


OFFICE OF THE MAYOR

**MEMORANDUM**

TO: City Council  
FROM: Eric W. Olson, City Administrator   
DATE: March 8, 2018  
SUBJ: Council Item #18-00130

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Council President and Members of City Council,

The memorandum for Item 18-00130 on the March 8, 2018 City Council Agenda, entitled "Fish Hatchery," requests "an update from the Mayor's Officer on what is taking place with the Fish Hatchery, update on the status of the pending litigation and any discussions that are currently underway."

In response to that request, please find the following history of the Gulf Coast Marine Fisheries Hatchery and Enhancement Center and its current status.

By way of background, you are aware that as a result of the April 20, 2010 Deepwater Horizon Oil Spill (Spill) and related response actions, the public's access to, and enjoyment of, natural resources along Florida's panhandle was denied or severely restricted. In April 2011, the Natural Resource Trustee Council (Trustees)<sup>1</sup> and BP Exploration and Production, Inc. (BP) entered into the Framework Agreement for Early Restoration Addressing Injuries Resulting from the Deepwater Horizon Oil Spill (Framework Agreement). Pursuant to the process articulated in the Framework Agreement, the Florida Fish and Wildlife Conservation Commission (FWC) requested to lease a parcel of land at the Port of Pensacola or a parcel of land most commonly known as "Bruce Beach," to be used as a fisheries restoration and education and research facility. The project would enhance and/or increase the public's use and enjoyment of natural resources, helping to offset adverse impacts to such uses caused by the Spill and related response activities.

At the June 20, 2011 Special Meeting of the City Council which was held to discuss the FWC request to lease a parcel of land from the City, the Council voted unanimously to authorize the Mayor to enter into lease negotiations with FWC for the Bruce Beach location for the Gulf Coast Marine Fisheries Hatchery and Enhancement Center (Center). Based on that official action taken by City Council at that June meeting, the Trustees moved forward and approved the project at Bruce Beach and to enter into

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<sup>1</sup> The Deepwater Horizon Natural Resource Damage Assessment Trustee Council is composed of representatives from five states (Texas, Louisiana, Mississippi, Alabama, Florida) and five federal agencies (Department of Interior, Department of Agriculture, Department of Commerce, Environmental Protection Agency, Department of Defense).

negotiations with BP. The success of the negotiations placed the Center among a list of 44 projects located along the Gulf Coast in the Draft Programmatic and Phase III Early Restoration Plan that was officially published on December 6, 2013 in the Federal Register.

The project is part of a larger plan to restore parts of the Gulf Coast ecosystem that were injured by the Spill. The Center proposed in the 2013 Draft Early Restoration Plan is specifically designed to address core areas including, habitat and species conservation, education, science and technology research, and the development of recreational fishing in cooperation with federal and state agencies. It features a state-of-the-art fish hatchery that will provide fish for future release throughout the Northern Gulf where there is high quality habitat to support them.

The site plan reflects that the northwest section of the site is dedicated to the hatchery facility and a parking lot. The remainder of the site will be predominantly natural in appearance and serve recreational, educational, and water enhancement purposes. Public access to the water will be preserved and a nature trail will facilitate the public's access to the beach. Commemorative placards that memorialize the contribution of African Americans to the development of Bruce Beach and the Tanyard neighborhood are other key elements of the project.

At the March 13, 2014, Community Redevelopment Agency (CRA) Board meeting, city staff gave board members a comprehensive presentation about the proposed project that reviewed the chronology of events related to the decisions to locate the Center at Bruce Beach. At that meeting, in discussing the proposed project information, the CRA board members recognized the importance of the consistency that the project had with the existing plans for the Urban Core CRA.

On May 8, 2014, following presentations by FWC officials on the elements of the proposed project, City Council authorized the Mayor to execute a lease agreement with FWC for the Bruce Beach property for the purpose of developing the Center. The approval of the lease was preceded by an open, deliberative and democratic process that included multiple opportunities for public input at the federal, state and local level. In reliance on that lease, five states, five federal agencies and BP approved the project for inclusion in Phase III of the Deepwater Horizon Oil Spill Early Restoration process and filed project stipulations in court. The Trustees allocated \$18,793,500 from the Early Restoration Fund to FWC to be used for the rehabilitation of Bruce Beach and the design and construction of the Center. The money also provides five years of operation and maintenance costs. After five years, operation and maintenance costs will be the responsibility of FWC for an additional twenty-five years.

Work began on the engineering and design of the Center following the Florida Department of Environmental Protection's (FDEP) contract awards in January 26, 2016. The engineering and design work was performed by Baskerville-Donovan, Inc. and the architectural design work was done by Sam Marshall Architects. Concurrent with the engineering and design phase, eight public meetings were held to provide input on such things as site design, building aesthetics, the cultural significance of the site, and complementary conservation and educational programming. Those included meetings of the Planning Coordination Committee, which provided a forum for discussion of the facility design, site and building aesthetics, and integration of the Center with nearby community assets. Council member Brian Spencer represented the City Council on that committee. The public

meetings culminated on December 8, 2016 with the unanimous approval by City Council of the site plan for the Center.

Following Council's approval of the site plan, FDEP obtained all of the permits and permissions needed to continue construction of the Center. On October 27, FDEP advertised the invitation to bid on the construction of the Center. FDEP canceled the invitation to bid on January 31, 2018. To date FWC has spent over \$800,000 on the project.

On November 6, 2017, Daniel Lindemann and Gerald Holzworth filed a lawsuit in the Circuit Court for Escambia County against the City of Pensacola, the City of Pensacola Community Redevelopment Agency and the Florida Fish and Wildlife Conservation Commission, asking the court to declare the lease between the City of Pensacola and the Florida Fish and Wildlife Conservation Commission void. The City filed a motion to dismiss the lawsuit on December 15, 2017. FWC filed a similar motion to dismiss on December 21, 2017 and the CRA Board filed a motion to dismiss on January 10, 2018. A hearing in the Circuit Court on the motions is scheduled to take place April 3, 2018 at 1:45 pm.