

**MARINE ADVISORY BOARD
THURSDAY, JULY 13, 2006
CITY COMMISSION CONFERENCE ROOM – EIGHTH FLOOR
CITY HALL
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

BOARD MEMBERS PRESENT

**CUMULATIVE ATTENDANCE
FROM 5/4/06**

Randolph Adams	P-2	A-0
John Baker	P-2	A-0
David Bernier	P-1	A-1
Alec Anderson	P-1	A-1
Ryan Campbell	P-1	A-0
Richard Duncan	P-1	A-1
Barry Flanigan	P-2	A-0
Norbert McLaughlin	P-1	A-1
Rick Schulze	P-2	A-0
John Terrill, Chair	P-2	A-0
Stephen Tilbrook	P-2	A-0
Michael Widoff	P-2	A-0
Eugene Zorovich	P-2	A-0

Board Members Absent

Board members Alec Anderson, David Bernier, Richard Duncan and Norbert McLaughlin were not in attendance.

Staff Present

Jamie Hart, Supervisor of Marine Facilities
Jeff Modarelli, Director of Business Enterprises
Andy Pallen, Sgt. Ft. Lauderdale Marine Police
Alexandra Grant/Recording Secretary

I. CALL TO ORDER

Chair John Terrill called the meeting to order at 7:35 p.m. Roll call was taken.

Chair Terrill welcomed new board member Alan Gabriel who introduced himself and spoke briefly of his background. Chair Terrill also welcomed returning Board member, Ryan Campbell, who also introduced himself and spoke of his background.

II. APPROVAL OF MINUTES

Mr. Adams made a motion to approve the Minutes of the May 4, 2006 meeting. Mr. Zorovich seconded the motion. In a voice vote, the Board voted unanimously to approve.

III. WATERWAY CRIME & BOATING SAFETY REPORT

Sergeant Powell from the Fort Lauderdale Police Department Marine Unit provided a brief update on waterway crime in June. He advised there was one vandalism incident, one accident due to weight damage and one boat theft.

Chair Terrill asked about a boating accident the previous weekend. Sergeant Powell briefly described this incident which involved jet skiers and resulted in one tragedy. He advised that this would be a lengthy investigation.

Chair Terrill recommended moving up the discussion on item VII to be heard as item IV, with remaining items heard consecutively. There were no objections from the Board.

IV. PRESENTATION – CONSULTANT STUDY/BROWARD COUNTY DRAFT BOATING FACILITY SITING PLAN (BFSP)

Chair Terrill advised that the Broward Advisory Committee had met earlier that afternoon and passed 3 unanimous motions as follows:

1) to adopt and recommend that Broward County Commission require staff to incorporate and integrate all elements of the Marine Industries Association of South Florida paper dated July 11, 2006 into the Broward County BFSP;

2) to recommend that the Broward County Commission oppose all fees or taxes on additional proposed slips;

3) to recommend to the Broward County Commission that the BFSP include economic analysis of the plan relative to the Broward County marine industry.

Chair Terrill introduced Eric Meyer of the Environmental Protection Agency (EPA).

Mr. Meyer distributed two handouts entitled *Broward County Manatee Protection Plan* and *Executive Summary*. Mr. Meyer stated that these documents were created to explain why this plan was being adopted. He advised that Florida had adopted legislative mandates including the Manatee Sanctuary Act of 1978, designating Florida as a manatee sanctuary; the Endangered

Species Act of 1973, also designating manatees as endangered; and the Marine Mammal Protection Act of 1972, which called for a recovery plan for manatee protection. He summarized the content of both handouts and stated that the EPA had created its plan by incorporating results from relevant studies on manatee fatalities.

Mr. Meyer explained that the *Manatee Protection Plan* addressed boating safety, manatee education awareness and the boat facility siting plan to help reduce the effects of watercraft interaction with manatees. He explained the history behind the proposed BFSP. He stated that following the process in Lee County in 2004, Broward County had received comments from the Endangered Species Agency stating "that no new boat facilities with more than four slips would be recommended for approval until the county submitted a boat facility siting plan."

Mr. Meyer advised that this plan incorporated results from marine lab studies and provided for some increase in boating to meet current applications but tightened up in the south zone such as the Port Everglades inlet. He stated that the plan required the county to undertake additional law enforcement in the ICW in the south fork of the New River, and to continue conducting manatee surveys. The plan would also track and permit existing and future boat slip inventories.

Mr. Meyer referred to the *Executive Summary* document and briefly summarized this. He explained that requests had been made to isolate Port Everglades as a separate zone and to increase the number of slips provided to account for facilities that might undergo future expansion. Mr. Meyer announced there would be a public hearing on August 22, 2006 and spoke of the county's plan to create a core group to work on this issue.

Chair Terrill advised that the Board had recently been provided with the BFSP document along with the City's original boat facility siting plan prepared by PBS&J. He announced that Tyler Chappell, a member of the original core group for this issue, was also present to answer any relevant questions.

Stephen Tilbrook felt the plan appeared to be far down in the future and asked how many public meetings had been held. Mr. Meyer advised that this plan had only been presented to the core group so far. He advised that two workshops had been held back in 2004 but the direction had changed since that time. Mr. Chappell advised that the core group had met in August, 2005 after the last draft was sent out. Also, the group had met two weeks earlier to discuss newer concerns.

Chair Terrill asked whether the recommendation to isolate the port as a separate zone had come from the Commission's Select Committee or from the MIASF. Mr. Meyer responded that it came from the Commission's Select Committee. Mr. Meyer spoke of the difficulties in calculating manatee mortality from the data available. He advised that more manatees had been reported between the two power plants in 2006 than ever before. He spoke of a survey conducted of the ICW indicating that Broward County was primarily a cold weather refuge versus a year round heavy usage area.

Randolph Adams felt this was an issue of thermal pollution versus manatee refuge. He stated that keeping manatees away from warm water would avoid this problem. He was concerned about basing the boat facility siting plan and its economic impacts on what he felt was "conjecture and fuzzy science" versus concrete, empirical studies.

Mr. Tilbrook agreed with Mr. Adams. He pointed out that no solid economic analysis was provided in the documentation. He was concerned about what appeared to be radical punitive actions that landowners would suffer based on this document.

Mr. Meyer explained that in his view, balance was created by freeing up a number of slips in the county as a means of imposing additional protective measures for manatees. Mr. Tilbrook voiced his concern about jobs that could be lost from shutting down the permitting process. He questioned whether any economic impact study had been conducted. Mr. Meyer responded in the negative. Mr. Tilbrook raised the following questions: 1) how this direction had been determined; 2) why the document focused on property rights versus other measures that could be used to protect manatees; 3) how property rights could be affected without empirical data indicating that taking these away would improve manatee mortality.

Chair Terrill recognized Mayor Naugle who arrived at 8:10 p.m.

Mr. Meyer advised that the state and federal agencies doing recovery plans had identified a connection between boat densities and risks to manatees. Mr. Adams stated the total mortalities were not a high figure. Mr. Meyer advised that the state considered the manatee mortality to be a significantly high number.

Mr. Tilbrook asked whether Mr. Meyer was "specifically directed to limit dock densities or to consider dock densities in finding ways to limit impacts." Mr. Meyer stated he was directed to "find appropriate dock densities to minimize adverse impacts between manatees and boats."

A member of the Board advised that other counties had to come up with a ratio of linear shoreline per applicant, or some type of density cap, or a combination of both.

Ryan Campbell asked if there were any recommendations to use a manatee tagging program to monitor their progress. Mr. Meyer advised that some had been tagged but no one had proposed trying to round up and track all manatees. He advised that his agency had met with Dr. Keith at Nova Southeastern Oceanographic Institute to pursue grant monies to use sonar and other means to track water mammals. He stated that even using sonar was difficult and that research was proceeding slowly. Mr. Campbell suggested tagging manatees or using satellite, radio messages or even GPS coordinates to help track manatees. He felt the plan as submitted would be detrimental to this area. Mr. Meyer advised that the agencies seemed to be in favor of continuing to issue permits while monitoring mortality. If this worked, the plan could be modified to add more capacities for slips. However, he suggested that another approach was to request more slips now.

Mr. Tilbrook was concerned about the trigger mechanism concerning mortalities within a certain area. He stated that this created uncertainty and was basically "a roll of the dice for investors buying waterfront property hoping to build slips."

Chair Terrill stated that the 55 manatee deaths recorded covered a 30-year period. He felt Broward County should pat itself on the back for low manatee mortality. However, he pointed out that of the 55 deaths, 31 were attributed to Port Everglades alone. He advised that Broward County had voted to pull the port out of the regular plan as an independent zone. He added that this year alone, 5 out of 6 deaths had occurred in the port. He was concerned that this had the tendency to shut down all development and permits until the county determined what caused this spike and how to handle it. Mr. Meyer felt the 5 deaths this year set a dangerous trend for

triggering the threshold figure. He stated that he was considering "backing away from the threshold concept in the plan."

Rick Schulze stated that suggestions had been made to separate Port Everglades as a separate entity so mortalities there did not have an adverse effect on the county. He asked whether this had been considered. Mr. Meyer advised that he had been directed to do this. He felt that even if the port was separated as its own zone, the traffic volume and large vessels in that area still presented a problem for a lot of manatees.

Mayor Naugle stated there was general scientific agreement that the reason manatees congregated in the port was due to the thermal pollution produced by FPL. He asked whether the EPA had considered forcing FPL to eliminate their thermal pollution versus shutting down a \$10 million industry and a \$2 billion port. Mr. Meyer advised that there had been higher levels of discussion in the state and federal endangered species agencies. He did not believe any action had been forced on FPL. He felt this was might be a Public Service Commission issue and was not sure what it would take to eliminate hot water discharges from each plant.

Mr. Tilbrook felt the thermal pollution actually created harm by putting manatees in a dangerous situation. He felt this should be acknowledged in the BFSP and wanted some measure to be considered to address this problem. He felt someone should take the initiative to have a court determine whether the thermal pollution constituted harm under the *Endangered Species Act*.

Mr. Schulze asked whether studies had been done to determine mortality as it related to shallow draft vessels versus deep draft vessels since the majority of vessels in Port Everglades were deep draft vessels. Mr. Meyer advised that they had tried to make estimates on propeller sizes but was unsure how this related to draft. He added that methods of determining the kinds of boats that created injuries and deaths were improving. Mr. Schulze felt it would be simple to determine whether a shallow draft vessel with a small propeller struck a manatee, compared to the heavy trauma that might be caused from a deep draft vessel with a large propeller. Mr. Schulze felt it was clear that since two-thirds of the deaths occurred in the port, the blame was misplaced. Mr. Chappell stated that in some instances, it was not clear whether a large commercial vessel or a mega yacht caused the injuries.

Mr. Adams felt this discussion did not address the issue of the plan being presented, which he felt created an economic hurdle for Broward County and the City.

Barry Flanigan stated that if the port were to be separated as its own zone, it would be easy to recognize the government boats racing around the port. He asked whether the county could be required to have their police and port vessels be made propeller friendly.

John Baker felt Broward County was being held to a higher standard than other counties, given the number of boat registrations it had. He hoped this would be addressed further by PBS&J and by the MIA SF.

Chair Terrill opened the discussion to the audience. As no one spoke, Chair Terrill thanked Mr. Meyer for his presentation.

Steve Tilbrook acknowledged Mr. Meyer's extensive work on this issue. He advised that the MIA SF had recently issued several comments relevant to this issue and suggested that the Board review these comments. He wanted an economic impact analysis to be considered. He

also wanted the issue of job losses and property rights to be addressed. He stated that this was the first plan he had seen that severely impacted property rights.

Mr. Meyer asked Mr. Tilbrook what he wanted the goal of the economic analysis to be. Mr. Tilbrook wanted two questions answered: 1) How would the City continue to have economic growth in this sector once the caps were met? and 2) What would be the economic impact of that trigger being pulled?

Mr. Tilbrook asked whether the plan had a mechanism to increase the density caps once they were reached. Mr. Hart stated he did not believe there was.

Mr. Zorovich asked about the forecasted length of time that this would last. Mr. Meyer advised that in the north and central it would last a long time but in the south, the county was getting close to using up its allocation. In response to Mr. Tilbrook's question on increasing density caps, Mr. Meyer stated that the BFSP had to go into the comprehensive plan which could be amended twice per year.

Mr. Adams asked whether there was specific regulation stating that slips were the instrument of manatee protection or whether this was an interpretation. Mr. Meyer stated his interpretation of density was the relationship between two numbers. Mr. Adams asked whether the plan would be modified for wet versus dry stack slips. Mr. Meyer stated he could not get a consensus on this but advised that the MIA SF wanted to look at this.

Motion made by Barry Flanigan, to recommend to the City Commission to include items 1-4 in staff's letter of July 7 and items in the July 11 letter from the MIA SF be part of the BFSP and additionally, than an economic impact study be conducted to determine its impact on the marine industry.

The motion was seconded by Ryan Campbell.

Steve Tilbrook requested that the Board consider an amendment to recommend that the plan include a mechanism for increasing the cap densities without having to amend the comprehensive plan. Mr. Flanigan agreed to Mr. Tilbrook's amendment.

The motion was restated as follows:

The Board recommended that the City Commission recommend to the County Commission that items 1-4 in the staff letter dated July 7 and items in the July 11 letter from the MIA SF be part of the BFSP study, and in addition, that an economic impact study be conducted by the county to determine the economic impact of this study to the marine industry. Additionally, it is recommended that the plan include a mechanism to increase the cap densities without requiring an amendment of the comprehensive plan.

In a roll call vote, the Board voted unanimously in favor.

V. APPLICATION – DOCK PERMIT USE/CITY PROPERTY – 1516 PONCE DE LEON DRIVE

- Craig Robert Schembri

Jamie Hart summarized this application. He stated that if the Board approved this application, the following conditions would apply:

1. The fixed period of the permit issued for use of the pier described in the application attached as **Exhibit 1** is for a minimum of 5 years in accord with City Code Section 8-144(1). The applicant is required to maintain the property as described including the protective maintenance requirement to the facing of the seawall as prescribed by the Office of the City Engineer during this term. All such permits are revocable at the will of the City Commission without cause with 90 days advance notice.
2. As a special condition of the permit the City reserves the right to remove the dock structure and support pilings (if required) for replacement of the seawall in the event that this shall occur during the term of the permit as determined by the City Engineer. The sole cost of removal and replacement of the dock is shall be the responsibility of the permit holder should any portion not be salvageable.
3. As a special condition of the permit the applicant is prohibited from erecting any signs, landscaping or fencing to restrict public access to the property, except where permitted by code.
4. All existing improvements to the property including the dock and seawall must be maintained in accord with City Engineering design standards and all appropriate repair work must be in compliance with applicable building and zoning permit requirements. A copy of such permits must be submitted to the Supervisor of Marine Facilities in advance of any improvements to the property during the term of the permit contemplated by the applicant including the existing landscaping.

Mr. Hart indicated that the applicant, Craig Schembri, was present and available to answer any questions. He spoke of the applicant's patience with various complications getting an engineering analysis done.

Mr. Adams was in favor of approval if there were no objections. Mr. Gabriel asked about provision for insurance. Mr. Hart advised that part of the resolution included a provision that held the city harmless from any liability. Mr. Flanigan felt there was adequate City staff to handle this and agreed with Mr. Adams. Mr. Schulze stated he had inspected the dock recently and had found it to be one of the best sea walls in the area.

Motion made by Alan Gabriel to approve.

The motion was seconded by Ryan Campbell. In a voice vote, the Board voted unanimously in favor.

**VI. APPLICATION – LAUDERDALE MARINE CENTER ANNEX EXPANSION/
DRC CASE #03-P-06**

- Jon Weber, Keith & Associates, Inc.

Jamie Hart summarized this application. He stated that if the Board approved this application, the following conditions would apply:

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1. Dockage shall be for a the minimum of twenty-nine (29) wet slips and forty-five (45) dry surface slips with a minimum of 167 parking space to accommodate lot demand and prevent overspill into the adjacent neighborhood.
2. No fueling or major boat repair work that would be a violation of the City's Code or those imposed by other regulatory agencies including specifically the guidelines set forth and included in the application for "Best Management Practices". All such conditions or regulations including the ULDR and the Code of Ordinances, which are applicable, shall be made part of the Planning/DRC permit.
3. The marina operation shall be equipped with oil spill containment and fire safety attenuation equipment as required by the ULDR Section 47-25.2 and as determined in conjunction with the Planning/DRC permit.
4. No outside loudspeakers, amplification systems or work activities shall be permitted on the marine center site that would be in violation of noise and other nuisance related ordinances or as determined in the final planning/DRC permit.
5. No rafting of boats shall be permitted along any dock or seawall adjacent to the property except in case of an emergency.
6. Substantial changes to the marina site plan requiring an amendment to be reviewed by the Planning and Zoning Board shall first be reviewed by the Marine Advisory Board.
7. The applicant shall comply with all permits required by governmental agencies having jurisdiction over the waterways, and shall comply with all codes and regulations affecting the operation of the marina, including Section 47.25.2 of the Urban Land and Development Regulations (ULDR) Adequacy requirements.
8. Should County, State or federal permitting agencies having jurisdiction, impose more restrictive standards to the conditions of local approval as specified above, then the more restrictive standards shall apply.
9. The applicant is required to install marine sanitation pumpout service accommodations as required by the ULDR Section 47-19.6.D as specified for Industrial (I) District zoning; and/or other established requirements imposed on the applicant by the Environmental Permitting Agencies that may be more restrictive. All such conditions shall be made part of the DRC/Planning permit if necessary.
10. The 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. Additional comments from the Supervisor of Marine Facilities not requiring Planning and Zoning or Marine Advisory Board reviews will be made part of the DRC/Planning permit.
11. A special condition to establish a self-imposed restriction by the applicant to prohibit live-aboards on site in accord with the Planning/DRC permit.

Don Hall, the attorney representing the applicant, introduced Jon Weber and Bill Keith, of Keith and Associates and Dave Zelk, architect for the project. Mr. Hall explained features illustrated

on the site plan and plat. He stated that the proposed plan would result in an overall reduction in square footage and intensity. He stated that the Planning and Zoning staff report found the project consistent with the land use plan. He added that the traffic report had been reviewed by the City's consultant and found that 20th Street was operating at 20% of its capacity.

Mr. Schulze observed that the proposal recommended was a considerable downsizing to previous usage which would result in less of an impact on the neighborhood. Mr. Hall concurred.

Mr. Adams referred to language in item #5 concerning "rafting of boats" and suggested including the word "storage" in this condition. Mr. Hart agreed. He explained that there was nothing in the Code that specifically prohibited rafting; however, this had historically been included in all reviews to avoid excess storage beyond what was permitted.

Mr. Tilbrook asked if the applicant objected to the restriction against rafting. Mr. Hall stated there were no objections.

Dave Zelk, the architect for the project, referred to the site plan illustration to explain how numbers of dry slips were determined. He further explained features of the site plan in response to general questions.

Joanne Peck, representing the River Oaks Civic Association, voiced homeowners' concerns about neighborhood compatibility and operations issues. Concerns were raised about heavy truck traffic along with loud sanding and painting of boats at late hours. She added that the association would present their concerns to Planning and Zoning.

Mr. Tilbrook asked how the noise concerns would be addressed. Mr. Weber explained how the travel lift on the new site plan would alleviate these offenses.

Bianca Bryan, a homeowner in the area complained about sanding and painting of boats in close proximity to homes. She spoke of sickness in her family which she believed was caused by toxic paint fumes penetrating her home. Ms. Bryan provided photographs and documentation she had gathered related to this issue. She also read aloud EPA rules on boat painting and overspray precautions, which she felt, were not being observed at the site. Chair Terrill stated that these concerns were beyond the Board's ability to comment on. He advised Ms. Bryan to pursue the relevant regulatory authorities to address her concerns.

Dave Clancy, secretary of the Shady Banks Civic Association, stated that the association was not yet in a position to provide a letter of support due to insufficient information. He requested that the applicant strive to be good neighbors and to be environmentally concerned.

Chair Terrill felt that in comparison to most shipyards, the Lauderdale Marine Center was well-kept, clean, safe and a benefit to the neighborhood.

Steve Tilbrook recommended that this application go beyond attaching best management practices and create additional measures to protect residents near the boatyard.

Motion made by Steve Tilbrook to approve the site plan and plat with a request that the applicant meet with the neighborhood and take measures to achieve neighborhood compatibility.

The motion was seconded by Ryan Campbell.

Motion was restated by Steve Tilbook to recommend that the Planning and Zoning Board approve the site plan and plat and that the Planning and Zoning Board address measures to achieve neighborhood compatibility in addition to accepting staff's 11 recommendations.

The motion was seconded by Ryan Campbell.

Mr. Adams felt two issues were being confused. He wanted the Board to recommend that the City go back to the county to address enforcement.

In a voice vote, the Board voted unanimously in favor.

James Cromar, the planner for this project, agreed that the concerns raised would be addressed by Planning and Zoning.

VII. Old/New Business

Mr. Campbell advised that the Winterfest Boat Parade Committee wanted the BSO fireboat and the City's fireboat in this year's parade.

Mr. Flanigan spoke of Broward Community College plans to implement an accredited 2-year associate degree in Marine Industries.

VIII. Reports

- **Status/Engineering Design Consultant Contract/New River Floating Dock Project**

Mr. Hart advised that the contract for the consultant selected was being approved.

- **Status/BBIP Grant Close-Out/Marshall Point Cleat Installation**

Mr. Hart advised that staff had finalizing installation of at least 24 cleats -- 3 per location in accord with outstanding list of work recognized by the Marine Advisory Board.

- **Broward County Marine Advisory Committee**

Mr. Adams updated the Board on the meeting held earlier that afternoon

IX. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 10:30 p.m.