at any County Parks or County Facilities. All persons should exercise caution and provide proper supervision for minors and non-swimming persons.

(c) All persons should exercise proper caution when swimming at any County Parks and County Facilities and be aware that boats and other vessels, snakes, alligators and marine life may be present, which could result in injury.

(d) Water borne bacteria and parasites may be present in natural water bodies even if a swim advisory has not been posted. All swimmers may be at risk of contracting a serious illness from contact with natural water bodies. Swimmers should take precautions to minimize such risks by:

- (1) Don't swallow the water;
- (2) Shower after swimming;
- (3) Wash hands before eating;
- (4) Avoid water contacting an open cut, wound or skin infection;
- (5) Pay attention to all surroundings and follow advisory signs; and
- (6) Avoid entering the water if advised by a doctor or if at a heightened risk due to age, infirmity, or a compromised immune system.

SECTION 6. CREATION OF SECTION 23.011 OF THE WAKULLA COUNTY CODE OF ORDINANCES.

Section 23.011 of the Wakulla County Code of Ordinances, to be entitled “Lake Ellen Drive Water Access,” is hereby created to read as follows:

Sec. 23.011. Lake Ellen Drive Water Access.

(a) The following additional rules, restrictions, and prohibitions apply to the Lake Ellen Drive Water Access area, which is an area approximately 50 feet in width on the north end of Lake Ellen Drive and about 100 feet in length from the waters' edge of Lake Ellen and then south to the county installed signage denoting the beginning of the “Lake Ellen Drive Water Access”:

- (1) Only vessels with a 25 horsepower or less motor in operation may be launched from the Lake Ellen Drive Water Access Area.
- (2) No Personal Watercraft, such as jet skis or water scooters may be launched from the Lake Ellen Drive Water Access area.

(b) Nothing in this section shall be construed as an abandonment or discontinuation of use of Lake Ellen Drive by the county for public purposes.

SECTION 7. SEVERABILITY.

Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

SECTION 8. CODIFICATION IN THE CODE OF ORDINANCES.

It is the intention of the Board, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Wakulla County Code of Ordinances, and that the sections of this Ordinance may be renumbered to accomplish such intent.

SECTION 9. EFFECTIVE DATE.

A certified copy of this Ordinance shall be filed with the Department of State and shall become effective ten days after its enactment.

PASSED AND ADOPTED by the Board of County Commissioners of Wakulla County, Florida this _____ day of _____, 2018.

**BOARD OF COUNTY COMMISSIONERS
OF WAKULLA COUNTY, FLORIDA**

Ralph Thomas, Chairman

ATTEST:

Brent X. Thurmond, Clerk

APPROVED AS TO FORM:

Heather Encinosa, Esq.
County Attorney