

**MARINE ADVISORY BOARD  
THURSDAY, JANUARY 11, 2005  
CITY COMMISSION MEETING ROOM – FIRST FLOOR  
CITY HALL  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA**

**BOARD MEMBERS PRESENT**

**ATTENDANCE  
Cumulative From 5/1/04**

John Baker	P-4	A-0
Ryan Campbell	P-7	A-0
Richard Duncan	P-5	A-2
Barry Flanigan, Chair	P-7	A-0
Joseph Hessmann	P-7	A-0
Roger McKee	P-6	A-1
Norbert McLaughlin, Vice-Chair	P-6	A-1
David McNulty	P-5	A-2
Robert Sadowski	P-5	A-2
Rick Schulze	P-5	A-2
John Terrill	P-7	A-0
Stephen Tilbrook	P-5	A-1
Dr. Geraldine Udell	P-6	A-1
Peter Zachary	P-5	A-2
Eugene Zorovich	P-5	A-2

**Board Members Absent**

Rick Schulze  
Peter Zachary

**Staff Present**

Jamie Hart, Supervisor of Marine Facilities  
Bruce Larkin, Director of Business Enterprises  
Chuck Adams, Redevelopment Services and Marine Facilities Manager  
Officer Sandi Downs, Fort Lauderdale Marine Police Unit

**Guests Present**

Jim Naugle, Mayor  
Christine Teel, Commissioner District I  
Frank Herhold, Executive Director of the Marine Industries Association of South Florida  
Joanne Becker, Waterfront Property Owners Association  
Jeff Falkanger, Falkanger, Snyder, Martineau and Yates Architects and Engineers  
Victoria Ricker, Applicant/413 Idlewyld Drive  
Jack Nelson  
Sherrill Nelson  
Carlton DeHart

**Guest continued**

Tom Gleason  
Connie Camet

**Call to Order/Roll Call**

Chair Barry Flanigan called the meeting to order at 7:15 p.m. Roll call was taken and a quorum was present. Chair Flanigan announced the telephone number available for the public to call in with comments or concerns.

**Approval of Minutes – December 2, 2004**

A motion was made by Steve Tilbrook to approve the minutes of the meeting held December 2, 2004. Roger McKee seconded the motion with a correction. Roger McKee stated that on Page 3, Paragraph 3 the minutes read west but should read east. The minutes were approved as corrected.

**WATERWAY CRIME AND BOATING SAFETY REPORT**

Officer Sandi Downs from the Marine Police Unit presented the Waterway Crime & Boating Safety report for the month of December 2004. There were 3 boat accidents, 1 with minor injuries and 2 larceny attempts of wave runners.

Dr. Udell asked if anyone had information on the fatal boating accident in Miami last week and no one had any specific details. Chair Barry Flanigan had read an article and understood that there were 2 fatalities.

Steve Tilbrook asked for some clarification regarding the standards of review of procedures for reviewing the dock waiver applications that come before this Board for a recommendation to the City Commission based upon the ULDR and the City code to allow boats to accept docks of said to have the right of way than the standard establishment code. He had not had a chance to talk to the City Attorney regarding his report. Steve Tilbrook said he noted on the agenda there is an application for a dock waiver and recommended that the Board receive clarification on standards and procedures before the Board hears any more dock waiver applications. Mr. Tilbrook suggested the Board have proper legal advice to ascertain whether the Board was complying with the law when making recommendations. Mr. Tilbrook's suggestion was to move Item 6 to the next item in order to hear legal opinion on the Board members responsibility so that the Board acts in accordance with the law.

Chair Barry Flanigan asked what the benefit to changing the order would be and Steve Tilbrook stated they would be better informed to make subsequent decisions after the City Attorney had made his presentation.

**MOTION:** Dr. Udell moved that Item 6 to 4, item 6 to be moved to 5, move Item 4 down to 6 and Item 5 to 7. The motion was seconded and discussion ensued.

Chair Barry Flanigan said he had concerns because representatives from the private-sector had been asked to assist the Board on what was the last item. Chair Flanigan stated he had contacted Kaye Pearson's office and Mr. Jeff Falkanger, and indicated that the Board was going to recognize the fact that they are volunteering their time and bring their item up earlier before the Board. Now the Board has a quandary in bringing their items

before the others. They are here volunteering their time and the Board needs their input on the New River and the Floating Dock Issue.

Steve Tilbrook stated his only concern was that the Board heard Item 6 before Item 5 but if they heard Item 7 and 8 earlier that was fine with him.

Jamie Hart clarified that Item 4 was not a dock waiver, but a dock permit.

Dr. Udell amended the motion. Move item 8 to 4 and then item 6 to 5 and then item 7. In other words, hear the New River first, then from the City Attorney, and then the 2 items regarding docks.

Joe Hessmann stated he got lost somewhere and asked how many of these similar issues have been approved in the last few years without having the City Attorney going through something that will have these people come back again. Mr. Hessmann stated that most of them had read both of the waivers brought before them that night and that it had been almost 2 months since this was first brought up and in that length of time the person did not have enough time to locate and talk to the City Attorney so now we want to delay these people another month.

Steve Tilbrook asked for clarification on the standards of review and process for reviewing dock waivers and the Board members have the right to request that clarification from the City Attorney. Steve Tilbrook stated that he had made the original motion that was supported by Dr. Udell to reach out to the City Attorney and he had not had a chance to return my calls. His understanding based upon correspondence from Commissioner Teel and from staff was that the City Attorney was to make the presentation at the Board meeting and it was not done in December so here we are in January. The intent is to clarify the process for us to review dock waivers not to change the process, but to clarify the process so that the Board acts in accordance with the law. Mr. Tilbrook thought this would be irresponsible for the Board to consider hearing applications without having clarification from the City Attorney.

Chair Barry Flanigan responded that he thought the presentation could prejudice us just before a dock waiver.

Chair Barry Flanigan recognized Mayor Jim Naugle who was attending the meeting.

Chair Barry Flanigan briefly recounted the history behind the discussion on changing the order of the agenda. It started in October when there was a dock waiver review. Shortly after that there was a letter questioning the methods of the meeting. The City Attorney responded and said that the methods utilized were fine. He stated that one individual on the Board told him there needed to be a broader scope and we needed further clarification and requested the City Attorney to come down and speak with us. He further stated that during the Commission meeting in November, Commissioner Teel asked about the scope that we should use to consider these waivers and again the City Attorney confirmed that historically what the Board had done in the past was just fine. Mr. Flannigan felt that based upon that opinion there is no

indication that anything has gone awry in the past. We should consider these waivers as they are in order.

The applicant concerned was asked to come up to the podium to speak.

Victoria Ricker introduced herself and stated she and her husband were the applicants and simply wanted to ask the question they submitted which is really a safety issue. She stated her dock was built in the 1960's and it is falling into the water. She also stated she had 5 and 6 year old boys and as Jamie Hart will point out we are simply replacing the dock that was there. She said it was relatively an issue of safety and they were concerned about the present condition of the dock. She concluded by stating that they had lived in the house for the past one and a half years and this has been going on quite some time and they just wanted to get this one passed. She felt that if the order were reversed it would impact how the Board looks at our application.

Chair Barry Flanigan asked to hear the motion repeated and called the question.

**MOTION** made by Geraldine Udel and seconded by Steve Tilbrook to move item 8 to 4, item 6 to 5, item 4 to 6 and item 5 to 7.

Roll Call showed Yeas: David McNulty, Stephen Tilbrook and Dr. Udell. Nays: John Baker, Ryan Campbell, Richard Duncan, Joseph Hessmann, Roger McKee, Norbert McLaughlin, Robert Sadowski, John Terrell, Eugene Zorovich and Barry Flanigan. Motion fails 10-3.

### **1117 CORDOVA ROAD, LLC DOCK PERMIT – UPDATE**

Jamie Hart stated that this originally permit was approved in June 2002 after review by staff. He said it was somewhat different than the normal review and approval process. In June 2002, the permit was approved on the basis that the developer of 1117 Cordova Road LLC would construct 2 docks and other improvements along public property – adjacent to the east side of Cordova Road. The docks were approximately 5' W X 20' L adjacent to this parcel that was subdivided into 2 parcels lots 12 and 13. The approval was contingent on the permit being transferred from the developer to the new homeowners when the parcels were built out and sold. The developer was issued permits for the use of the docks on that public property with the same terms and conditions that construction would begin after the seawall was repaired. He said the one primary parcel #12 is the main parcel, and there is a portion of parcels #9, #10 and #11 for access purposes that have been sold to a James and Susan Greene, 1410 S.E. 11<sup>th</sup> Avenue which is the new address. Mr. Hart said he intended to move forward with that permit which would be scheduled for approval by the City Commission in February. He concluded by saying that there is another parcel #13 that he was not aware of or had heard from the developer if it had been sold, but an update would be coming at a later date when the parcel was finally sold.

Chair Barry Flanigan introduced former Chairman of the Board and long time member Mr. Tom Gleason.

Mr. Gleason was asked if one of the provisions in the permit was that the permittee have responsibility for improvements. He stated that was correct.

**MOTION** was made by Joe Hessmann and seconded by Ryan Campbell to approve. Approval was unanimous.

**APPLICATION FOR WAIVER OF LIMITATIONS – 413 IDLEWYLD DRIVE**

Jamie Hart stated that the proposal was specifically to replace an existing L-shaped dock that was structurally permitted in 1966. The application is for the removal of a 55.5' L x 5' W extension pier and L-shaped terminal platform measuring 35' L x 5' W. The existing pier will be replaced with a similar size access pier extending 55' L x 8' W with an L-shaped terminal platform measuring 30' L x 8' W'. The platform at the north end of the property has been reduced by 5' due to an over-lap into the riparian line of the adjoining property that was discovered in the initial boundary survey. Mr. Hart said the application also included a 14.09' W x 17.88' L cradle type boatlift extending off the south side of the access pier and 2 existing mooring pilings extending off the north and south end of the pier measured from the property line. Mr. Hart provided the Board as a part of the minutes, 4 letters supporting this request for a waiver. Jamie Hart asked if there were any new members that did not have the presentation.

Jamie Hart stated the structure was in compliance with the code at that time however there is no grandfather provision that would permit the structure to be replaced at the same distance without the required waiver of the distance limitation. Sec. 47-19.3 allows the City Commission to waive the limitation based on a finding of extraordinary circumstance as only it can determine to be appropriate based on the merits of the case.

Staff concluded that the application did not impede navigation or present a safety problem. The inadequate water depth and tidal conditions have required the use of the existing pier at the current distance since approximately 1966 without incident according to City records. Jamie Hart stated that all residents within 300' had received notification and there were no objections.

The recommendation for approval to the City Commission from the Marine Advisory Board should include the following conditions:

1. The applicant is required to comply with all applicable building and zoning regulations as well as any other Federal and State laws and requirements.
2. The applicants install and affix reflector tape to the 2 existing mooring pilings as required by Section 47-19.3.D of the ULDR.
3. The applicants shall install 2 guide poles on each of the 2 cradles of the boatlift in accordance with Sec. 8-91 (C) of the City Code of Ordinances.

Steve Tilbrook stated that he supported the application that it was a good application and would probably vote in favor. He did have some questions about the process and procedures. Mr. Tilbrook asked the City Attorney, Harry Stewart, if the Board can consider environmental impacts and issues when making decisions regarding these applications.

Harry Stewart, City Attorney, stated that the "you could not consider any factors beyond those same factors that the City Commission is charged to consider when they approve dock waiver permits. The City Commission is charged with considering the neighborhood in which the applicant's property lies; the effect the proposed setback would have on the surrounding property and the ability of the adjacent property owner would have to enjoy the abutting waterway. To the extent that an environmental issue falls within the perimeters of those criteria

then yes it may be considered. Otherwise, these are the criteria that you are limited to when determining whether or not you have a dock waiver.”

Steve Tilbrook asked if that criteria was set forth in the code. Mr. Stewart stated, “it could be found in Section 47.19.23, sub-paragraph D authorizes the City Commission to waive the limitations that are set out in that section. Under extraordinary circumstances, after having given public hearing notices to residents within 300’ and shall consider the neighborhood in which the applicant’s property lies, and the effect on the surrounding and adjacent properties ability to enjoy the abutting waterway.”

Steve Tilbrook understood the criteria and asked about environmental conditions that may be considered in addition to the criteria. Mr. Stewart stated they might be considered as part of those criteria. The crux of the determination should be the impact on the adjacent property and the ability of the adjacent property to enjoy the abutting waterway.

Steve Tilbrook asked if the Board could consider the public’s right to enjoy the water way as part of the process. Harry Stewart stated that it would be inappropriate to consider other factors not listed in the criteria. Additionally, Mr. Stewart indicated that he would state later on the subject that this is a quasi-judicial hearing and as such you must make a decision based upon the information presented at the hearing. Harry Stewart stated that to his knowledge, that is what the Board has done all along. They have made decisions based on the hearing that they have had. Historically, there is no authority in the code at all that this Board can consider dock waiver permits. If you look at the code that establishes the Board, it doesn’t list that as one of the duties. The duties the Board has are considered legislative if you go to 8-34 in the code list duties and there are 18 things that you are to consider to recommend to the City Commission actions that may be taken on those issues that would be considered legislative and not considered quasi-judicial. When you have a permit and the applicant is before you, any application is going to be generally quasi-judicial based on the criteria set out in the ordinance. Your authority is in 8-34 and 8-176 that you can consider and make recommendations as a quasi-judicial board on each boating restriction. Mr. Stewart stated that in Sec. 8-146.1 you may make recommendations in using boats as a place of business and for water taxis. Other than that, those are the only authority you have in the code. Some time in the long distant past the Commission had taken and set these down for a recommendation of this board and was in respect to navigational issues. Once here, the Board can consider other issues but they can’t go beyond the criteria that the Commission is using.

Steve Tilbrook asked about the extraordinary circumstances. Harry Stewart reiterated that the City Commission could only waive the requirements set out in the ULDR if there are extraordinary circumstances.

Chair Barry Flanigan confirmed that this has not changed. Mr. Stewart stated there was no definition of extraordinary circumstances in the code.

Chair Barry Flanigan stated that he gathered that the concern was for the adjacent property owners and the dock has been shortened so as not to encroach further on the adjacent properties.

Roger McKee stated that he understood that there was an encroachment on the property to the north on the L portion of the dock. He asked if that was just a 5’ encroachment. Jamie Hart stated that it was an encroachment of about 1-2’ but the applicant had reduced it by 5’. Mr.

McKee asked if that had brought the dock back far enough and Mr. Hart stated that they didn't even have to bring it back 5' but they did.

Jack Nelson, a neighbor of the Rickers, spoke in favor of the dock waiver.

Steve Tilbrook asked Harry Stewart if the individuals needed to be sworn before their testimony since this was a quasi-judicial hearing. Mr. Stewart stated that it would not be necessary.

Jack Nelson stated that these parents were always vigilant of their two sons and these safety-minded people deserved to be able to have this dock. Not only was his home next to theirs but also two others in the audience, he couldn't understand why this wasn't being granted.

**MOTION** to approve as presented by staff was made by Joseph Hessmann and seconded by Steve Tilbrook. Approval was unanimous.

### **REVIEW OF APPLICATION PROCESS FOR WAIVER OF DOCK DISTANCE LIMITATION**

Harry Stewart, City Attorney, addressed the Board as requested on proper procedures for the Marine Advisory Board. He stated that he does read the minutes of the meetings and if something was being done wrong he would have told them. As an Advisory Board, the City appreciates the work they do and they have done a fine job. The procedures used are informal but they get the job done and he was there to tell them what the job was.

Your scope of review is the same as the City Commission in the use of those items previously mentioned. The criteria is considering the neighborhood in which the applicant's property lies within a 300' radius to notify them of the application and you consider the application with regards to the effect the proposed setback would have on the surrounding property and the ability the adjacent property owner would have to enjoy the abutting waterway. The Commission has also asked you to consider navigational issues, the scope of review is the same as the City Commission. As to the question should the dock waiver review be quasi-judicial and the answer is yes. A quasi-judicial hearing is where a notice and hearing are required and the judgment you make is based upon the hearing or showing that is made at the hearing. It is when you apply the policy as opposed to set policy. It is policy application not policy setting. This is what dock waiver permits are. There are such things as rezoning a specific lot, a variance request and dock waiver requests that are generally variances. Site plans and site approvals are those types of issues that are quasi-judicial hearings.

Harry Stewart stated that you are not required to give a complete judicial due process but you are required to give fundamental due process when someone comes before you for a hearing. You have to have the essential requirements of that and the decision based on the competent substantial evidence, which is presented at the hearing. In order to meet the essential requirements you need to have evidence provided by the applicant and anyone opposed to it. Sworn testimony is not required to meet the essential requirements. City Commission generally requires sworn testimony when they are doing a quasi-judicial hearing because at those hearings there are appeals to Circuit Court. There are no appeals to Circuit Court from this body. This body is a more informal body than the City Commission and the appeal of your decision goes to the City Commission. The City Commission, generally, in a quasi-judicial

hearing will swear its witnesses in because they generally have a court reporter and an unsuccessful applicant can appeal to Circuit Court.

The formal rules of evidence do not apply in quasi-judicial hearing. All you need is a fair opportunity to present your case and that this Board has given in the past. There is no requirement that evidence be formally presented, you can consider reports in abstention and you can consider un-sworn testimony of neighbors and you can consider other information of a similar nature of testimony or staff reports. Decisions can be based upon citizen input but it cannot be based on majority rule.

You cannot have exparte communications, you can't talk to the applicant outside of this because if you do it is presumed to be prejudicial and something that should be avoided. If a case comes up that is quasi-judicial and there have been exparte communications, if you have gone to see the property and run across the applicant that should be noted on the record and according to Florida statues, if you do that then it is assumed not to be prejudicial.

There is no code basis for limiting scope of review to matters of navigation. No. You are limited to the same criteria that the Commission is limited to but historically it was sent down here for that purpose because there is no place in the code that says it is your duty to review it and it can't be determined by the Commission until you do.

Mr. Stewart stated the next question was could the board consider factors of navigation. He suggested that it would be the inland navigational rules as they apply to that particular piece of property and to the application that is in your ordinance considering the neighborhood in which the applicant's property lies; the effect the proposed setback would have on the surrounding property and the ability the adjacent property owner would have to enjoy the abutting waterway.

Environmental impacts were discussed earlier as long as adjacent property owners surrounding neighborhood, it is okay.

View corridors and privacy for neighbors can certainly be considered because that has impact on the adjacent property in the neighborhood. Noise impacts can be considered as well. The impact on public property applies if the public property is adjacent within 300'.

Can the Board consider the testimony of residents that reside outside the 300' radius? Mr. Stewart stated you could consider it as long as you consider the weight of the evidence they give you and the relevance of the evidence they give you. If you are considering impact on the adjacent property and their ability to use the waterway, somebody's testimony 1,000' away would be considered much less and may not even be relevant.

Can the Board consider expert testimony and the answer is certainly you may. Quite often applicants will bring in expert testimony with architects, engineers etc.

Can you consider whether or not the application demonstrates "extraordinary circumstances"? The answer is yes. What extraordinary circumstances are is for the Board to decide. There are any number of circumstances that you can raise and talk about but the threshold criteria is that you find the extraordinary circumstances and then you determine whether or not there is an impact on the adjacent property and the ability of the adjacent property to use the waterway.



Can you consider credibility of evidence and testimony submitted at the hearings of an applicant? Yes, you would probably weigh more heavily someone that lives 150' from the property than you would someone that lives 1,000' from the property.

Can the Board summarily disregard evidence or testimony submitted by people that live outside 300' radius? Harry Stewart stated that would be inappropriate to simply disregard it but you would certainly consider the weight and balance.

Are applicants and substantially affected parties entitled to due process? Absolutely, the Constitution states that everyone appearing before a hearing, specifically quasi-judicial is entitled to due process.

Can you hold a hearing without a quorum? No, you may not have a hearing without a quorum. The only action that can be taken, set the time to adjourn, adjourn, recess or you can take measures to obtain a quorum.

Dr. Udell thanked Mr. Stewart for his recommendations. She stated she had been on the Board for about six years and had repeatedly heard that the only criteria when considering a waiver was navigational which is obviously not true. She asked for a copy of Mr. Stewart's presentation. Mr. Stewart thought it would be in the minutes and on tape. Dr. Udell stated that she would like it written and available for every meeting.

Steve Tilbrook stated that many Boards actually have it on the agenda as to what the quasi-judicial process is and what the criteria is.

Dr. Udell requested a copy be sent to her specifically on Section 8. Jamie Hart stated he would send copies of the packet sent to all new members.

Harry Stewart stated that he had searched the Code for the responsibilities of the Marine Advisory Board and information appeared in Section 8-176 and 8-146

Mr. Stewart stated that the Board can review applications but when it comes to making a recommendation the Board cannot utilize any other criteria other than the criteria as set forth by the City Commission.

Steve Tilbrook asked when the criteria of extraordinary circumstances should be determined. Harry Stewart suggested that it should probably be determined at the conclusion of the presentation. In order to grant the dock waiver it must be determined that there are extraordinary circumstances. It does not necessarily have to be written. It doesn't have to be in a motion, as long as there is something in the record to support that there is competent substantial evidence to support the fact that there are extraordinary circumstances.

Harry Stewart stated that they need not be articulated but under the case law, if challenged, there is a requirement that there be competent substantial evidence in the record to support a finding of extraordinary circumstances.

## **PROPOSED BROWARD COUNTY INTERIM BOAT FACILITY SITING PLAN**

Mr. Frank Herhold introduced himself as representing the 800 members of the Marine Industries Association of South Florida (MIASF) and stated he was at the meeting to provide an update on the Broward County Boat Facility Siting Plan. He provided Board Members with a copy of the interim draft plan that was prepared for Broward County Environmental Protection Department Biological Resources Division by the Cantonese Center for Urban and Environmental Solutions at Florida Atlantic University in November 2004.

Mr. Herhold began by stating these basic facts:

1. We need to do a plan and it's important. One has been done for us. We have had little input from the public and there has been one public hearing attended by John Terrill and Jamie Hart.
2. What is our record when it comes to manatees because we do want to protect the manatees; one of God's greatest creatures. In 30 years in Broward County we have lost, due to boat mortalities, 55 manatees that averages to less than 2 per year. This is unfortunate but good when you compare it to the other key counties of which there are 13. Last year we had one manatee mortality due to a boat. You may ask where do the manatees appear to be dying, the area most at risk. This area is the port. Thirty one (31) out of 55 manatee mortalities occurred in Port Everglades. This does raise some questions.
3. The Broward Marine Industry is an \$8.8 billion economic engine consisting of 109,000 employees, 1,400 mega yachts visit us each year. Frank Herhold quoted the Mayor as saying that "the marine industry is the economic engine that drives this community".
4. What is the situation with the manatees? Are we losing or gaining? There are over 3,000 manatees. We do an annual survey, which varies with conditions. Two years ago there were 3,300 manatees.

Mr. Frank Herhold presented a color chart showing the codes in Figure 33 of the plan. Zone C which includes the Middle River and the Dania Cutoff Canal currently indicates that new facilities cannot be built unless they include a 1 slip to 100' of shoreline ratio. The same goes for the expansion of existing facilities. No transitory uses are permitted, which means should a restaurant dock on the New River burn down it cannot be rebuilt according to this plan (**Correction: Mr. Herhold's reference to Downtowner Saloon burning down was incorrect the proprietor has no ownership rights to the City's public day dockage facility planned adjacent to the restaurant at this location - see attached letter from Mr. Herhold made part of the minutes**). This applies to the entire New River looping around through the Dania cutoff canal. The Dania Cutoff Canal is really the only area where there is potential for growth. We are really built out; we are losing rather than gaining. Mr. Herhold then explained the various zones.

At the Port, Zone A has no restaurants. Port uses can be considered on a case-by-case basis due to "the economic importance of the Port". There is a very serious environmental problem at the Port. However because of the economic importance there are no new protective measures recommended.

Zone F is Rio Vista Isles. For marine facilities you can have 1 slip to 100' ratio but if you want to expand your existing facility, there are no restrictions. Except for the 15<sup>th</sup> Street Canal where there are some limited facilities; it is a residential.

Zone D that starts at the base of the New River and goes North to 14<sup>th</sup> Street in Pompano, again new or expanded facilities 1 slip to 100' and transitory use is allowed. This carries through to the Middle River and through Sunrise Blvd Bridge and the Pier before George English Park. If you watch the color it turns blue somewhere North of George English Park. There are no restrictions up there in terms of new facilities or expanded facilities or we can have restaurants docks. There is a low bridge and you cannot get underneath it with a 23' boat. However, it is largely residential. They have done the same thing at the north end of the county. I am really talking about Ft. Lauderdale at this point. The only other area for potential expansion if you look to the last page is Zone F and Zone G in the Hillsboro Beach area; a primary residential and high end residential area close to Ft. Lauderdale.

Frank Herhold further stated that what the plan did for us was nothing. It is a boatyard moratorium and a marina moratorium. Taxes that may have come to the City are going to go down. The Marina Industry represents the City's biggest tax base. He said that the general concerns are outlined in the letter. The City is going to lose the Dry Marina in the Port Everglades. We have 350 slips that are no longer going to be available. We cannot build 350 slips elsewhere. There is no net loss provision in the plan to address this.

Frank Herhold went on to say there needs to be public input and the plan needs balance. At the end of the public hearing Mr. Herhold said he asked where is the balance?" The plan starts off in the first few paragraphs saying that the balance is between the marine economy, the recreational boating lifestyle and protection of the manatee but it is not there.

Mr. Herhold stated that an area of some concern was Port Everglades. There are a number of measures in place. He indicated that these big ships cannot stop and that's a problem. recreational may play a part, but they are not a major portion of the 31 kills.

Big boats, there are 1,400 that visit this area annually need slips, they need docks, if you eliminate the ability to expand or rehabilitate our facilities or you don't allow this industry to build new facilities, Las Olas Marina or Sunrise Harbor Marina may be two of the last big yacht marinas.

Frank Herhold was there to request a Resolution from the Marine Advisory Board to the City Commission to send a Resolution to the County Commission. The ultimate people that are going to vote on this plan are the Broward County Commissioners. He thought they would be voting at an early date in May. We can't wait until May to try to get their attention. The County Commission needs to hear early on the concerns of this Board and the concerns of the City Commission. Mr. Frank Herhold asked the Board for questions or comments.

Chair Barry Flanagan asked if they could do more collectively than individually. He thought they needed to get on the coat tails of your association, Congressman Shaw's office and other elected officials at levels beyond the City and the County. He said there is a need to collectively go forward to the Governor's office and impress upon them that it is not just them and it is not just us it is the whole industry down here. Let us record a motion tonight and probably request a letter be given to the City rather than waiting for the minutes to get approved and go through the normal process. Mr. Jamie Hart if you can and it's the Board's decision where we can expedite

something. Chair Barry Flanagan suggested they come up with a plan and have a steamroller effect to speak to our officials. Each of us could call or Mr. Herhold may lobby them more than some of us individually.

Mr. Herhold appreciated Chair Flanagan's comments because of the impact on their livelihood. He said that people know where the Industry is going to be on this issue. We have to build a coalition and partnerships from Congressman Shaw on down through the Governor. Your recommendation is very well said and that's what we are in the process of doing. In talking to Kaye Pearson, this is a very serious issue and Mr. Pearson is extremely concerned because although there are few people that know about this, it's just really starting to get out. There was one article in the Miami Herald and one article in the Sun Sentinel. This has been sort of a stealth approach.

Joseph Hessmann stated that he belongs to an environmental group and clearly have limitations on what can be done. How did these people get where they are with one dead manatee and millions of dollars being spent on this program. There are people in the manatee program making \$150,000 a year lobbying in Tallahassee. Mr. Hessmann asked Frank Herhold "how these people became so powerful with one dead manatee last year in Broward, 34 in Brevard County and 69 statewide? How do they amass so much power to totally disrupt an \$8.8 billion dollar industry?"

Frank Herhold stated that the "Save The Manatee Club" is a well-oiled political machine and they've been at this a long time. They have a cause and I have to respect them for their cause. They have gotten the attention of a lot of people that are really not totally familiar with the issue. I can't answer your question except that is what we have to deal with. Those are the cards we have been dealt. We have got to work through that. We are very confident that we have a lot of things going for us on this issue.

Ryan Campbell stated there was going to be one more Broward County Manatee Public Workshop on April 12 at Anne Kolb State Park from 5:30 to 8:30 p.m.

Frank Herhold stated they were actually asking for an additional public hearing.

Steve Tilbrook asked if the public could comment on this plan. Frank Herhold stated the public is welcome to submit written comments on the plan. There are at least two public comment periods. The first public comment basically closed on January 7, 2005. There is a draft that is being prepared based on those comments. They are still taking comments and the public is able to comment. He said they have all the information, who to contact, etc., if anyone needs it. For the record Mr. Tilbrook thought it was outrageous that Broward County had a very short comment period on this plan that extended over the holiday season when the public did not have the opportunity to make comments on this plan. Mr. Tilbrook thought it may come back to bite the County. There are a lot of people watching and this is a sleeping giant not yet awoken and when the giant awakens there will be a lot of upheaval because this plan is outrageous because of the process used to railroad this plan through. Mr. Tilbrook said there has not been an adequate scientific basis for these limitations on property rights. There is not a legitimate basis for limiting property rights, taking property rights where there has not been other means addressed in this plan for protecting the manatee. He said when we consider protecting the manatee, one has to consider slow boating zones and other ways to protect the manatee. It is not exclusively related to limiting property rights and taking property rights. Steve Tilbrook thought that this report is flawed and hoped that everybody watching on television and sitting on

this Board will take the time to review the report. He thought it inappropriately applies standards in a way that affects certain property owners more than others. He said this included the property owners in downtown Ft. Lauderdale the urban core, including the City of Ft. Lauderdale, which has the largest marina in downtown Ft. Lauderdale. He thought it was unbelievable that one government can attempt to take the property rights of another government without due process and without adequate scientific basis properly balancing the rights.

Steve Tilbrook indicated that another item on the agenda concerning floating dockage and transient dockage, which has been part of the Board's mission for the downtown, would virtually destroy the ability to grow day dockage in our downtown. It is outrageous; it is illegal and its inappropriate use of the Broward County police power. One observation is that this Boat Facility Siting Plan totally disregards any limitation on boating access in Port Everglades that happens to be owned by Broward County. Broward County is the only one choosing not to regulate, but regulating everyone else in Broward County, placing the burden on everyone else. Steve Tilbrook stated he would like to see an analysis based on the economic engine on the County at the Port as a valid basis and consider the economic impact on the rest of the County and the marine industry association of Broward County, which is larger than the Port's impact on Broward County.

**MOTION:** Steve Tilbrook wanted to make a motion that this part of the record and these comments are made a part of the record to submit to Broward County and have them submitted as part of the public comment process. Steve Tilbrook wanted his comments to be on the record about how angry he was about this process and the way it has been abused to serve the interest of a few and place the burden on the public at large.

Joseph Hessmann asked if there was something similar to this on the West Coast (Lee County) that was lifted.

Frank Herhold stated not that he was aware of. Every County of the 13 key counties has to complete a Boat Facility Siting Plan and has to complete a Manatee Protection Plan. There are three elements 1) public awareness and education 2) speed zones 3) boat facility siting. The first two were done early between 1992 and 1994. It took three years of public awareness and education and the speed zones. Broward County is the most regulated County in of all of Florida and that comes straight from Captain Alan Richard of the Florida Fish and Wildlife Conservation Commission (FFWCC) and Captain Sam Corey from the local FFWCC supports it. Broward County completed 2 of the 3 elements 10 years ago. They then kind of walked away from it because of being all built out. Now the plan is back because the State has put a time limit on it and the boating siting element has to be done by 2006. This is what we are doing and they developed a plan for us. We are allowed to comment on it and make changes making it more palatable. Right now it is not very palatable.

Norbert McLaughlin indicated that he thought they did put a restriction on the West Coast around Naples, Bonita Springs and from Fort Myers South. He thought you could not pull a dock permit on that area or any permits for quite some time. He said they lifted the restriction when they put a plan in motion and then they took the restriction off.

Frank Herhold believed what actually happened was that the U.S. Fish and Wildlife objected to the State lifting or modifying restrictions and now are federalizing the same zones. We are concentrating on Broward County right now.

Richard Duncan stated that on the West Coast an organization was started when all this began 3 years ago. It is called "Standing-Watch.org". Go to the web site, check it out, and send them support. They are the counter voice to the Save the Manatee organization. They are pushing for scientific studies not just hearsay studies. We were one of the last counties; the impact was on the West Coast, its up in Jacksonville and now it's starting to impact Broward County. This has taken three years and we thought we were clear of the issue. Broward County is not.

Frank Herhold stated that there is a chapter of Standing-Watch being started in Broward County.

Chair Barry Flanigan stated it might be wise to bring forward a motion in the form of a recommendation.

Steve Tilbrook made a couple of recommendations "off the record". He suggested Frank Herhold should consider a public relations campaign and consider engaging Counsel or affiliating with environmental counsel that will look at the report and break it down, challenge it. There are many levels of challenge; there is a very weak foundation. Steve Tilbrook indicated that some PR would be a great idea because there is a lot of people that live on the waterways and enjoy the waterways in this town and Broward County that wouldn't have access to it if this plan were in place.

Steve Tilbrook added to his motion that we make this portion of the minute's part of the submission to Broward County in opposition to the restrictions applicable to Ft. Lauderdale in the Boating Facility Siting Plan.

Frank Herhold suggested the recommendation be given to the City Commission and comments and concerns be sent to Broward County on the negative impacts on the City of Fort Lauderdale currently in the draft Boat Facility Siting Plan.

Mr. Herhold requested the comments and recommendations be sent to the County Commission and copied to Eric Myers of the Broward County Environmental Protection Department (EPD). Actually what we are looking for is a Resolution to the County Commission.

Steve Tilbrook stated that we could put this recommendation in the form of a Resolution from the City Commission to the Broward County Commission rather than comments and concerns.

Chair Barry Flanigan asked City staff to forward the minutes directly to Eric Myers at EPD as our comments.

Richard Duncan asked what caused the death of the one manatee killed last year in Broward County.

Frank Herhold stated the manatee killed on May 17, was 195cm (a baby) on the Cypress creek canal; possible cause-watercraft. We know it occurred at an odd time of the year and in an odd location.

Richard Duncan stated that his point was that they have records on the 69 manatees killed, they have specifics on which were killed by disease, were killed by boats and the one that was killed in Broward County wasn't in the Port.

Frank Herhold stated that in 69 boat mortalities statewide, the overall manatee mortality was of course more than that, but actually this was the lowest year in many years if not the lowest year. So things are working in Broward County. The speed zones put in 10 years ago are working.

Chair Barry Flanigan thanked Frank Herhold for his time and passion on behalf of the plan. Chair Barry Flanigan asked Mr. Herhold to feel free to contact him or any of the other board members to see where we can help.

Richard Duncan seconded and amended the Motion to recommend to the City Commission to send the portion of the minutes opposing the draft of the Broward County Interim Boat Facility Siting Plan and as a Resolution be sent to the Broward County Commission with a copy to the Broward County EPD.

The Motion was unanimously approved.

### **NEW RIVER FLOATING DOCKAGE PLAN - DISCUSSION**

Jamie Hart and Chuck Adams provided a memorandum updating the Board on the current status of the New River Floating Dock Plan. Mr. Hart said that there is a public access issue is not only here, but also nationwide in terms of developing downtown areas and riverwalks. He said we are not the only Riverwalk in the country. This is happening in many City's. It's really an issue everywhere and it has to be dealt with as effectively as possible. Mr. Hart said that once we get through the pilot program which was approved by the City Commission he thought the approved location would get the most utilization and we would be able to at least experiment with the design concept that we had for the location.

Jamie Hart proceeded stating that the staff is not married to the design concept of concrete floating slips for all locations and staff has reviewed other design concepts that would be much less expensive. He said that the pilot location was designed with the concrete dock concept because of the anticipated type of intense heavily utilized area that would ultimately be a factor. The location presents a dual use concept from the perspective of exhibits at the Antique Boat Museum Maritime Facility as well as the events at the Esplanade such as the jazz festival that occurs once a month and other events held at restaurants or in adjacent parks that involve charter boat activities.

Mr. Hart further said he was moving towards finalizing permits and getting the construction completed for the pilot program to get underway so we can begin to analyze the effectiveness of the program. He said they have backup that shows the whole permitting timetable and since someone may have questions about why it takes so long to provide comments to the FDEP. Mr. Hart said he spoke to Kaye Pearson about that and he agreed with that it's Dane Graziano who is his assistant and handles floating dock permits for him for boat shows and has similar experiences with the FDEP. Mr. Hart said the FDEP seems to continue to ask for information, but now that the process is better understood in terms of the scope of information they should be able to cut this timeframe down. He said if there were alternative ways of permitting, such as hiring a consultant or handling it in-house which are options that could be explored. This would depend upon funding, which the City Commission has already turned down when the City Engineer suggested a consultant or the option of in-house Engineering staff, which would be assigned on a priority basis. He said that the floating dock project would be given low priority compared to other projects which there were a limited number of staff to handle.

Mr. Hart further said that the whole process takes time and believed that they had completed the permitting fairly consistently without wasting any time. He mentioned that there are factors to consider with locations, but obviously wanted to pick locations that are not going to have revenue impact cause that's obviously that we have limited dockage facility maneuver for transient commercial and felt that valuable dock space should not be used unnecessarily where the City could potentially lose revenue or have an impact on revenue from live-aboard or commercial by installing floating docks everywhere without a design thought process. Mr. Hart said that staff would be willing at this point to come back with a plan. He said that they have some very preliminary ideas that may work to help cut costs, but these are in the early stages and would hinge on funding capabilities. He said that at this point he wanted to initiate some discussion to at least to obtain the Board's comments and thoughts on this idea. He said that he really would not be able to start on anything because of the direction of the Commission to conduct a pilot program, but was asking the Board for input on locations to maybe try and move forward at some point with expediting that plan even though it will take time and additional funding.

Steve Tilbrook asked Jamie Hart if they we could go back to the question about expediting a plan for day dockage in other locations. Steve Tilbrook challenged the revenue impact question because he thought there were ways to make revenue or at least be revenue neutral and still have day dockage.

Jamie Hart agreed and was not saying it was not possible. He said that until they get the pilot program underway, he would have a better idea as to what kind of revenue the City could generate from that facility.

Chair Barry Flanigan stated that when Jamie Hart finished his presentation, he hoped they could talk about expanding day dockage. He wanted that to be considered by the Board.

Jamie Hart stated there were also ADA requirements that will ultimately have to be considered and that adds to the size of the dock, how far the dock will have to extend out into the River to where it might impede navigation. He said this might vary at different locations depending upon design and the size of the dock. The waterbus operation has to deal with ADA requirements at some of their stops that are for public use, but even though this is different it's basically the same issue that will have to be dealt with. Mr. Hart felt that there will be no avoiding of the ADA issue, depending upon how many of the docks are constructed and how far apart they are separated and that sort of thing. He said that we will have plan to plan where exactly to locate them to some degree since the extra distance required for the gangways to meet the slope for wheelchair access onto the dock will create extra distances into the river creating navigational limitations that have to be considered. Mr. Hart said that navigational concerns have already been expressed by tour boat and tug boat operators with regard to locating floating docks on the river at critical points.

Jamie Hart stated he was excited about the concept, but needs to focus on the pilot program since that was the direction of the City Commission. He said the City Engineer did try to hire a consultant but at that time it was too expensive and the City did not have CIP funding to accomplish it. He said that this type of consulting work would be conducted on a priority need basis of other projects that would definitely come before something like this.



Chair Barry Flanigan stated it was a process and you know you can work with a process. We at least need to get a wish list going or something. He said that he kept hearing about a pilot program, but it was as if the Board was restricted from being able to do anything to the pilot program. He wondered that as a layperson if it meant that there would not be a floating dock in use until 2007?

Jamie Hart stated depending upon the context of what Mr. Flanigan was saying, he would rather give an estimate that is realistic than unrealistic and say we can do it in 6 months when it cannot be done in 6 months. He said we have been working on this since 2001 or 2002 and wished he could do it faster. He said that is the reason why he was hoping to get some input from the Board.

Chair Barry Flanigan asked if Jamie Hart would come back with a plan that expedites the permitting process. He said the Board would then be better able to look at the plan and discuss potential sites versus saying that they wanted to construct a dock here and there, etc.

Jamie Hart stated that if they had a plan for the Board to look at it might be a little better for you to have something to comment on. He thought the Board would be able to suggest the locations now and then we could come back with something.

Chair Barry Flanigan thought they had enough suggestions in the past to talk about and Mr. Hart's office has been one that we always wanted to see as a location. He said they talked about another location down along S.E. 3<sup>rd</sup> Avenue and the Riverwalk, etc.

Mr. Flanigan said that it was one of those items that he was hoping to try to put on the map tonight or put on a target to shoot for and then bring the people that do this all the time to provide expertise. He said he asked if Mr. Falkanger who does this all the time could be of some assistance. He said he thought they should utilize this help unless the Board has another suggestion? Mr. Flanigan was not certain of what to have them talk about or if we would like to invite them to several meetings, but I thought it was time for the Board to have them involved. He asked Commissioner Teel for clarification on when the Commission had approved the pilot program whether they had envisioned seeing just one floating dock on the New River? He thought there could be other ones that come down the road. Mr. Flanigan stated it is important and thought possibly if Frank Herhold can get the locations identified as to exact areas then we could get temporary help from the MIAF which would help them with the manatee situation. He wondered if the City had an existing dock there could they take it away from the City. He thought the plan needed to be done right away if they were going to proceed since it would be more difficult to do it tomorrow than today. He believed Mr. Jeff Falkanger who was present knew more about the permitting process than anyone on the Board.

John Terrell asked Jamie Hart if the Las Olas Marina had floating docks and was used by transient boaters. Jamie Hart stated that they keep some slips open and rent the remaining for storage purposes because they found that day dockage alone was not revenue producing enough to justify the expense.

John Terrell wanted to know what the process was if he wanted to come to the Las Olas Marina in a small boat and tie up and go to the beach.

Jamie Hart stated he would tie up, pay the day dockage fee based on the size of the boat and then travel to the beach by foot. He said the problem they had was when the facility was closed

after 5:00 PM and locked for security and protection of the larger and more expensive vessels and customers. He believed there was such little use with only a maximum of 15 floating day dockage slips that they could not yet find a way to make it cost effective to have staff there after hours or have another effective solution which would allow the day dockage customer into the facility when it was locked up at night.

John Terrell asked if it had been advertised and Mr. Hart stated that presently they were not. He said they only advertised it when the facility initially opened to the extent that they originally had brochures and other material, but it did not really take off at the time.

John Terrell did not necessarily agree because he thought the facility was not advertised aggressively. He pointed out that someone using the facility is limited to the time that the facility is open. He asked what a 20' boat would cost or a ballpark amount for day dockage.

Mr. Hart stated that it was nominal a four-hour minimum; \$8.50 for a 20' boat for a half day

Mr. Hart said larger boats need to make reservations which could be made during normal operating hours. He said they had tried a key lock box process, but that type of system was not very successful. He said though that they did not advertise it very aggressively at the time because of other priorities. He said when they did advertise they had a handful of docks so people are not using them for that purpose. Mr. Terrell thought people from the moorings do use the floating docks. Mr. Hart said that they do not use the slips which would prevent them from being used for day dockage, but we do let them tie up along the interior so they can use our amenities, showers, restrooms, etc.

Mr. Hart said that the Las Olas facility is primarily a storage facility for large vessels and transients and that the facility was not really designed for day dockage.

Mr. Hart thought the facility at the New River is going to be handled entirely different.

John Terrell stated he had seen the floating docks at Las Olas Marina. He thought they were very nice and user friendly and very appropriate for a person that has a small boat to tie-up to go to the beach or the restaurants as well. He thought that if they knew it was available and could meet the requirements to actually complete the transaction, he suggested that would be a good place to start. He would not suggest that you use a pilot program for the study because by just adding docks and describing later if it worked or not, is not a natural study.

Jamie Hart thought a study from constructively charging fees from controls; safety, security, docking issues, etc. things that had been addressed would be appropriate. He thought that staff would approach the Board later on many of these operational issues at some point in the future since none of these had been addressed.

Mr. Terrell said the pilot project is at the museum adjacent to the New River Trading Post with a 100' floating dock planned for the site. He said there would be mostly small boats averaging 20' – 25' and cautioned that parking a boat on the New River or anywhere with the current or the wind is not like parallel parking a car. He thought it was safe to say that the maximum number of boats that could moor at the dock would be three or four boats. He said that is the extent of the pilot project. He thought it was akin to opening a restaurant and then saying that there is a limit of four people and then provide some advertising and tell everyone to come to the restaurant, but after a limit of 4 patrons is reached everyone else is told to go home. He thought

that it would be unlikely anyone would come back after the second or third time or even after the first time. He said that the pilot project of one dock is doomed to fail based on fact that there is not enough use for boaters.

John Terrell suggested a pilot project that includes five 100' docks with aggressive advertising to let everyone know that this is a user-friendly environment for small boats. He suggested we make a selection of where those docks be located, cost, permitting process and find ways of funding this program. He further suggested the program be done at the same time because just installing one floating dock is not sufficient.

Chair Barry Flanigan stated he had the chance to talk to Bruce Larkin and wanted to take advantage of some of the expertise in attendance tonight and thought the Board needed to hear from them. He asked that before the meeting ends that they consider a list of locations and then have staff report back to us next month and possibly get a wish list out of everyone and develop four or five additional day dockage locations. He said they should also count the floating docks at Las Olas and advertise them as well.

Mr. Jeff Falkanger from Falkanger, Snyder, Martineau and Yates Architects and Engineers indicated that he was new at this sort of thing. He thought that the City was within 45-60 days of getting the 2 permits for the dock in front of the New River Trading Post. He said that currently there are no federal regulations that are even in process with regard to wheelchair access and that Mr. Bob Bekoff from waterbus was going to testify in Washington later this month about different regulations for smaller boats, etc. He said that Mr. Hart has done everything that is required with the permitting process. He said that he spoke to a representative from the Army Corp of Engineers (ACOE) in North Palm Beach and she was very helpful with regard to some of their waterbus terminal issues. He said that while he was there he asked about John's request with floating docks and I was not aware that you have gotten that far with permitting. He said the main concern is that if the City tries to ask for permits for several docks now even though you ask for 4 or 5 and go through the permitting it will be difficult to build one. He said that he was very concerned about the impacts caused by the Manatee issue that are coming out. The representative from the ACOE provided some input into the permitting by making it clear when applying that we were not increasing the number of boats, but just allowing existing ones that are already there to dock. He said she advised him of how to draft an appropriate response for her comments to the Florida Fish and Wildlife Conservation Commission (FFWCC).

Steve Tilbrook said that sounds interesting. We are challenging the Boating Facility Siting Plan limitation on transient dockage. He said he would like to put that on the record from a legal perspective.

Mr. Falkanger commented on the floating dock plan for the Trading Post site.

Jamie Hart indicated that the current sketch is for permitting purposes and that the parallel dock is a schematic with really no true construction dimensions. He said the length of the ramp they have will ultimately be longer should they have to provide ADA access to provide the correct handicap slope for wheelchair access to the dock.

Mr. Falkanger said the waterbuses are designed to be at the exact height of the floating platform to allow the wheelchair to have access on and off. He said the gangways also have to meet

the slope design for handicapped access as well. He further said that the average boater and probably 99.9% of the boats are not going to have adequate access on and off to the shore.

John Terrell said he listened with great interest about the day docks over at the Las Olas Marina and thinks the correct place for the floating docks is on the New River. He said all of the restaurants on the New River are within 50' to 100' from the water, but when you go to the Las Olas Marina you need to walk a couple of blocks to get to restaurants such as the Quarter Deck for example. He said he liked the parking meter idea that in the parking lot at Las Olas Marina. He thought you could add slips to the system, but there would have to be a City ordinance to have the ability to ticket boats.

Mr. Falkanger said that a 100' L X 8' W dock is a lot different than a 10' W X 20' L floating barge in terms of design and use. The impact against the side is a little different from what you would have with the boats.

Norbert McLaughlin asked if a contractor had been selected for the floating docks. He said there are quite a few contractors and we needed to look at the price range and suggested there some similar designs at the Boca Hotel. He clarified by saying that they actually contour the floating dock to an oval shape or curved wall, which is ideal for expansion purposes. He thought the area from the Broward Performing Arts Center all the way around almost to that Riverhouse would be an ideal place for type of dock.

Steve Tilbrook wanted to know how long it should take to get a permit for a floating dock when there is a submerged land lease already in place.

Jeff Falkanger indicated that if the ownership is unclear it may take 2-3 weeks or a month to do the research to find out who owns the land and if it can be used for dockage. He said that with ownership and a submerged land lease involved it eliminates a lot of steps that the State normally takes and speeds up the process. The DEP once they have is required to provide comments to a permit application within 60 days after it is submitted.

Steve Tilbrook wanted to know if they had their act together with locations for day dockage, engaged a consultant to prepare the plans and submitted the applications, would it be possible to obtain dock permits within 6-9 months.

Mr. Falkanger replied that quite honestly in his opinion the application material for the waterbus terminal under the bridge can be ready in 30 days, but the 100' floating dock is a larger process.

Steve Tilbrook wanted to know how long it would take to get through the permit process.

Mr. Falkanger replied approximately 4 months from when they submitted the application, including design, which takes the longest amount of time. He said it has taken longer, but then this only the timeframe to respond. The State then asks for additional information, which they have done in our case.

Mr. Hart said that the permit the City was seeking was a totally different kind of permit. He said the waterbus permit was for a landing utilizing temporary spuds and that our permit for the 100' dock was for a permanent structure. He said that the City had been in the permit process as described in the attached schedule from September 2003 to December 2004 and permits were

being finalized within the next 30 days. He thought that if someone such as a consultant was doing the work consistently it could be done in less than a year.

Mr. Hart continued that we may talk about the delays or how long it takes to get through, fully half of it or more is the consulting from when I knew what they wanted. He stated that he had a lot of issues with the property owners and getting things signed. People tracking down their submerged land lease numbers and stuff like that. It wasn't that DEP was just sitting there and not doing anything. After awhile I get to know exactly what they want and when I go up there I have a complete package. That is the trick. Turn it in so they do not ask for additional information. In fact they customized a checklist for me so they said, "come in with this" and we would sit down and just take a look and she would say okay that file is complete. So, you have to keep after it from this side.

Tom Gleason stated he had a few words on the subject. I really did not know this was on the agenda tonight. I came here to relate to the Board my experience of docking at the Las Olas Marina for three days over the holiday as a local boater.

Mr. Gleason recalled that when he was on the Board there was always a deferral on the subject because the City did not have a Masterplan for the New River and the State would not consider a permit until the City had developed this. There were delays on how the master plan would get together. He said he would like to talk about a great experience he had as a local boater at the Las Olas facility and particularly to commend the staff that operates down there because they are professional and efficient. He said he was impressed by a couple of things. He said upon his arrival he received a nice brochure that the staff hands out and the automated computer program that has a very effective system of checking customers in and out. He said that it was truly a great all around experience. He said that as local boater he plans to return. He said he uses Las Olas Marina because his boat is 25' in length and the Downtown City Marina does not offer a lot for small boats. He said he realized that the marina is not fully functional for small boats at this time, but would be happy to tie up at any of the new beautiful docks that have been put in and designed to accommodate smaller boats with step-downs. He said that the plan was working at Las Olas Marina and his experience was much better than I heard related by staff here tonight. He suggested that since there is no fendering particularly these docks for about 20' long with fenders off the fingers. He said that while he was there another small boat came in and asked about day dockage, which they accommodated and then went off and had lunch. He thought there is demand for day dockage in this City with advertising. He also encouraged the Board to operate the Downtown New River Marina as a prime Marina as it comes online similar to the professionalism at Las Olas Marina.

Joe Hessmann stated that a few years back he gave the contractor permission to develop our River and we do not want to repeat that fiasco. He said it cost the City hundreds of thousands of dollars in lost rental fees because the contractor did not do what he was supposed to do. I want it in the minutes so there is no guessing later on when they shut down the docks when they are under construction like before and we cannot use them and once again lose revenue. I want to make sure that we prevent the contractor from lying to us and we are not put in the same position. He said the New River South project is supposed to be completed on January 18, 2005. He said that he hoped in seven days and that all of the docks could reopen so the City can start generating revenue. He agreed with Mr. Terrell that one dock for the pilot program is ridiculous and that this had been mentioned before. He thought there needed to be five docks on the river and that one dock will create the same problem Mr. Terrell has mentioned with boaters trying it and never returning. He wanted to have five docks and to

make the decision at tonight's meeting. He asked the Chairman that they should not accept this unless there were five docks. Mr. Hessmann wanted to put it in the form of a motion that we demand five docks be put on the river.

Joseph Hessmann further stated that we have two now and we need three more. He said that if we can place them on the river at one time and have a campaign program tied in with Las Olas Marina and have the revenue go back into the marine business in the City of Ft. Lauderdale instead of having the funds go somewhere else.

Chair Barry Flanigan replied that he had spoke to Bruce briefly and wanted to come up with three or four locations that would be added to the current sites and if the Board could not get any answers tonight then it could expect that staff will come at a later date with a wish list or they might have to go outside for consulting work.

Barry Flanigan stated that the Commission felt at the time we could do it in-house. He said we need to have a very open mind about the possibility of how that could go today since it is not our decision. He said if we do not ask for them it will not happen and we also probably can look towards the private sector to offer some assistance or expertise. He thought they should let staff come to the Board tonight with four locations, three locations, five locations and let staff give them the opportunity to research and then review it again. He said this realistically would include research into the total cost and the possibility of hiring a consultant to do this work.

Mr. Flanigan asked if there were any comments.

Jamie Hart said he had spoken with Kaye Pearson and he that he could not be here even though he wanted to be here. He said that he did tell him that he would be interested in donating money towards a portion of the docks and had some suggestions for a less expensive dock. He indicated that they also had looked into a cheaper type construction such as recycled plastic or a wood plastic composite. He pointed out that an aluminum type construction with a plastic type float is \$20-\$25 per square foot versus \$60-\$70 per square foot for a concrete floating structure.

John Terrell suggested the Board consider adding 5 docks to the New River. He thought there were funding possibilities out there that had previously been mentioned. He suggested the Board decide on the locations on the New River and also consider the Las Olas Marina which needs to be more efficient and user friendly. He wanted to add the Las Olas Marina floating docks to the whole program and add five on the New River, the area where the proposed floating dock is and all they way around up from the Post Office property. He thought the other side of the river where the Marshall Point area is located is ideal since there are some phone lines and other utilities in shallow areas on the east side that floating docks would protect. He thought there was a significant amount of room on both the North and South side right on that bend. He said this area has a submerged land lease on the bottom of 3' - 4' in depth and you cannot dock a boat at low water. He suggested that if a floating dock was installed 8' or 9' off shore it would drop the depth to 18'.

John Terrell suggested that the dock on Riverwalk in front of John Baker's restaurant is a prime location for day dockage. He mentioned that there also was a section up from there under the S.E. 3<sup>rd</sup> Avenue Bridge that we talked about. He said he agreed that the area outside the Broward Center for Performing Arts is crying out for day dockage. I think we have to be careful of the section where the Esplanade Park is because there may be vista issues with the Science

Museum that are not conducive. I believe the park was actually designed to not allow day dockage there. Mr. Terrell said there is section at Smoker Park that they may consider for day dockage. He said that at the Stranahan House right next to Las Olas will be the hottest location for day dockage in Fort Lauderdale. He asked if there could be testimony from other people in the audience that may have ideas, but said these are probably five locations right there that I just came up with.

Chair Barry Flanigan stated that one day we were talking about the feasibility of constructing a floating dock over the New River Tunnel that would bridge out someway with a dock to give you access to Las Olas at the tunnel on the Las Olas side or the North side of the river.

Jeff Falkanger replied to the Chairman that they designed the Stranahan location with a step down and he would have to talk to engineering and with the architects that designed the project. He thought it could be done if they did not design the location to low.

Jeff Falkanger added that one other problem with the tunnel is that the FDOT probably will have concerns about driving pilings down too far because of the structural integrity of the top of the tunnel.

Chair Barry Flanigan stated he could not imagine the Stranahan House wanting to have a floating dock out in front of their place. There is a water taxi stop planned for there and there probably is a way to put a floating dock there if there is a way to physically fasten it.

Steve Tilbrook stated he was not recommending the private property of Stranahan. He thought that behind the Hyde Park Market that was part of the construction and the connector for Riverwalk at this location should be designed properly.

Jamie Hart stated that Mike Fay had designed the Stranahan site and it was his understanding they wanted the area to be very passive. He said he liked the idea of the dock over the Hyde Park property due to the size and width of the river.

Chair Barry Flanigan stated the Board would not have to be concerned about development rights and asked if we controlled the water. He said this may be a question for the City Attorney.

Dr. Udell asked if they could make a motion. She said they had spent about 50 minutes talking about this one item. At this point she did not think they were accomplishing anything.

**MOTION** was made by John Terrell that we recommend to the City staff that we provide options for five floating docks on the New River along Riverwalk. We would like recommendations from City staff on how to convert the floating dock at the Las Olas Marina so that it can be used for more transient use and added to the whole program. We would like to see the five docks on the New River with a marketing plan. We recommend that a private consultant shepherd this project through the permitting process and design.

Steve Tilbrook seconded the motion and asked that it be amended to be a recommendation to the City Commission rather than the City Staff.

Steve Tilbrook asked if we also wanted to limit this to five locations.

Chair Barry Flanigan stated the five areas as the City Marine Facilities/Dockmaster, S.E. 3<sup>rd</sup> Avenue Bridge, Performing Arts Center, possibly Smoker Park and Hyde Park.

Steve Tilbrook asked if John Terrell wanted to make those areas part of the motion?

John Terrell agreed to include those individual locations in the motion to the City Commission.

Eugene Zorovich stated he thought the motion was a good one but did not feel it should not include locations.

Chair Barry Flanigan thought when you consider the locations there is some upland use and that is what we are collectively coming up with. If we ask for this and its not here it's over here.

John Terrell amended the motion to include any alternatives.

Eugene Zorovich stated that besides the motion we should have City Staff provide all the alternatives we possibly have next meeting. He would hate to end it here with only the five locations discussed and be the only locations we are going to look at.

Steve Tilbrook stated he would prefer that they keep the motion to hire a consultant to come back to us. He said he was not confident that they can get a quick response from City Staff on alternatives.

Vice-Chair Norbert McLaughlin stated that if you are asking the City Commission to hire a consultant in May then the motion may not be granted.

Jamie Hart stated we did not have a consultant right now we would have to go through a whole process to do that. I do not think we can come back at the next meeting due to workloads and the time it would take coordinate with staff. It would have to be at a future meeting and we would certainly try to do it as quickly as possible. He said he would get with the Chair and develop a timetable.

Jamie Hart added that ultimately if he could obtain quotes and can hire a consultant out of existing funds in our budget this can be recommended. He said that obviously the condition related to the Boat Facility Siting Plan creates an immediate need for urgency and we cannot wait a couple of years to get a single dock permit.

Joseph Hessmann stated that he did not agree with the consultant. He said we had requested a consultant and the City Commission turned it down. He thought this was a waste of time. He thought they omit the consultant from the first draft of the motion and add a second motion and reinsert the consultant.

Steve Tilbrook stated he did not think that they could get hurt by the motion by asking for a consultant. He said the City can always turn us down on the consultant then it just falls right back on staffs back. He though that the motion could be worded to ask for a consultant, but in lieu of a consultant to make it a priority for staff.

Joseph Hessmann added that if it was just going to go to staff there was a budget problem now and he doubted the budget would allow it and that should be assumed. Mr. Hessmann



reiterated that we have had alternative financing mentioned on the floor already. He wanted to know why the Board was worrying about City funding and all the related things.

John Terrell stated the motion is we recommend to the City Commission that we select five places on the New River to put floating docks and that we do whatever changes are necessary to use the floating docks at the Las Olas Marina and that we consider hiring a consultant to shepherd this project through and in lieu of hiring the consultant we put it back to City Staff to design the project and Shepherd it through as a priority.

Steve Tilbrook seconded that motion.

Steve Tilbrook asked if John Terrell and Chair Flanigan wanted to identify the five locations, with the alternative to come up with additional locations, be added to the motion. He said by adding it why not send it to the City like it is then have this Board coming back next month with five locations and make a decision then.

Chair Barry Flanigan states that we left that open as alternative sites and he was trying to get away from having the City Commission make a decision on the sites that we are thinking about now. I think that this is going to be a living process. These sites are going to come and go and they are going to be evaluated. My recommendation is we get on the record with this motion, get the process moving and then we can work with the sites as the process develops.

Chair Barry Flanigan called for the vote.

Motion carried unanimously.

### **Old/New Business**

Jamie Hart stated that there was a walk on item just basically for information purposes. Connie Camet announced an upcoming event the "Blessing Of The Fleet". She said All Saints Episcopal Church on Tarpon Drive holds this, which is on the New River. She said they have a great piece of land right on the New River and a block off Las Olas and this is the first annual Blessing Of The Fleet which is an entire weekend event. She informed everyone that the event is February 5-6, 2005 and they were seeking the appropriate approval since they were scheduled to appear before the city Commission on January 18, 2005. She said the marine part of the event occurs on Sunday afternoon February 6, 2005 at 1:00 p.m. She said it was a controlled event with boats being pre-registered and routed from the Intracoastal Waterway. It will be up to each boat to take care of their safety after that. She said they have applied for permits with the Coast Guard and the City and met with the City Parks and Recreation Department.

Jamie Hart stated that this type of event would not require any formal closing of the river so it's not something that really would require the Board's formal recommendation although they are sincere about their efforts to appear before the Board.

I do not think there is any other old/new business.

Dr. Udell suggested Connie Camet get all the boat Captains cell phone numbers and she said she would.

Connie Camet added that there would be a skipper's meeting on Friday evening, which did not get into the brochure. The web site listed on there is the Church web site and there is a link to our Blessing Of The Fleet web site. If we appear to be stumbling a little it is our first year and we are trying to learn. We will take all the advice we can get.

### **Reports**

- a. New River Docks/Riverwalk Construction Projects Update**
- b. Broward County Marine Advisory Committee**

Jamie Hart stated he received an update form the Engineering Inspector and the New River South roadway access from S.E. 5<sup>th</sup> Avenue appears to be on line. Mr. Hart reported that the dock end of the project appears to be online for both the Riverwalk South and Marshall Point at this time.

Chair Barry Flanigan stated that they are one Board member short and that a new member should be appointed next month. If there are no other items the meeting adjourned.

### **Adjournment**

There being no further business to come before this Board, the meeting adjourned at 10:10 p.m.

Respectfully submitted,



Debra Giehtbrock