

island issues

Trial date set for waterways ordinance violation

By Ed Bania

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The trial for Dave Dumas, the Marco Island resident who violated an anchoring regulation of the city's Waterways and Boating Safety Ordinance, was continued Thursday in the 20th Judicial Circuit Court of Collier County.

Judge Rob Crown gave the State Attorney's Office a date of July 10 to respond to the motions filed by the defense. Crown set a new trial date for 9 a.m., Aug. 14. The trial is expected to last the whole day.

The controversial ordinance has attracted national attention. The pending decision in the case is being viewed as precedent setting in marine law by local, state and national boating organizations and media.

The Marco Island City Council adopted ordinance 06-05 on May 1, 2006. The ordinance states that a vessel cannot anchor within 300 feet of any



Marco Island residents Lee Oldershaw, left, and Dave Dumas told the *Marco Eagle* in January they would challenge a regulation of the controversial Marco Island Waterways and Boating Safety Ordinance. Ed Bania/Staff

shoreline, seawall, bridge, dock or man-made structure for longer than 12 consecutive hours.

Another regulation of the ordinance is that a vessel cannot anchor more than three days in

the island's waterways without proof that the boat has been pumped out.

Dumas and resident Lee Oldershaw told the *Marco Eagle* in January they would challenge the 300-foot distance regulation.

The two men anchored Dumas' vessel *Kinship* in Smokehouse Bay on Jan. 17 within 300 feet of the Esplanade. Dumas was cited the next day by a marine officer of the Marco Island Police Department for violating the ordinance.

Dumas' attorney, Donald P. Day of Berry Day McFee and Martin, filed motions on April 23 with the court to dismiss the case and declare the ordinance unconstitutional.

The defense is planning to have approximately 10 expert witnesses at the trial, including Capt. Alan Richard, attorney for the Florida Fish and Wildlife Conservation Commission and Claiborne Young, a publisher and researcher of cruising guides for Florida and the East Coast of the United States.