

**MINUTES OF THE MARINE ADVISORY BOARD  
 100 NORTH ANDREWS AVENUE  
 8<sup>TH</sup> FLOOR CONFERENCE ROOM  
 FORT LAUDERDALE, FLORIDA  
 THURSDAY, JANUARY 7, 2010 – 7:00 P.M.**

<u><b>Board Members</b></u>	<u><b>Attendance</b></u>	<b>Cumulative Attendance 5/2009 through 4/2010</b>	
		<u><b>Present</b></u>	<u><b>Absent</b></u>
John Terrill, Chair	P	7	0
Barry Flanigan, Vice Chair	P	5	2
Rick Schulze	P	7	0
Mark Swenson	A	4	3
Randolph Adams	P	5	2
Norbert McLaughlin	P	7	0
Tish Flavin	P	5	0
John Baker	P	4	3
Emilio DiPietro	A	3	4
Bob Ross	P	7	0
Lisa Scott-Founds	P	4	3
Stephen Tilbrook	P	4	3
Tom Tapp	P	4	2
Herb Rassing [7:19 arr.]	P	7	0
James Harrison	P	1	0

As of this date, there are 15 appointed members to the Board, which means 8 would constitute a quorum.

**Staff**

Jamie Hart, Supervisor of Marine Facilities  
 Andrew Cuba, Marina Manager  
 Cate McCaffrey, Director of Business Enterprises  
 Levend Ekendiz, Intracoastal Facilities Dockmaster  
 Matt Domke, Downtown Facilities Dockmaster  
 Sergeant Andy Pallen, Marine Police Staff  
 Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

Chair Terrill asked that the Board entertain a motion to make “the entire discussion” of boat lifts by the public and the Board a priority item, or Communication to the City Commission. **Motion** made by Mr. Baker, seconded by Chair Terrill, to fast-track amending the Code regarding boat lifts. In a voice vote, the **motion** carried 13-0.

**I. Call to Order / Roll Call**

Chair Terrill called the meeting to order at 7:07 p.m. and roll was called.

**II. Approval of Minutes – November 5, 2009**

**Motion** made by Mr. Ross, seconded by Mr. Baker, to approve the minutes of the November 5, 2009 meeting. In a voice vote, the **motion** carried unanimously.

**III. Statement of Quorum**

It was noted that the eight Board members necessary to constitute a quorum were present.

**III. Waterway Crime & Boating Safety Report**

Sgt. Andy Pallen, representing the Fort Lauderdale Police Marine Unit, stated that in December, in addition to the Winterfest Boat Parade, they addressed three sunken vessels in the City. These occurred behind private homes and no suspicious activity was involved. Two of the three resulted in oil spills, which were cleaned up in a timely fashion.

One theft involved a small engine stolen from the back of a dinghy. Three boat burglaries occurred, but were not believed to be related. Three minor accidents took place, none of which resulted in injuries.

Mr. Tilbrook requested information regarding a recent drowning. Sgt. Pallen advised this was still an ongoing investigation and is being addressed by the Homicide Unit as an unintended death. The Fire Department initially attempted a rescue in this case, but the current proved to be too strong, and the incident occurred at night, hampering their visibility.

Sgt. Pallen noted he would like to thank the U.S. Coast Guard, as well as the Broward County Sheriff's Office, and the Florida Fish and Wildlife Conservation Commission for their assistance with the Boat Parade; he added that there was a good turnout for this event despite inclement weather. Vice Chair Flanigan stated he would like to thank the Marine Unit for their work during the event.

Chair Terrill introduced new Board member James Harrison. Mr. Harrison owns Frank & Jimmy's Propeller Shop and is a lifelong resident of Fort Lauderdale. He is also Chairman of the Fort Lauderdale Maritime Museum, President of the National Propeller Association, and a Board member of the Marine Industry Association of South Florida.

## **V. Discussion – Unified Land Development Regulations – 47-19.3 Boat Hoists and Similar Moorings**

Chair Terrill explained that there is a “long history” in the City with regard to boat lifts. In 2000, the Board had unanimously recommended that a consultant be hired to study whether or not the current Code was “outdated.” This unanimous vote for a consultant was repeated in 2002, and the City Commission directed Staff to look into whether the Code should be revised. In July 2009, the Board again voted unanimously to recommend that the existing Code be rewritten to reflect current conditions. The Board also recommends that 30% criteria be applied to both moored vessels and boat lifts. Chair Terrill concluded that there are different criteria for boats in the water and boats on lifts.

He noted that members of the community are present and would like to speak address this issue, and felt their experience would further inform the Board. Staff has asked that the Board “further define beyond [their] recommendation” the 30% criteria, or what they feel should be the rules for boat lifts.

Mr. Tilbrook noted that one Agenda Item is an Application for a dock waiver, and there is a letter of objection in regard to this Application; he stated that he would like to hear this case before pursuing the discussion of Code. Chair Terrill pointed out, however, that their best opportunity to learn about boat lifts would come from the members of the community who have come to the meeting to address the issue, and the Board would likely be better informed after hearing them.

At this time Chair Terrill opened the hearing to the public.

Brian Tedeschi, private citizen, stated he would “highly recommend” the Board continue to recommend the 30% criteria on boat lifts. He explained that he lived on an 84-ft. canal, and his boat was often “smashed around” as a result of wakes. He had applied for a boat lift permit, but learned that this was not allowed due to the 10-15% rule, which would not accommodate his boat. He would be able to install a lift within the 30% rule, he noted.

Mr. Tedeschi added that for most residences along the canal, docks extend from 4-7 ft. from the property line, depending upon the seawall; the necessary depth is not always available near the seawall area. Lifts normally begin 6-8 ft. seaward of the dock, and when 17 ft. are added for a lift that would accommodate his boat, they are up to 24 ft. into the canal.

He concluded there should be no difference between where a boat may be placed in the water and where it may be put up in the air.

Mr. Tilbrook asked if it is possible for Mr. Tedeschi to seek a waiver to extend further than 10% into the waterway. Mr. Hart advised the waiver process is “the only relief [owners] have.” Mr. Tedeschi felt this would mean “requiring waivers for...50% or more” of all boat lifts in the City. He added he was aware of “many people” who are not installing boat lifts because of the restrictions in Code.

Ms. Flavin asked if lifts may be installed without a permit. Chair Terrill responded that this would be a Code violation; however, it is possible a significant number of lifts in the City do not have permits.

David Humphries, president of Neptune Boat Lifts, stated that Fort Lauderdale has “the most restrictive Code... in the entire world.” He estimated that he sees two to three unpermitted boat lifts at every stop he makes each day. This causes Neptune to lose business, as they will not install lifts without the appropriate permit. Mr. Humphries advised that their general manager has a list of at least 10 unpermitted lifts that were installed by a contractor without a permit.

He added that unpermitted lifts may not be reported anonymously, so illegal activity in this area cannot be reported without fear of repercussions. In addition, the City has lost “hundreds of thousands of dollars” in revenue and taxes due to unpermitted lifts. Not only should the Code be eased, he asserted, it should be made easier to report illegal activity to enforce the Code.

Mr. Humphries explained that unpermitted lifts are “stickerless” – there is no identification of the contractor that installed the lift when it has no permit. He felt there should also be stricter rules governing contractors who install lifts without permits, and noted that these contractors do not properly insure the lifts they install.

John Peroni, private citizen, stated he lives on a 90 ft. wide canal and wants to install a boat lift, but his application was rejected due to the 10% criteria. He advised there are roughly 10 homes along this canal, where most homeowners have a 5 ft. dock and a 10 ft. boat lift, which allows 60 ft. for navigation. He pointed out that “the average boat” on this canal is a 30-34 ft. vessel, which allows approximately 14 ft. between boat lifts. The 10% rule prevents him from installing a boat lift, but does not appreciably increase navigability on the canal, although he is using “the same 15 ft.” as his neighbors.

He concluded the goal of the Code should be safe navigation on the canal, and by restricting homeowners from having boat lifts, this goal is not met, as some may choose to install lifts without permits. For him to install a boat lift, he would have to break down the seawall to come within the 10% criteria, and navigability would not be improved. He felt an increase to 30%, or even 15%, would be satisfactory.

Mr. Rassing asked how long the process of applying for a permit takes. Kirstie Vernese, representing Neptune Boat Lifts, noted that for Mr. Peroni, it took “three months to get rejected” and could take up to eight months. She added that it is very frustrating for the business.

Chair Terrill pointed out that there are two issues: Staff has asked the Board what rules they would recommend to Staff and the City Commission, should the Code for permitting boat lifts be revised. In addition, after the Board’s most recent recommendation regarding boat lifts in July 2009, a “new interpretation,” which is “far harsher than the previous interpretation,” has been in place. He advised this could have affected residents such as Mr. Peroni, for whom Neptune had expected to receive a permit for his lift.

Mr. Tilbrook asked if the rules regarding lifts are clear, and asked Mr. Hart how long it takes to go through the dock waiver process. Mr. Hart replied it is 60-90 days for a waiver; a public notification process is also required, as is City Commission approval. He noted it is not necessary for an application to be rejected before an individual may apply for a waiver.

John Andrews, private citizen, stated he is the individual who had an objection to the Application on the Board’s Agenda, and wished to address Chair Terrill’s question regarding how the rules should be changed. He is in favor of loosening restrictions on boat lifts; however, he expressed concern for residents with similar circumstances to his own. He resides along a 130 ft. canal and asked that instead of allowing people to “push farther into the canal,” the setback be pushed farther from any neighbors’ property lines, which might alleviate some objections.

He added that the Board’s procedure for processing a variance application might be altered, as he had originally believed his neighbor wished to install a pier canal rather than a cradle-style boat lift. Mr. Andrews suggested that “the entire package,” or at least a drawing of the structure for which the waiver is sought, be attached to letters of notification such as the one he had received.

Mr. Tilbrook asked if Mr. Andrews felt a boat in the water is the same as a boat on a lift “from a view perspective.” Mr. Andrews replied that a boat on a raised lift has a greater impact on a view. He also noted that “whips,” which push a boat farther into the canal, cause more of an obstruction to the view.

Debbie Andrews, private citizen, agreed with this, noting that boat owners put lifts “where it benefits them,” or where it will affect a neighbor’s view instead of their own.

Mr. Tilbrook advised that 30% of the 130 ft. canal would be roughly 40 ft. into the canal, and asked if a 40 ft. boat extending 40 ft. into the canal would be cause for

concern for Ms. Andrews. She responded that she “would never have a view again.”

Michael Morrison of Morrison Builders stated he has been a marine contractor for 25 years, and pointed out that Code allows owners to “park a yacht behind your house and take up 1/3 of your canal width.” He felt this was what Ms. Andrews had alluded to, and added that there is nothing a homeowner may do in a case such as this, as it is within Code.

He continued that while Code allows this, once the boat is lifted into the air, there is an issue. Furthermore, dolphin pilings may be installed 25 ft. into the water, which “effectively [fences] off” a homeowner’s area, although boat lifts are not allowed.

Mr. Morrison explained there are no 8-9 ft. wide boat lifts, although the majority of canals in Fort Lauderdale are 100 ft. or less in width, which means the 10% rule cannot be met. He added that there are at least three to four boat lifts on every canal in the City, although his company installs roughly 50 lifts per year. Other cities, such as Hollywood and Pompano Beach, have “double the allowance” of Fort Lauderdale for boat lifts. He asserted this restricts many homeowners from putting in their lifts with the appropriate permits, and that contractors who “play by the rules” lose a great many sales, as many homeowners don’t care whether they have permits or not.

He concluded that he “applaud[s]” the potential 30% rule, as it is “long overdue,” and suggested the City at least research the criteria used by Hollywood and Pompano Beach and “do what they do.”

Mr. Ross asked if Mr. Morrison has researched standards for the other two cities. Mr. Morrison replied he installs several boat lifts there each year, and Code allows 20 ft. maximum. David Nutter, representing BK Marine, added that Pompano Beach reserves the middle 45% of the canal for navigation, which means 27.5% of the channel width on either side is allowed for lifts or other structures.

Mr. Morrison continued that sales in 2009 were 50% off from the previous year, which is “in millions of dollars.” He felt he cannot continue to afford to walk away from potential installations as he has done in the past, and asked that the City “recognize the economic need” for contractors to continue to do business.

Stephen Tedeschi, private citizen, stated he had submitted a letter for the record, and distributed copies to the Board at this time. He noted that existing law allows dolphin pilings to be 25 ft. into a waterway, and suggested that this logic be applied to boat lifts as well: that lifts not be allowed to exceed this length, but to allow them within this footprint. With regard to a lift’s interference with neighbors’

view, he pointed out that very large boats would block the view equally to or greater than a boat on a lift.

He continued that on or near the Intracoastal Waterway in particular, boat lifts are needed due to wakes. In addition, boating is considered a way of life in the City, and anything obstructing this form of recreation can have a negative economic impact on contractors and homeowners alike. Most docks within 5-7 ft., he noted, depend upon the slope of the seawall, and some should be further out due for better clearance from rocks. He advocated 20 ft. from the edge of the dock, or maximum 30%, as clearance.

He added that his letter may be sent to the City Commission as representational of how the general public of the City feels.

Allen Christy, representing Eastern Dredging, stated his company dredges beneath boat lifts and behind residents' homes, and advised the Board that they have had "headaches" resulting from "impossible permits" to dredge beneath lifts. He added that boats going out at half- to high tide only disturb the water when getting on and off the lift, and affect sea grass, which cannot grow in very shallow water.

He noted that a 30 ft. or greater-sized boat draws 3.5 ft., although the Code is 5 ft. for boat lifts; this affects sea grass and other small species. Mr. Christy asserted that maintenance dredging should be simpler, as it cleans the waterway, but restrictions are "very strict" against this. He concluded that instead of protecting the waterway's environment, this is "actually hurting" it.

Frank Herhold, representing the Marine Industries Association of South Florida, noted that while Fort Lauderdale is the "yachting capital of the world," it has the most restrictive Code with regard to boat lifts. He asserted that many of the ways residents subvert this restrictive Code are "just not right," and wherever a boat may be moored, a lift should be allowed without a waiver.

He continued that this affects sales of waterfront homes, where owners often want lifts installed, and stated this creates a "ripple effect" on jobs, home sales, and the marine economy. He believed any resident with waterfront property should have the opportunity to install a lift.

Randy Whitesides, CEO of Neptune Boat Lifts, advised he had become involved in the Board's discussion of boat lifts eight months ago. While the Board had voted unanimously to change the City's position on this issue, he was disturbed that City Staff has been "obstructionist" with regard to the position on boat lifts, contrary to the will of the Board. He felt this jeopardizes a portion of the community's economy.

Mr. Whitesides distributed copies of some emails from the Planning and Zoning Department, explaining that many marine contractors had not wanted to speak to this issue earlier in the year for fear of retribution. He asserted that this fear has “absolutely come to pass,” and that the Planning and Zoning Department has made no progress on the issue, despite the Mayor’s commitment to ensuring the City remains the yachting capital of the world. He stated the Department did not seem to be aware of the Board or the nature of their work, and that “this needs to be discussed.”

He continued that three representatives of the Planning and Zoning Department had “personally promised,” at the recent Marine Industry Workshop, to work toward relief on this issue; however, he did not believe this was being done, and the Staff involved was “not meeting the will of the people” and “purposely ignoring revenue” for the community.

Mr. Whitesides observed that the City Commission has publicly stated they are in favor of “getting into the 21<sup>st</sup> century,” and the Board has unanimously voted to rectify the Code. He concluded that boat lifts are better for the environment and reduce the dangers related to bottom paint and hurricane conditions, and that there are “no negatives” associated with amending Code on this issue.

Chair Terrill advised that it is important for the Board to understand the issue that had arisen at the recent Marine Industry Workshop, and recalled that at that meeting, Planning and Zoning Director Greg Brewton had stated there was a “new interpretation [of Code] as related to boat lifts.” Chair Terrill requested that Mr. Whitesides describe what this change in interpretation meant to him from a manufacturer’s standpoint.

Mr. Whitesides explained that the Planning and Zoning Department’s current position is one of “no changes in the interpretation,” and that all lifts permitted under the 15% rule were “permitted by accident.” Instead, the “real rule” is 47-19.2-3 Subsection D, which allows only 10% of the canal, including marginal docks. He asserted this makes it impossible for boat lifts to be installed on roughly 90% of the City’s waterfront property without a waiver.

He noted that group waivers have been discussed with one permitting agency to provide relief from homeowners, as discussed in the emails he had provided for the Board. Mr. Whitesides stated that this was “all talk” and relief was still needed.

Chair Terrill noted that two portions of Code, 47-19 and 891, state “two different things,” and it is clear that the law is based upon the interpretation of 47-19. He added that the second Code may be interpreted “a lot looser,” and allowed for boat lifts to be installed under the 15% rule. The newer interpretation restricts the



law to 10%. Chair Terrill agreed with Mr. Whitesides' estimation that 90% of waterfront homeowners in the City would not be allowed boat lifts.

Mr. Whitesides added that previously, City Staff prepared applications for waivers; however, this task has now been placed on applicants themselves. It has been estimated that if these permits are bulk-processed, the charge to each homeowner would be \$2500-5000 to appear before the Board and request a waiver.

He noted that "the City is the last part" of waiver applications, and the permitting process must first go through the Department of Environmental Protection and the U.S. Army Corps of Engineer, which can take two months to two years. After this point, it moves to the City, where Mr. Whitesides stated the permit is often rejected. He concluded that the process "makes no sense."

Chair Terrill observed that members of the Planning and Zoning Department are needed to work through this issue in conjunction with the Board. He recalled that the Agenda of tonight's meeting had been sent to that Department and to Director Brewton. It was noted that there were no members of the Planning and Zoning Department present at tonight's meeting, which Chair Terrill characterized as "distressing."

Cate McCaffrey, Director of Business Enterprises, explained that Director Brewton had "made it perfectly clear" that this issue would be a priority for his Department. She did not feel the absence of Planning and Zoning Staff indicated otherwise, and assured the Board that she and other members of City Staff are hearing these concerns from the public and the industry. She asserted that Planning and Zoning will follow up on the issue, although she noted that "there will be bumps along the way;" however, the Mayor and the City Commission have made it clear that this issue is a priority.

Chair Terrill referred to an email from Director Brewton, which was provided to him earlier in the meeting. The email stated that Director Brewton could not attend due to a death, and the Deputy Director could not attend due to illness. It continued that the project was assigned to Director McCaffrey's Department. Chair Terrill described the email as "not clear" with regard to whether the Department of Business Enterprises has begun work on this issue, but noted that Director Brewton recognized that some relief must be provided regarding the 10-15% discrepancy between two different City Codes.

He noted that should the City "wait for the Code to be rewritten," there would be "no business and no permitted docks" during the time necessary to amend the Code.

Director McCaffrey advised the Board may communicate the importance of this issue directly to the City Commission, who would direct Staff's actions. She noted that "this is being made abundantly clear" that the Code must be amended, but could not promise a specific outcome on the issue.

Chair Terrill continued that he had read an earlier email from Director Brewton, which suggested that temporary relief may be an option until Code is amended. Director McCaffrey responded that she is not familiar with this issue, but would follow up on it.

Vice Chair Flanigan clarified that there is a differentiation between Departments when the term "Staff" is used; for example, the Board and its related Staff have requested unanimously that this issue be revisited. Marine Staff have provided the Board's recommendations to the Staff of other Departments, such as Planning and Zoning. He asserted that these other Departments' Staff have had the necessary information to address the issue "for at least nine years."

Mr. Rassing commented that at the Recent Marine Industry Workshop, he had urged Planner Adrienne Ehle to speak with Mr. Whitesides regarding how Planning and Zoning could be "more helpful" on this issue. Mr. Rassing observed that no member of Planning and Zoning Staff is currently present to help the Board understand why their three consecutive recommendations on the subject have not yet been acted upon, and felt that Department could "give us a time frame" for forthcoming action.

David Nutter of BK Marine noted that the 60-90 day time frame quoted earlier with respect to the waiver process involves an additional 30-60 days to complete documents, surveys, photos, and other information necessary for a waiver application. He characterized the process as more accurately lasting six to nine months.

With regard to "the second Code," or section 891, he recalled that in "May or July [2009]," the reviewer from the City's Engineering Department had shared this Code with his business, which "helped with a lot of the boat lifts." However, more recently, he asserted that "Zoning got involved," after which time section 47-19, which is more restrictive, was applied instead of 891.

Mr. Adams asked if a resident would "instantly" be able to construct a boat lift if it fit Code 47-19 without applying for the waiver process. Through the waiver process, a "series of applications" is necessary to build a permitted lift. Mr. Nutter advised that in the event of a waiver application, the resident must also show hardship, although he noted this is a subjective criterion.

At this time Chair Terrill closed the public hearing and brought the discussion back to the Board. He thanked those members of the public who had come to the

meeting to share their comments, and advised that the issue may be on the Board's Agenda "many more times."

Mr. Schulze asked how the Board might more effectively make their desires known to the City Commission. Chair Terrill advised they can provide more details from this meeting, such as the 30% requirement suggestion. They can also discuss the side setbacks of the boat lift, the height of the keel, the lowest appendage of a vessel out of the water, and the maximum number of lifts per feet of waterfront property. He noted that these facts are all currently defined in the Code, and Staff is looking for "more direction" regarding these items.

Mr. Ross pointed out that a lift could be placed "in the middle of the dock" due to the size of a canal, and felt this should "stay the same as the setback in a neighborhood." He felt this part of the regulation should be left as is.

Mr. Ross stated he agreed with the environmental aspect of lifts, which would remove a boat's bottom paint from the water. He also approved of the height regulation, noting that there is no reason to have a lift that raises the boat higher than the "mean high water," which would help with the aesthetics of a lift from neighbors' point of view.

Chair Terrill clarified that current Code specifies "one foot above the seawall cap" for maximum height of a boat's keel. He noted there has been discussion of amending this to refer to the lowest appendage of a boat in the air. He encouraged the Board that whatever they may decide for this specification, they should "keep it simple." It was noted that all equipment on a vessel is raised out of the water to prevent potential damage from a wake.

He proposed that the Board compile a list of items regarding Code that they wished to address. These specifications were as follows:

1. Distance by which a lift may extend into the waterway (by percentage or by length);
2. Side yard setbacks;
3. Height;
4. Number of boat lifts per 100 ft.

He explained that these would be forwarded to Staff in order to provide them with greater direction, and asserted he is personally committed to "[making] it simple."

In July 2009, Chair Terrill continued, the Board had recommended that a boat lift's furthest extension into a canal should be 30%, based upon the idea that a boat in the water or on a lift should have the same footprint. He noted, however, that the setback, which is defined by Code as 20 ft., was not discussed at that time, and requested feedback from the Board on both these specifications.

Mr. McLaughlin clarified that a boat may extend 30% into a canal from “the wet face of the seawall.” Mr. Adams added that it is the boat’s footprint, rather than the hoist itself, that is the critical issue; however, Chair Terrill pointed out that when a lift is permitted, the permit refers to the equipment that is being installed rather than the vessel that will be on it, and all Staff has to go by is the rule regarding the equipment itself. He continued that when a waiver is allowed, it is hoped that this will not encroach upon a neighbor’s setback, although occasionally it is found that encroachment does occur.

Mr. Tilbrook stated while he understands the Code is problematic, he disagreed with some proposed changes, and particularly with the assumption that a boat in the water is the same as a boat on a lift. He felt the profile of a boat resting in the water has a different effect upon the view from that of a boat on a lift. He added he is not comfortable with 30% as the maximum extension of a vessel into the waterway, let alone for that of a structure on which a boat may be lifted.

He noted the analysis of Fort Lauderdale’s Code as compared to other maritime cities, and stated that Pompano Beach, for example, specifies 20% or 20 ft. into a canal when the canal is 50 ft. or less. He advised he is more comfortable with this regulation than with the proposed 30%.

Chair Terrill recalled that during their July 2009 discussion, the Board had recommended the 30% rule for a boat in the water or on a lift. A boat at its widest beam will be within the physical footprint of a boat lift “90% of the time.”

He went on that he has “a problem” with the 20% or 20 ft. rule, as a 100 ft. canal allows for a boat to extend 30% or 20 ft.; this rule alone restricts a boat lift by 10 ft. Adding an additional 10 ft. would allow for 30% or 30 ft. extension, “whichever is less,” as 30% on some canals would result in navigational encroachment. On an average-sized canal (100 ft.), lack of the “whichever is less” restriction would mean the lift has a greater footprint than the boat in the water.

Vice Chair Flanigan suggested that the Board vote on each topic individually. Mr. Rensing pointed out that the Board has made three recommendations to the City Commission that the Code be amended, and “three times they’ve ignored us.” He felt it would be more useful to bring members of Planning and Zoning Staff to a meeting so they could hear the concerns of residents and marine professionals.

Chair Terrill stated when Mayor Seiler was elected, he gave the Board an opportunity to “fast-track” its recommendations. He proposed that when the Board reaches a consensus on “some of these issues,” they then pass a motion that fast-tracks their recommendation(s) to the City Commission. With regard to “getting the attention of Planning and Zoning,” he suggested they could also address this topic tonight, and ask that the City Commission have that Department take “special interest” in this topic. He agreed with Vice Chair

Flanigan's recommendation to vote on each topic individually, which would give Staff "what they're asking for" and allow them to "get to work on this."

Mr. Tilbrook observed that he is in support of allowing greater extension of lifts into a waterway, although "30% is a little more" than he was comfortable with. As the average waterway width is 100 ft., he explained that a boat lift reaching 30 ft. into the water is "beyond what we typically allow structures" without going through the waiver process. He advocated that the dock waiver process should still be used, although it could be made easier, and recommended a 20 ft. extension, such as the one used by Pompano Beach.

**Motion** made by Mr. Tapp, seconded by Mr. Schulze, that the Board recommend a maximum extension of mooring devices 30% into the width of the waterway or a maximum of 30 ft., whichever is smaller.

Mr. Rassing asked if this is the same extension allowed for docks. Chair Terrill clarified that the maximum distance for docks is 20% or 20 ft., whichever is less.

Mr. Hart pointed out that this **motion** establishes that the Board wants to change the Code for boat lifts, not that they "want to change the status quo in terms of piers and docks." He advised that Code for docks allows 10% or 20 ft., whichever is less.

In a roll call vote, the **motion** carried 12-1 (Mr. Tilbrook dissenting).

The Board moved on to side setbacks, which Chair Terrill noted are "the same as the setback of a building or structure" for vessels in the water. He advised that to simplify the issue, the Board recommend that boats in the water and boats on lifts be allowed the same footprint.

**Motion** made by Mr. Ross, seconded by Mr. Rassing, that this regulation be kept as it currently stands.

Vice Chair Flanigan asked if there is a difference between RS 4 and RS 8 zones. Mr. Hart explained that RS 4.4 applies to lower density and specifies a 10 ft. setback, while RS 8 refers to medium density and allows a 5 ft. setback.

Mr. Tilbrook advised he is in favor of varied setbacks depending upon the size of the frontage on the water, and of increasing setbacks from 5 ft. to 10 ft. for all properties. He explained that, for example, with a 130 ft. waterway, a lift structure would be allowed to extend 30 ft. into that waterway, perpendicular to the seawall as opposed to parallel, and 5 ft. from a neighbor's property line. He concluded that he was uncomfortable with this possibility, and felt in this case the footprint of a vessel in the water was not the same as that of a vessel in the air.

In a roll call vote, the **motion** carried 12-1 (Mr. Tilbrook dissenting).

Moving on to height, Chair Terrill stated that current Code specifies a boat may be no higher than 1 ft. above the seawall cap, with an additional mathematical equation for the davit of its hoist. He characterized this as “terribly confusing” and recommended that the Board recommend simplification of this item. He added that the 1 ft. refer to the lowest appendage of the vessel rather than its keel, as a propeller or stabilizer may fall below the keel.

**Motion** made by Mr. Adams, seconded by Mr. Tilbrook, that the height of the lowest appendage of a boat on a lift be no greater than 1 ft. above the seawall cap.

In a roll call vote, the **motion** carried 13-0.

Regarding the number of boat lifts per 100 ft. of water frontage, Chair Terrill noted that current Code calls for one lift per 100 ft. Mr. Hart clarified that there must be 200 ft. of frontage in order to have two boat lifts, and there is no waiver process for this specification. Chair Terrill pointed out that in 2002, it was recommended that there be a waiver process available, should a resident want two boat lifts within 150 ft. of one another, for example. He felt the Board should consider whether they wish to add the possibility of a waiver.

Mr. Adams asked if the City is in conflict with the Broward County Marine Siting Plan. Chair Terrill stated it is not, as “it still is dependent upon all the other agencies that sign on.” Mr. Hart added one boat per 100 lineal ft. is allowed.

Mr. Herhold clarified that the slip limitations apply strictly to commercial marine facilities with four or more slips.

Mr. Tilbrook stated while he supports a waiver process for an additional lift within 200 ft., he would like to add an additional item to the list for discussion. He pointed out that the criterion of “extraordinary circumstances” required for a waiver is very subjective, and “real criteria” were recommended in 2002 for all waivers. It was agreed that this would also be discussed by the Board as Item #5.

He added that while he supports a waiver for a second lift, he would not support an attempt to place three boat lifts within 200 ft.

**Motion** made by Mr. Ross, seconded by Vice Chair Flanigan, to keep the existing regulation for boat hoists and davits one per 100 ft. of lot width, and one per additional 100 ft. of lot width, and add the waiver process.

Mr. McLaughlin pointed out that it is becoming common to install small boat lifts for jet skis or other smaller watercraft, and suggested that size of additional lifts be considered. He also asked if hydrolifts are considered to be boat lifts. It was clarified that these are classified as lifts as well.

In a roll call vote, the **motion** carried 13-0.

Regarding the criterion of “extraordinary circumstances,” Mr. Tilbrook explained that he had no specific additional criteria in mind, but wished to request that Staff consider developing factors to determine whether or not extraordinary circumstances exist. He noted the 2002 recommendations that these include an effect on navigability, width of waterway, environmental conditions, and neighborhood compatibility. Mr. Tilbrook concluded that articulation of these factors gives the City Commission, the Board, and the public an idea of what should be considered or addressed in identifying whether or not extraordinary circumstances exist.

Chair Terrill stated that the designation of “extraordinary circumstances” means the Board entertains an application for a waiver because Code does not address the needs or requests of the resident applying for a waiver. He characterized this as subjective, and the Board is asked to determine whether they are “strong enough reason[s]” to make the request reasonable. He pointed out that the Board may have also been influenced by the inadequacy they perceived in the existing Code as regards boat lifts.

He continued that if they attempt to define “extraordinary circumstances,” it could “shut down all of the waivers” until Code is rewritten, which could take a good deal of time; furthermore, he felt the Board does a good job in assessing waivers on a case-by-case basis, even with “an outdated Code in some respects.” He concluded that Code should be revised and reconsidered before attempting to tighten the definition of extraordinary circumstances.

Mr. Adams noted that more clearly defining this term would not remove the public’s right to apply for a waiver, and that it might “give some framework to the process.” Mr. Harrison, however, noted that attempting to define “extraordinary circumstances” would remove some of the “common sense of what some of the issues are,” and did not believe it would be possible to foresee all the circumstances that might apply in the future.

**Motion** made by Mr. Baker, seconded by Mr. Ross, to keep the status quo with regard to extraordinary circumstances.

Mr. Tilbrook explained that his suggestion was not intended to interfere with the waiver process or remove all subjectivity, but pointed out that when variances are granted, there are always criteria that “may be considered,” and Planning and

Zoning Staff could be asked to identify some of the criteria that could constitute extraordinary circumstances.

He observed that it might not be necessary to make a motion to uphold the status quo, and that he was considering making a motion in favor of change. Mr. Tapp disagreed, however, pointing out that the City Commission should “have specific direction” stating what was discussed and what the Board feels is best.

In a roll call vote, the **motion** carried 11-2 (Mr. Tilbrook, Mr. Adams dissenting).

Chair Terrill asked that the Board entertain a motion to make “this entire discussion” a priority item, or Communication to the City Commission. Mr. Hart explained that this would ensure that the meeting minutes would be presented at the next scheduled City Commission meeting, and informs the City Commission that the Board feels the discussion is “important enough for their immediate attention.”

Mr. Adams expressed concern regarding which Department would be directed by the City Commission to write the proposed revision of section 47-19. Chair Terrill advised this would most likely be “the City Attorney’s Office, with Planning and Zoning and... Business Enterprises,” in a combined effort.

Mr. Tapp felt the City Commission would ask the City Manager to “follow through and finish” this issue, and it would be this officer’s responsibility to direct the necessary Departments to do so.

**Motion** made by Mr. Baker, seconded by Chair Terrill, to “fast-track” the discussion of amending the Code regarding boat lifts. In a voice vote, the **motion** carried 13-0.

The Board adjourned for a five-minute recess at this time, and reconvened at 9:36 p.m.

Before proceeding to the next Agenda Item, Chair Terrill reiterated that the recent change in the Code’s interpretation from 15% to 10% had caused several existing lifts to be “no longer permissible.” He added that the email from Planning and Zoning Director Brewton, discussed earlier in the meeting, had included a reference to “hopefully [providing] you with some relief until the adoption of the proposed Ordinance.” Chair Terrill noted that this means Director Brewton understood that “the boat lift industry is in disarray,” as well as that rewriting Code would be a long process. As Director Brewton has referred to a need for some form of relief, he proposed to the Board that they consider a motion encouraging Staff to “seriously consider some type of relief” until Code is addressed.



Mr. Harrison asked if it is possible for the Board to issue a "blanket waiver" returning to the 15% interpretation, as they would receive several waiver requests. Mr. Tilbrook asked if they might recommend that Staff grant administrative waivers "up to a certain percentage," and Mr. Hart added they could also encourage Planning and Zoning to, as Director Brewton had indicated, "find some relief" in the meantime.

Chair Terrill felt the issue is one of practicality, as the Code will most likely not change for one year. He pointed out that while Director Brewton has "opened the door to relief," he is unsure of what is intended by "relief." Of the two different Codes, he explained, the 10% restriction is very clear, while the other is "very vague" and may have never been intended to apply to boat lifts.

He proposed that the Board recommend, on a temporary basis, returning to the 15% rule.

Mr. Ross stated the 15% rule accomplishes nothing, as it was determined through tonight's discussion that this is not enough. He recommended allowing a greater percentage to offer relief.

Chair Terrill suggested they encourage Staff to arrive at a temporary solution, based upon tonight's discussion regarding Code. This solution would be in place until the Code is rewritten.

Mr. Rassing observed that Planning and Zoning Staff "hold the key to this whole equation," but are not present to address the issue of relief. He advised having members of this Staff attend the next Board meeting and provide some idea of what relief they can give.

Chair Terrill agreed they can ask the City Commission to recommend to the City Manager that Planning and Zoning attend next month's meeting; however, at that time, they might not find the answers they are seeking. He suggested they make this recommendation in addition to their own motion proposing some form of relief.

Mr. McLaughlin proposed having Planning and Zoning Staff come to the next meeting "with a definition of... 'relief.'"

Vice Chair Flanigan did not feel the issue should be deferred for another month, and recommended that Director McCaffrey ask Director Brewton to provide an idea of what is meant by "relief" for the applications currently awaiting address.

Chair Terrill asserted that the situation is a "crisis that needs to be addressed," including tonight's input from the community. He referred to Director Brewton's email, which states the Planning and Zoning Department has worked with the

Office of Business Enterprises “to create a new Ordinance that should answer some of your concerns relating to dock and boat lift regulations,” and noted that he understood this Ordinance to currently be in the City Attorney’s Office for review.

He reiterated Vice Chair Flanigan’s suggestion that the Board recommend Director McCaffrey reach out to the Planning and Zoning Department and the City Attorney to arrive at a proposal for relief. Mr. Schulze cautioned, however, that applications granted under the proposed temporary relief would, once the Ordinance is rewritten, be grandfathered in as “legal[ly] nonconforming.”

**Motion** made by Mr. Tilbrook, seconded by Mr. Baker, that the Board recommend that the City Commission encourage Director McCaffrey’s office to immediately work with Planning and Zoning and the City Attorney to address relief up until the time that the Code is rewritten.

In a roll call vote, the **motion** carried 13-0.

**VI. Application – Dock Permit for Use of Dock on Public Property / Section 8-144 – 110 S.E. 11<sup>th</sup> Avenue: Paula & Florin Thaqi**

Mr. Hart explained that this is a request to use an existing dock on public property adjacent to the stated address. The Board had previously voted to support the reconstruction of the dock, although this was never done, as the property was never developed.

**Motion** made by Mr. Ross, seconded by Mr. Tilbrook, to approve the Application as presented. In a voice vote, the **motion** carried unanimously.

**VII. Application – Dock Waiver of Limitations / ULDR 47.19.3 – 2873 N.E. 24<sup>th</sup> Street: David & Jennifer Grace**

Charles Bell of East Coast Boat Lifts, representing the Graces, stated they had recently purchased a home in Fort Lauderdale and would like to install a boat lift for their boat. Their permit application to the City was rejected due to the new interpretation enforcing the 10% rule.

The proposed lift is a side-mount elevator with no outside pilings, which is mounted off the outside edge of the dock. It extends into the waterway approximately 11 ft. from this edge, and 19 ft. from the property line at the back side of the seawall cap. This is roughly 5 ft. over the 10% limitation. The boat will extend beyond the “arms” of the boat lift, but will protrude no more than it would if it were in the water.

He advised that the vessel is affected by “a lot of wake action” on the Intracoastal Waterway, “even on whips,” and is in danger of damage.

Mr. Bell noted that Mr. Grace is willing to work with a neighbor, Mr. Andrews, who had originally objected to the positioning of the boat lift. Mr. Grace will adjust the lift approximately 7 ft. “further east” to what is proposed in the plan in order to help preserve Mr. Andrews’ view as much as possible.

Mr. Ross asked if the lift would be within the setback for this neighborhood. Mr. Bell replied the lift will be “much further” back from the setback limit with the 7 ft. shift. It will be 22 ft. from the property line and roughly 12 ft. from the 10 ft. setback.

Mr. McLaughlin asked if the lift is in compliance with the 15% limitation. Mr. Bell stated it would be in compliance.

Vice Chair Flanigan asked if the fish table will be moved due to the 7 ft. shift toward the east. Mr. Bell replied this table will be moved as well.

Mr. Tilbrook asked what distance the lift will be from the property “in the proposed solution.” It was noted this is 22 ft. from the western property line.

Mr. Rassing asked if Mr. Andrews is “comfortable” with the proposed solution. Mr. Andrews agreed he is “very comfortable” with the solution proposed by the Applicant, and no longer has an objection.

Chair Terrill advised that the Board may specify this agreement as part of a motion to approve the Application. Mr. Andrews stated he would appreciate this addition.

Mr. Tapp observed this Application could serve as an example of extraordinary circumstances.

**Motion** made by Mr. Tapp, seconded by Mr. Adams, to approve the waiver, contingent upon Staff recommendations and the agreement by both neighbors that there will be a 23 ft. setback.

In a roll call vote, the **motion** carried 13-0.

## **VIII. Reports**

- **Broward County Marine Advisory Committee**

Mr. Adams stated there was no meeting to report.

- **New River Floating Dock Project**

Mr. Hart stated that final approval for \$506,000 for the Floating Dock Project was granted by the City Commission on December 1, 2009, and the contract was awarded to TechnoMarine USA on December 15, 2009. Bonding and insurance with TechnoMarine USA is pending.

Vice Chair Flanigan asked if funding was appropriated for a consultant to oversee this project. Mr. Hart replied this is included in the contract.

- **Cooley's Landing Boat Ramp Replacement Project**

Mr. Hart advised the project has encountered several problems due to leakage and undermining of the coffer dam. The contractor resumed work earlier in the day and the project is approximately 10% complete.

- **S.E. 15<sup>th</sup> Street Boat Ramp Improvement Project**

Mr. Hart informed the Board that the City Commission approved this project on January 6, 2010. Final site plan approval is tentatively scheduled to come before the Commission for approval in February, and should be completed by August 2010 according to the current schedule.

- **Marine Workshop**

Mr. Hart noted the report on this workshop is not finalized, but will hopefully be presented at the February 2010 MAB meeting before going to the City Commission in late February or early March.

## **IX. Old / New Business**

Vice Chair Flanigan asked if State or grant funding is available for a City-owned floating pump. Mr. Hart agreed this could be done. Vice Chair Flanigan asked if this service might be offered to City Marina customers, and Mr. Hart stated this is also possible, although he noted no staffing for such a service is presently available.

Chair Terrill requested that this be a discussion item for the Board's February 2010 meeting.

There being no further business to come before the Board at this time, the meeting was adjourned at 10:13 p.m.