

### Midnight Pass creeps closer to a rebirth

A county-paid consultant will apply for state and federal permits.

SARASOTA – Despite some doubts they can succeed where twice before they failed, the County Commission voted Tuesday to seek the environmental permits needed to reopen Midnight Pass.

The proposed 400-foot-long channel, between Siesta Key and Casey Key, would run perpendicular to the coastline, linking the Intracoastal Waterway with the Gulf of Mexico.

A consultant, who will be paid \$300,000 to apply for permits and conduct an environmental impact study, told the commissioners Tuesday that she was confident her plan will pass review by a host of regulatory agencies.

But opponents claim the channel's proposed path over mangroves in the southern tip of the Jim Neville Marine Preserve makes the granting of the permits far from a formality.

Glenn Compton, chairman of the environmental group ManaSota-88, said the plan may be unacceptable to federal agencies such as the Environmental Protection Agency and the U.S. Fish and Wildlife Service.

"The county has an uphill battle to prove this is an environmental improvement project," Compton said. "It's primary purpose is to provide a boat navigation."



### Sarasota pursues reopening of Pass

Reopening the pass has been a contentious issue for decades. In 1983, two Siesta Key property owners were allowed to fill Midnight Pass with sand because it was migrating toward their homes.

They promised to open a new pass to the south, but were never successful, denying some boaters convenient access to the bay.

Some studies, touted by environmentalists, have shown that the Midnight Pass area has flourished since it closed, acting as a nursery for juvenile fish and fiddler crabs.

Other studies, backed by open-the-pass advocates, blame fish kills on stagnant waters filled with toxic runoff they say used to be get flushed out regularly when Midnight Pass was open.

In 1991 and 2000, the county's plans to reopen the pass were rejected by regulatory agencies because of environmental concerns.

This time, the county's consultants will try to show how dredging a new pass will improve water quality in the Intracoastal Waterway.

While telling the commissioners she was confident the eight state and federal agencies will approve her plan, consultant Karyn Erickson cautioned that approval is never guaranteed.

"Permitting on any project is always an obstacle," she said. "You may have five different sister agencies sitting at the table. They're not going to agree on all the same issues. What may be good for one species may be somewhat detrimental on a short-term basis for others."

Leigh Ann Asklar, a spokeswoman at the Florida Department of Environmental Protection, said state guidelines prohibit the creation of new passes except to reopen inlets closed by man-made activity.

But even that exemption requires that the new pass be stable, be constructed without the use of hardened structures, restore water quality and provide a benefit to the public.

Erickson's company, Erickson Consulting Engineers, has already been paid about "\$330,000 to create the channel plan. By a 4-1 vote, the commission decided Tuesday to pay her an additional \$300,000 to get the permits and do the impact study.

The cost is being funded by tourist taxes.

Even if the regulatory approval is secured, the county faces a potential legal challenge.

"If they do happen to obtain permits to dredge open Midnight Pass, there is a likelihood a legal challenge to the project would be successful," Compton said.

Commission Chairman Jon Thaxton, the lone dissenting vote Tuesday, said more consideration should have been given to recreating the original channel.

"We're not restoring Midnight Pass," Thaxton said. "We're creating a new pass in a location where Midnight Pass never was. We're taking what was once a historic, wild migrating pass and trying to turn it into a stagnant open pass."

But recreating the pass would be a mistake, Erickson said.

“The original Midnight Pass was unstable and migrated over its history,” she said. “It was quasi-stable for a while but more or less migrated because of its tendency to shift.”

Erickson said the perpendicular channel she is proposing would not migrate, but would require periodic dredging.

The cost to build the channel is estimated at \$3.8 million. The county would then be committed to an ongoing maintenance program to keep the channel open.

The maintenance cost for the next 30 years is estimated at \$16.7 million. The commission has yet to decide how to fund the construction or the dredging.

The commission also gave approval Tuesday to a proposal by Erickson to create a second channel linking Turtle Beach to the new Midnight Pass channel.

The link would add about \$100,000 to the cost of the construction, Erickson said.

The commission’s decision to move forward with the project was welcomed by residents who have campaigned for many years to get the pass reopened.

“I felt the board did the right thing,” said Bob Waechter, president of the Midnight Pass Society. “Our primary responsibility to the surrounding property owners is that this pass be designed in such a way that it will be stable.”

## Seeking approval

At least eight state and federal agencies will have a say in the plan to reopen Midnight Pass, and any of them could either stall or derail the plan.

### On the state level:

■ The Florida Department of Environmental Protection’s Bureau of Beaches and Wetland Resources will receive the application from Sarasota County and serve as the lead state agency on the permit request. The bureau will look into the viability of the coastal engineering plan and water quality issues.

■ The Florida Fish & Wildlife Conservation Commission will look into the reopening’s effect on endangered species such as manatees and sea turtles.

■ The Department of State Historical Preservation will be concerned with the destruction of any possible archeological remains.

■ The Division of State Lands will need to grant easements over any state-owned submerged land, such as the Gulf floor seaward of the beach.

### On the federal level:

■ The Army Corps of Engineers will act as the lead agency on the pass reopening, and will do an initial analysis of the project on an engineering and environmental basis, then ask other federal departments to weigh in.

■ The National Marine Fisheries Service will take a look at the dredging’s impact on Little Sarasota Bay’s fisheries habitat.

■ The Environmental Protection Agency will examine the changes in water quality a new pass would bring, and whether Sarasota County can prove a long-term commitment to keeping Midnight Pass open if it is allowed.

■ The U.S. Fish & Wildlife Service will consider impacts to endangered species, including migratory shorebirds such as the piping plover, and things like sea grasses that wading birds and manatees rely upon.