

MARINE ADVISORY BOARD

February 2, 2006 – 7:00 P.M.

CITY HALL

CITY COMMISSION CONFERENCE ROOM – EIGHTH FLOOR

100 North Andrews Avenue

Fort Lauderdale, Florida

<u>Board Members</u>	Present	Cumulative from 5/01/05	
	Absent	(P)	(A)
Randolph Adams	P	P-7	A-1
John Baker	P	P-7	A-1
Joan Brochu	A	P-5	A-3
Richard Duncan	P	P-8	A-0
Joseph Hessmann	A	P-6	A-2
Heather Keith	P	P-6	A-0
Roger McKee	P	P-7	A-1
Norbert McLaughlin	P	P-7	A-1
Robert Sadowski	P	P-6	A-3
Rick Schulze	A	P-4	A-3
John Terrill, Chairman	P	P-8	A-0
Stephen Tilbrook	P	P-7	A-1
Dr. Geraldine Udell, Vice Chair	A	P-4	A-4
Eugene Zorovich	P	P-7	A-1

Staff

Jamie Hart, Supervisor of Marine Facilities

Jeff Modarelli, Assistant the City Manager

Bruce Larkin, Director of Business Enterprises

Marlene Kimble, Downtown Facilities Dockmaster

Mike Horn, Intracoastal Facilities Dockmaster

Sergeant Andy Pallen, Fort Lauderdale Marine Police Unit

Visitors

Frank Herhold

Sara Stuart

Alex Heckler

Gordon Connell

Julian Gonzalez

Jerry Knight

Kirk Lofgren

Tyler Chappell

Jim Stork

I. Call to Order/Roll Call

The February 2, 2006 meeting of the Marine Advisory Board was called for order at 7:03P.M. by **Chairman Terrill**. A quorum was achieved with ten board members present.

II. Approval of Minutes - January 5, 2006

The minutes of the January 5, 2006, meeting were reviewed.

A motion was made by **Mr. McKee** and seconded by **Mr. Adams** to accept the minutes with no corrections, deletions, or additions. A vote was taken and the motion carried unanimously.

III. Waterway Crime and Boating Safety

Sergeant Pallen was happy to announce that January was a slow month for crime. There were no vessel accidents and only one burglary to a vessel of fishing gear. A suspect has been identified in that incident and law enforcement is in the process of locating and apprehending the perpetrator. Sgt. Pallen added that training for the fire rescue boats has been started with an 8-hour course covering waterway fires.

Mr. McLaughlin made a motion to add an item (The Plywood Regatta) to the agenda and place it in the number four spot, thereby moving the rest of the items down by one number. Mr. Duncan seconded the motion. A vote was taken and the motion passed unanimously.

IV. Plywood Regatta

Frank Herhold spoke to the Board, thanking them for allowing this item to be placed on the agenda with late notice. He explained that this event is a children's boat building contest that has run every April for the last nine years. The event started off with 7 teams the first year and has built up to 36 teams as of last year. The children are under the instruction of a seasoned

marine adult who oversees their building and racing a boat. The event needs to be held on city property this year due to its size. Mr. Herhold advised that Parks and Rec have approved this decision.

Gordon Connell and Marlin Singmaster were on hand to assist with tonight's PowerPoint presentation and to answer any questions. Ms. Connell advised that due to the growth of this event, tonight's appearance was to request support for the use of George English Park for the 10th Annual Regatta as a safe environment is needed to build and race. This year's event is scheduled for April 29-30. Mr. Zorovich noted that currently that marina is storing racing sculls, and asked that would cause any problems. Mr. Hart answered that those could be moved. Mr. Connell went on to say that the funds raised by this event are slated for marine magnet programs such as the Marine Technical class at McFatter. Mr. Duncan inquired where the boats would actually race. Mr. Connell answered in the lagoon area. He added that there are life guards available and each member must wear their life jacket. Mr. Duncan inquired if parking would be a problem. Mr. Connell does not anticipate parking problems. Mr. Adams added that he acted as a mentor for the Regatta, and feels it is a program of value. Mr. Sadowski inquired if the dates were over a weekend, and if so would that cause a problem for other uses. Mr. Connell noted that they intend to block boat ramp A only and that ramp B is still available for public use. Sgt. Pallen added that in his opinion there was enough room for other citizens. Mr. Hart added that this event will be monitored this year and adjustments can be made at future events if there are problems or conflicts with other vessels. Mr. Herhold noted that this is the slowest time of year and that spotters are used for safety. Mr. Tilbrook inquired if the lagoon was safe for swimming, referring to bacteria levels. No one knew of any problems at this time.

Mr. Zorovich made a motion to seek Commission support and approval and provide the parking and boating facilities without cost for the Plywood Regatta. Mr. Duncan seconded the motion and suggested adding the words "strong recommendation" and also "to make this a permanent spot for this event for the future". Mr. Zorovich agreed to the changes. A vote was taken and the motion passed unanimously.

V. Dock Waiver of Distance Limitations - Il Lugano, LLC

Mr. Hart noted this item was deferred from last month due to improper notification. This waiver is being submitted to reconfigure the dock facility to include 20 dock slips extending a maximum distance of 50 feet from the property line. The proposal is to construct 5 wood piers and 11 mooring pilings 18' and 40' respectively from the property line. The survey shows navigational controlling distance in this area of 300' . According to the ULDR it specifies that the moorings and docks may be constructed to extend a maximum distance of 30% of the waterway or 25 feet, whichever is less. Section 47.19.3.B allows the City Commission to grant a waiver when extraordinary conditions exist. All required permits have been approved from the South Water Management District, the Broward County Department of Environmental Protection, the U.S. Army Corps of Engineers, and the FDEP. The property is zoned as RMH 60, residential, multi-family, high rise, high density.

At least 415 property owners have been notified within 300 feet of the property. Several written objections have been received from: Country Club Estates HOA, Mercedes Kember, and Mr. Herman Collins.

Mr. Hart showed a comparison of other projects that were approved for waivers along the Intracoastal Waterway, and added that this waiver presents no real impact in terms of the structures.

Mr. Tilbrook inquired if there was a limit to the size of vessels. Mr. Hart answered that they can't dock outside the lease area, which is 50 feet, measured from the edge of the channel to the nearest piling. Mr. Hart suggested that if this waiver is granted the following requirements be attached:

1. must comply with all applicable building and zoning regulations, as well as any other federal and state law requirements.
2. reflector tape is required for the outer most moorings as required by the ULDR.
3. , vessels moored perpendicular to the property cannot extend the distance of the proposed mooring which would exceed the limitations of the proposed submerged land lease.
4. required to comply with all other conditions of the site plan approval previously granted.

Tyler Chappell was available to answer questions from the Board. Mr. Chappell noted that the lease area was 50' from the seawall; however, the boat size will max out at 45'.

Mr. Zorovich went by the property and inquired about the sign posted there that announced a person could buy a dock now and park their yacht later. He inquired how they were going to police and control that to make sure all the regulations are being met. Mr. Chappell answered that as part of the lease document that was issued and as part of the applicants permit he had to submit association documents as part of process that says he's limited to that size boats. He added that DEP does inspections and violators will get a notice to move or lose the lease. Mr. Adams inquired as to the price of the units. Mr. Chappell was not able to answer that question. Mr. Adams feels the price of the units will encourage large boats.

Mr. Duncan inquired if the docks were being sold separately or were part and parcel of the residential unit. Mr. Chappell answered that the unit is owned with the dock and cannot be leased or subleased. Mr. McKee asked if permits were required for removing the old docks. Mr. Chappell answered that permits were required and they applied for the seawall portion in the removal of the dock. Ms. Keith inquired what the minimum distance was of the channel that we have allowed on other approvals of waiver. Mr. Hart noted that the waterways were much wider. The channel is the same everywhere. Mr. Chappell noted that in the Venetian and Porto Fino the waiver was shorter than what they have now, but they are not located on the Intracoastal. Ms. Keith asked how much of a waiver were we being asked to consider from the outside pilings. Mr. Chappell answered it was 15' additional in the 300' canal.

Mr. Tilbrook noted that this section of the Intracoastal is narrower and there are multifamily units here. He added that the criteria under the code are that there has to be a demonstration of extraordinary circumstance, and inquired what they might be in this case. Mr. Chappell noted that where the dock is located there is an area that is shallow and a boat cannot be moored. They have to be docked stern first, bow out. He added that there is a depth issue in this area, and parallel parking harms boats. Mr. Tilbrook added that from his perspective needing to dock a larger boat is not extraordinary circumstances. He added that from Sunrise Boulevard to the north this would be one of the first to have this type of dockage on the Intracoastal, so it will be precedent setting.

Chairman Terrill noted that the code has no such definition, and that Mr. Tilbrook's definition is not to be held to that standard. Mr. Tilbrook added that he compared it to other parts of the code where extraordinary circumstances are defined. Mr. Zorovich opined that we basically have rubber stamped these waivers in the past and his concern is that boats are getting bigger. He added that the restaurant Yesterday's, which is closed, is across the way and sooner or later someone will buy it and construct more high rise units and be in here asking for a waiver. Someday there won't be any space left to navigate the channel safely. He wonders where this will end and proposes we put a stop to it.

Mr. Adams inquired if dredging the channel was a possibility. Mr. Chappell answered that they cannot dredge in the Intracoastal. Mr. Duncan noted that this plan show no water at mean low, and it's actually showing minus one. Mr. Tilbrook asked about the nearby community and the letters of objection. Mr. Chappell answered that they had met with the associations and went over the project and addressed their concerns. Once the community learned of the project and had their concerns addressed, they were appeased. Coral Ridge Towers on the north side had a board meeting in 2005 where they voted and approved the waiver.

Mr. McLaughlin questioned the code, what if someone puts in a 60-70' boat, who polices that? Chairman Terrill noted that when the police see an obvious violation, they call it in; however, it was noted that the water officers don't have any idea of where the variances are. Chairman Terrill added that it would not come to the attention of code enforcement unless it was called in. DEP inspects annually, and infractions are cited. In addition the county has inspectors as well.

Mr. Tilbrook requested clarification: This is a condo development and the client will sell a dock slips along with a unit as an accessory amenity? Mr. Chappell answered yes, and it will be a 5-year lease based upon submerged land lease of public land.

Chairman Terrill opened the meeting to the public. A petition was received from Coral Ridge Tower with 136 signatures opposing the proposal.

Jerry Darka (phonetic) representing Coral Ridge Towers addressed the board. He noted the docks are being advertised at a cost of \$250,000, which seems high to him to dock a 40' boat. He added that he has called in

complaints for speeding and has gotten a response, but added that there is limited staff to deal with these types of issues. He has a concern is the safety of the boats that build up waiting for the bridge to go up. His main concern is for manatee safety. He noted that under the Oakland Park Bridge there was a manatee area sign that pushed the boats into the center of the canal. This sign was destroyed in the hurricane and has not been replaced. He pleaded with this board to not make this area another Coney Island. He added that the statement that the Coral Ridge board approved this concept is untrue. Chairman Terrill asked if Mr. Darka was an officer of the condo board, and Mr. Darka answered that he is not.

Dennis Anderson, Vice President of the Board at Coral Ridge Towers, addressed the Board. He advised that this property is going to be utilized as a condo-hotel with 100 rooms. His concern is that the hotel rooms will have access to the dock spaces on a rental basis. He inferred that as the Coral Ridge property has a 425-foot frontage, if this waiver is granted, they would also consider applying for a waiver. He noted that this is a very congested area. Mr. Tilbrook asked if there was dockage at the Coral Ridge property. Mr. Anderson answered yes, there is parallel dockage but there are not boats there overnight. Mr. Tilbrook inquired if, in Mr. Anderson's opinion, there was anything unique about the proposed property that would warrant extraordinary circumstances. Mr. Anderson answered it would only be the commercial use.

Mr. Duncan noted that during the week this area is a slow speed area. Mr. Anderson added that it turns into a speed area past the bridge.

Robert Cuff, developer of Lugano, addressed the Board. He said that misinformation was being promulgated. He stated when he got site plan approval Coral Ridge Towers supported him 100%, as did the building south of the location. This project was approved by Planning and Zoning by a vote of 8-0, with Commission Teel supporting the project. The Coral Ridge Towers wanted to purchase the palm trees and lights from the construction site. Mr. Cuff gave them the trees and lights. He is surprised with their attitude tonight. He noted that there is no advertisement for \$250,000 selling price of a boat slip, adding that there is no selling of any boat slips. He is selling the right to use the slip for 5 years. The condo hotel is 105 units and the residents can stay 60 days a year with no right to boat slips. The slips are owned by 10 permanent residents.

Mr. Duncan inquired if the permanent resident can sell the slip with the unit. Mr. Cuff answered that the slip must be sold with the unit. Mr. McLaughlin noted that the only thing this Board is going to approve is the waiver for the mooring piles, the docks have been approved. Mr. Herhold, from MIA SF, commented that due to the Boat Facility Citing Plan the county is counting every slip, these are additional slips and are important.

Chairman Terrill closed the meeting to the public.

Mr. McLaughlin noted that \$250K is not expensive in today's world, but he added that the cost of the docks have nothing to do with the waiver. Chairman Terrill agreed that the city needs additional docks. The speeding issue that was mentioned has no bearing on this waiver; however, the manatee issue is related to speeding. As this is a no wake zone, docked boats won't change that, and in fact, with more boats there it might discourage speeding as opposed to a wide-open canal. Congestion on the weekends is a possibility. Chairman Terrill announced that he supports the waiver and asked for additional comments from the Board.

Ms. Keith asked what the distance was from the proposed pilings to the bridge to the south. It was estimated at 500 feet at least. Ms. Keith asked if staff was recommending approval. Mr. Hart answered that staff does not make recommendations, but added if the Marine Advisory Board approves the waiver, staff recommends that the conditions cited be added to the proposal. Mr. Adams noted that approval of this on a vacuous hardship will set a precedent along the Intracoastal. Mr. Zorovich evaluated both sides and determined that the congestion will become unpleasant. Chairman Terrill noted that the boats are legally there but it's a matter of how the boats can be secured. Mr. Duncan noted that this waiver is for 15', adding that the only place we can build docks is on the waterways. Mr. Tilbrook added his concern that according to the code criteria he feels extraordinary circumstances were not met. He agrees the marine industry is important for our area and we need more docks. He is concerned that if we support this application based on these circumstances that will set a precedent for all multi-family properties along the waterway. He noted that he will not support this waiver and that his neighborhood does not support it, nor does, in his opinion, the code. Mr. Baker noted that Shooters still has their functions on the weekends whereby boats dock out more than 100'. Mr. McLaughlin added that the codes were smaller when the codes were written,

and that the codes need to be changed. Mr. Duncan agreed and added that this Board has been talking about this problem for the past five years

Mr. Duncan made a motion to recommend approval of this waiver to the City Commission, such approval to include staff's conditions. Mr. McLaughlin seconded the motion. A roll call vote was taken, and the motion passed by a vote of 6 yes votes to 4 no votes. The no votes were cast by: Mr. Adams, Mr. Sadowski, Mr. Tilbrook, and Mr. Zorovich.

VI. Application – Dock Waiver of Distance Limitations - Judith and Donald Zimmer

Mr. Hart addressed the Board giving the details of the applicants, Donald and Judith Zimmer. He advised this applicant seeks to construct a cradle four-post type boat lift extending from the west end of a 5' X 36' existing marginal pier to a distance of 18'4 feet into the Rio Azul Canal. The UDLR limits the maximum distance of a boatlift to the lesser distance of 20' or 10% of the width of the waterway, whichever is less. In this case the proposed extension of the boatlift of approximately 5'8" from the property line would require a waiver. He advised that the boatlift presents no significant impact to navigation.

Mr. Hart advised that should the Marine Advisory Board approve the applicant's request for a waiver, the following conditions are recommended by staff:

1. required to comply will all applicable building and zoning regulations as well as any other Federal and State laws and requirements.
2. the applicant shall install guide poles on the boatlift in accord with the specifications established in the City of Code Ordinances, Section 8-91(c).

Mr. Zimmer was available for questions and addressed the Board briefly as to his intentions.

Ms. Keith inquired if there was any opposition from the neighbors. Mr. Hart advised he had sent out notices and has received no notice of opposition. Mr. Duncan inquired how wide the canal was at the specified location. Mr. Zimmer answered it was 126'.

Mr. Duncan made a motion to recommend to the City Commission approval of this waiver with staff's conditions. Ms. Keith seconded the motion.

Mr. Tilbrook inquired what the extraordinary circumstances were in this case to grant a waiver. Ms. Zimmer noted it was too shallow at low tide, approximately one foot deep. The current boat lift rusts out because of the metal impacting with the water.

Chairman Terrill opened the meeting to the public. There was no public comment. Chairman Terrill closed the meeting to the public. A vote was taken and the motion passed unanimously.

VII. Application – Yacht Haven Marina Expansion – Gerald Knight.

Mr. Hart advised the Board that he did not have time to complete a presentation for the next two items due to his work load. He gave a brief summary, giving a description of the property. He noted that this is a public marina development with a mixed use component, residential condos with recreational use as well. There are 48 slips ranging from 50' to 120'. There are 329 planned condos, clubhouse, a public marina, restrooms with showers, and pumpout facilities. He advised they do meet the minimum parking requirements in their plan. Under the ULDR this is a conditional use, which means they have to get approval for waterway use separately.

Mr. Hart advised that there was no problem in the hydrographics information. If the Board approves this waiver, staff made the following recommendations:

1. the depth requirement of channel and area encompassing the proposed marina site must be established in accordance with the minimal draft requirements for slip size accommodations.

2. dockage shall be for a minimum of 48 boats with at least one parking space for every two boat slips in accord with the City's parking code requirement for marinas in this zone.

3. no fueling or major boat repair work.

4. marina operation shall be equipped with oil spill containment and fire safety equipment.

5. no outside loudspeakers or amplification.

6. rafting of boats is not permitted except in case of emergency.
7. substantial changes to the marina site requiring an amendment must be reviewed by P & Z and the Marine Advisory Board.
8. applicant shall comply with all permits required by governmental agencies, and with all codes and regulations thereof.
9. Should county, state or federal permitting agencies impose stricter standards, their standards shall apply.
10. applicant shall install sanitation pumpout service at each dock slip proposed for live-aboards.
11. applicant shall furnish copies of final plans to the Supervisor of Marine Facilities for review and comment to the appropriate city department staff prior to finalizing permits with all required governmental agencies.

Mr. Duncan clarified that this project has not secured any permits at this time. Mr. Hart answered that they are not at that stage yet. Mr. Duncan inquired if a fire suppression system would also be required. Mr. Hart answered yes, and added that would be required under the building code. Mr. Duncan inquired why a fuel truck cannot go on the property. Mr. Hart noted that a fuel truck can be on the property. Mr. McLaughlin asked what was required of them from the Board. Mr. Hart answered that this proposer was seeking comments as part of the planning marine review.

Mr. Knight, who represented the applicant, was available for questions, along with Sara Stuart, planning consultant, Julian Gonzalez, the architect, and Kirk Lofgren, the engineer. He advised that this was a request for the Marine Advisory Board to review the marine aspects of this project. It's an RV park today. The proposed project shows a mixed use with 329 residential units and office space.

Mr. McLaughlin inquired if this would be a commercial marina, in other words the slips are not for sale. Mr. Knight answered it was intended for slip rental. Mr. Duncan clarified that it would be for transient docking, and Mr. Knight affirmed. Mr. Adams asked if the docks would be fixed, not floating. Mr. Lofgren answered that the docks are fixed within the base and along the outer it would be marginal docking, with a total of 52 slips. It is an existing marina. Mr. Adams confirmed that there would be a modest reduction in the number of slips. Mr. Lofgren answered that the slip number is based on vessel size, there are 52 authorized by historic permits. In an emergency the owner has allowed up to 120. It's designed for 50 – 120'

vessels. Mr. Tilbrook asked if they have been through DRC Mr. Knight answered yes with no variances. Mr. Tilbrook asked about the possibility of dry stack storage. Mr. Knight answered that that idea has been considered and it might be implemented as the project moves forward. Mr. Lofgren noted that from a manatee prospective the state is limiting the number of slips one may add to a certain site, so at this point they cannot add. He added that dry stack and wet storage is reviewed the same by code in terms of the state. Mr. Herhold noted that it is intended that the marine industry will fight for more slips and desires a dry stack facility at this location. He added that he is in favor of the project, adding that this property is grossly underutilized.

Chairman Terrill inquired if the lineal footage increased in this proposal. Mr. Lofgren answered that they are maintaining about the same number of boat slips. He added that boats are larger, so the figure may be slightly less. Mr. Duncan asked if the restaurant would be open to the public and will there be dockage for that purpose. Ms. Stuart answered that the restaurant will be open to the public and there are certain number of docks that will be maintained to invite the public. Mr. Gonzalez added that there is existing dockage space along the main waterway. The intention is to use those docks for transient visitors. Mr. Adams asked about the foliage on the property. Mr. Gonzalez noted it was an existing Mangrove and cannot be tampered with. Chairman Terrill advised the Board that he had visited the property and toured it with Ms. Stuart.

Ms. Keith inquired if a boat ramp would be located on the facility. Mr. Gonzalez answered there was no plan for a boat ramp at this time and added that the slips are being leasing. He noted that there will be no fueling at this site. Ms. Keith clarified with Mr. Hart that the Marine Advisory Board was being asked to conceptually approve this plan from a marine navigation standpoint that this proposed site plan does not give us problems from marine standpoint. Mr. Hart answered yes, and suggested if the Board is considering approving to add staff's conditions. Ms. Keith noted that if the final plan needs waivers, the project will come back before this Board. Mr. Hart concurred, adding that tonight's approval does not circumvent future waivers.

Chairman Terrill opened the meeting to the public for comments. There being none, Chairman Terrill closed the meeting to the public.

Mr. Adams made a motion to recommend to the City Commission approval of this waiver as proposed.

Mr. McLaughlin seconded the motion. Mr. Duncan suggested adding the word “strongly” recommended and “with staff’s conditions” Mr. Adams and Mr. McLaughlin agreed to reword the motion. A vote was taken and the motion passed unanimously.

VIII. Application – Storks Restaurant – Jim Stork

Mr. Tilbrook announced a conflict and he stepped down from the position of Board Member in this discussion. Mr. Hart noted that he was given the proper form from Mr. Tilbrook and he will file it with the City Clerk’s Office. A quorum was still achieved with nine members.

The applicant is requesting authorization to conduct gondola excursions from the Himmarshee Canal north of E. Las Olas Boulevard adjacent to an existing 6’X 30’ wood constructed floating dock and gangway. The waiver is for an excursion boat operation under section 834.10(12) of the code. The applicant is Storks Restaurant, The waiver is for the construction of a floating dock that is needed to load and offload passengers. The distance for the waiver is 6.51’. The zoning is XBOR which permits this as an accessory use.

Should the Board decide to recommend, staff asks that these conditions be included:

1. no rafting of boats shall be permitted.
2. the floating dock structure is restricted to loading and off loading of gondola customers only. Berthing of gondolas not in use are restricted to an area at the northern end of the property.
3. applicant must comply will all permits required by governmental agencies having jurisdiction over the waterways and all codes and regulations.
4. applicant shall furnish copies of final plans prior to finalizing.

The Marine Advisory Board’s comments will be referred to P&Z on February 15th. The applicant is Jim Stork. Also Alex Heckler, Esquire, was present for comments and questions. Mr. Heckler advised that they do have extraordinary circumstances as based on the code the dock in this area would only be four feet, which is not safe. They also site the rarity of this type of

venture in this area as an additional circumstance. The applicant desires to extend the existing dock for the purpose of boarding and unloading customers. The project needs an extra 6.51 feet. These crafts are not motored, these are man powered.

Mr. Stork noted that this is the only place that we can operate a man powered boat. It is a perfect fit for this area as it has access to Las Olas Boulevard pedestrian traffic. Mr. Heckler added that the waiver section of the code fits this floating dock. Mr. Duncan inquired as to the tide rise in that area. Angelino, the boat operator, answered that the tide rise was about three feet. Mr. Duncan inquired if the floating dock would be handicapped accessible. Mr. Stork answered there is a ramp in place already. He noted that the floating dock is six feet wide, and that there are two of them.

Mr. Adams inquired if without this waiver could they meet the ADA requirements. Mr. Stork answered that they don't have to meet those requirements as it is not considered a public facility. Mr. Zorovich asked how far the patio extends. Mr. Heckler answered twelve feet. Ms. Keith commented that she was in favor of this project. She did wish to place on the record that the extraordinary circumstances cited by the proposer were the running of a commercial operation in order to benefit a boat. Mr. Stork added that the boat is historic. Mr. Sadowski commented that the price is far less than in Italy. Mr. Duncan questioned the ADA portion of the discussion, asking if this is not a commercial operation, what is it? Mr. Stork added that they have met the requirements anyway, even though the slope does not require it. He added that you cannot put a wheelchair on a gondola, but access to the area should be accommodated. Mr. Heckler assured the Board that they will take care of any such requirements if needed.

Mr. Baker asked if the gondola goes out to the New River. Mr. Stork noted that the gondola goes out to the New River and turns there.

Chairman Terrill opened the meeting to the public.

Brett Bass commented that this dock went in without a permit originally. He feels they do not have extraordinary circumstances. They do not need floating docks, and it will make a hardship for the people across the waterway because the canal is slim. He feels the variance is more than they asked for. If this Board approves the waiver, Mr. Bass feels the impact would be greater than they proposer is stating. He feels the gondola is a great idea, but that they could easily accommodate loading and unloading

without this floating dock. He feels the intentions are disingenuous, and added that there is a boat docked there now. He is fairly confident that a gondola will be docked there at night.

Chairman Terrill noted that he received a phone call from Richard Mancuso, the president of the Beverly Heights Association, which is located on the north side of the canal, in support of this project.

Chairman Terrill closed the meeting to the public.

Ms. Keith inquired if there was a boat docked there at this time and if a floating dock was in place currently. Mr. Stork answered that the floating dock was in place, and that it is a prefabricated dock that is attached for security purposes only. He added that the concrete dock was properly permitted. He advised that the boat will be moved. Ms. Keith noted that the pictures provided to the Board did not contain the floating dock. She asked how much further it sticks out from the existing seawall. Mr. Stork felt it did not go beyond the patio. Chairman Terrill thought it appeared to be a foot beyond the cement.

Mr. Sadowski commented that the floating docks were already in place and this applicant is just now asking for a variance. Mr. Heckler noted that the request is for permanency and they have been working with city staff for over 11 months. Mr. Stork noted that it is impossible to load and unload without the floating platforms. Chairman Terrill agrees that getting into a gondola is not safe. It is clear that there is a dock there without a permit. He feels it is a good product for the area.

Mr. Sadowski also feels it is a great idea, and it should work out well here, but is concerned that eventually we will clog up every area of the waterway. He added that once again we are trying to come up with an exception to the rule. Mr. Duncan asked if they had applied for a permit. Ms. Keith noted that the permit would be denied at this point. Mr. Heckler noted that they did not need a permit for a temporary situation. Mr. Stork apologized if he personally did something the wrong way out of ignorance. It was noted that there is limited use in this canal. Mr. McLaughlin added that from a safety point of view, this is needed. Mr. Stork added that safety was there number one priority.

A motion was made by Mr. Sadowski for approval of the waiver to include all conditions recommended by staff. Mr. McKee seconded the motion.

Discussion on the motion:

Chairman Terrill suggested that the dock not be used for storage but used only to load and off load, and that the motion include the language “with all conditions as specified by staff.”

Mr. Sadowski and Mr. McKee agreed to the amendment.

Chairman Terrill noted that there is no question in his mind that with gondolas at the floating dock there will be some obstruction to passing boats.

Mr. Duncan commented that it has taken the city three years to get our floating docks approved and they all have to be ADA approved. He also feels we have not been given all the information.

Ms. Keith inquired if the operator has complied with all normal requirements. Mr. Hart noted that that will be part of the DRC review. He added that the Board’s approval will not only include the waiver but the gondola operation as well under section 8 of the Code in terms of the operation of an excursion boat on navigable waterways.

Mr. Adams doesn’t feel this item speaks to that part. Ms. Keith desires to place that portion of the item on a separate agenda for further review and discussion. She is prepared to vote on the motion on the floor, which is the waiver for the floating dock, with the recommendations made by staff.

A roll call vote was taken on the motion. The motion passed with a vote of 8 yes votes and 1 no vote. The no vote was cast by Mr. Duncan.

Ms. Keith had questions about the number of gondolas, how many captains there will be, and if the Jungle Queen has a concern. Mr. Hart was unable to answer those questions at this time. She encouraged the applicant to make these kinds of information available.

Mr. McLaughlin made a motion to table this section of the waiver for one month to allow time for staff to review and research. Mr. Duncan seconded the motion. A vote was taken and the motion unanimously.

IX. Old/new Business

Mr. Duncan announced that Bruce Larkin’s retirement reception will be held at the Embassy Suites and strongly encouraged everyone to attend...

Ms. Keith commented that the extraordinary circumstance in the code has always been an issue and she suggests this Board seek a definition. Everyone knows that boats are changing, being built bigger, requiring a change to existing codes. She admonished that unless and until that is

clarified we will continue to grapple with it. Mr. Duncan commented that this Board is about to be replaced soon, and this item is a good project for the newly seated board as this dilemma will take some time to work through. Chairman Terrill agreed. Mr. Tilbrook felt it was worth discussion and when this Board reaches a recommendation to the City Commission it will be a great service.

Mr. Baker announced that the Riverwalk Blues and Music Fest will be held soon. They are expecting upwards to 30,000 people, with 60 bands, over three days. There will be heavy activity on the New River next weekend. Mr. Tilbrook, on behalf of the Riverwalk Trust, thanked Mr. Baker for his efforts. He added that the first annual Riverwalk Trust Golf Tournament is being planned for February 16th, benefiting the Children's Diagnostic and Treatment Center. Sponsors are still being solicited.

X. Reports

Mr. Hart noted that the CCNA negotiations were coming along. He added that the consultant should be on board soon. The area in front of the post office will be included in the design frame, which will raise the project to six sites.

The application period for FIND grant is through the end of March. Mr. Hart advised that he will apply for the balance of the construction costs and the consulting fees. Then the whole project will be covered by grants, so no CIP monies will be utilized. Mr. Duncan was under the impression the Marine Museum would pay for their dock. Mr. Hart advised that that dock is city owned. The museum is a user of the dock and will have an agreement with the City for its use because of the size of the vessels that will be docked there, but it is available for public use. Chairman Terrill desires to agenda this item. This is a public floating dock, not a museum dock and this Board needs to regulate the use. Mr. Hart added that in the Planning and Zoning approval there is use of the dock, but it is not an exclusive use. He will research that and come back to this Board.

Chairman Terrill suggests that once a consultant is engaged, a community meeting should be held, to include the stakeholders (MAB and Riverwalk Trust) and anyone else interested, to sit in and weigh in on this issue. After that meeting, Chairman Terrill will volunteer to be part of the

design. As part of the contract, there will be four presentations. Riverwalk Trust is not part of the presentations. They are a very interested party in this venture and as such they should be involved in this process.

Mr. Tilbrook noted that during the site approval process by the Hyde Park Market site it came to light that the Hyde Park developer doesn't actually own the riparian rights at that location. He recommended that this Board consider that location as an additional location for floating docks.

Chairman Terrill suggested we agenda this item in preparation for the consultant.

Chairman Terrill announced that he had contacted Chris McFadden from the Public Works Department regarding storm water drainage. Mr. McFadden advised that there are 200 outfalls in the system. Storm drains are connected to pipes that go to a waterway or outfall. None of the 200 outfalls are currently being treated. Screens are in place to catch large debris. There is no program in place to deal with oil or sediment. A lot of shoaling is caused by this. The city is in the process of contracting an independent study to analyze the system and make recommendations. A pilot project site has been selected to treat one of the largest outfalls, which is located downtown along Andrews Avenue. The system separates the oil and sediment before it goes into the water. The cost of the equipment and installation is \$120K. We would need 200 of these to cover every outfall. Various interests are going to assist with this funding. The county has a priority list of where the greatest amount of pollution occurs. This list includes the north fork of the New River and the Middle River. The greatest amount of pollution can often occur because the current and movement is low. Mr. Duncan noted that this was a major discussion four years ago and added that there is a requirement that by the year 2008 this project has to be completed. Mr. Sadowski added that the city was cited by the federal EPA over ten years ago. A storm water runoff fee was attached to the resident's water bill every month. He inquired where that money went and how much has been collected.

Mr. McKee reported that the Broward County Marine Board had asked for a grant in the amount of \$41K for four outboard motors. Mr. Adams noted that the county has stopped buying motors, adding that EMLEG was for law enforcement, not for the purchase of equipment.

Mr. McKee added that the Board held a discussion on the lack of small dockage at Marshall Point.

Mr. Duncan desired to revisit Pollution Solution, adding that no reports have been forthcoming even though this Board has requested them.

XI. Adjournment.

Chairman Terrill adjourned the meeting at 10:03 P.M.

Respectfully submitted,

Jody E. Lebel, Court Reporter, Notary Public