

**MINUTES OF THE MARINE ADVISORY BOARD
100 NORTH ANDREWS AVENUE
8TH FLOOR CONFERENCE ROOM
FORT LAUDERDALE, FLORIDA
THURSDAY, MAY 3, 2012 – 6:00 P.M.**

<u>Board Members</u>	Attendance	Cumulative Attendance May 2012 - April 2013	
		<u>Present</u>	<u>Absent</u>
Barry Flanigan, Chair	P	1	0
James Harrison, Vice Chair	P	1	0
F. St. George Guardabassi	P	1	0
Chad Moss	A	0	1
Norbert McLaughlin	P	1	0
Jim Welch	P	1	0
Robert Dean	P	1	0
John Holmes	P	1	0
Bob Ross	P	1	0
Joe Cain	P	1	0
Tom Tapp	P	1	0
Herb Rassing	P	1	0
Frank Herhold	P	1	0
Lisa Scott-Founds	P	1	0
Zane Brisson	P	1	0

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

It was noted that a quorum was present for the meeting.

Staff

Jonathan Luscomb, Supervisor of Marine Facilities
Levend Ekendiz, Intracoastal Facilities Dockmaster
Matt Domke, Downtown Facilities Dockmaster
Sgt. Kevin Shults, Marine Police Staff
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Chair Flanigan, seconded by Mr. Rassing, that the Marine Advisory Board encourages the continuation of night patrols by the Marine Unit, which are made possible by an Enhanced Marine Law Enforcement Grant (EMLEG). In a voice vote, the **motion** passed unanimously.

I. Call to Order / Roll Call

Chair Flanigan called the meeting to order at 6:04 p.m. and roll was called.

II. Approval of Minutes – April 5, 2012

Mr. McLaughlin stated that he had learned Port Everglades does not charge a port tax to sailors. He wished to rescind his comments on this issue from the April 5, 2012 meeting, as they were not accurate.

Motion made by Mr. Ross, seconded by Mr. Herhold, to approve the minutes of the April 5, 2012 meeting as amended. In a voice vote, the **motion** passed unanimously.

III. Statement of Quorum

Chair Flanigan noted that a quorum was present at the meeting.

IV. Marine Advisory Board Election

- **Chair**

Motion made by Mr. Ross, seconded by Mr. Rassing, to nominate Barry Flanigan as Chair. In a voice vote, the **motion** passed unanimously and Chair Flanigan was re-elected.

- **Vice Chair**

Motion made by Mr. Ross, seconded by Mr. Herhold, to nominate James Harrison as Vice Chair. In a voice vote, the **motion** passed unanimously and Vice Chair Harrison was re-elected.

V. Introduction of New Member – John T. Holmes

New member John Holmes introduced himself to the Board at this time. Mr. Holmes has been a resident of Fort Lauderdale since 1968 and is a recent retiree. He is the former owner of a tool and rental business in Pompano Beach and was appointed to the Board by City Commissioner Bruce Roberts.

VI. Waterway Crime & Boating Safety Report

Sgt. Shults reported that the Florida Fish and Wildlife Commission (FWC) will provide revised signage for manatee zones by June 30, 2012. They will then begin work on other Fort Lauderdale and Broward County waterway signs, which are expected to be complete by autumn.

He continued that there have been strong responses by attentive citizens in recent weeks, which has been helpful to the Marine Unit. Two individuals were arrested for equipment theft on April 25 due to this attention. While other marine-related thefts have occurred, they are not of the quantity experienced in recent months. Sgt. Shults felt this was due in part to recent arrests. He noted, however, that property crimes do not result in lengthy jail sentences, and occur on a cyclical basis, as perpetrators typically move on to different locations.

He reported that there were relatively few boats on the waterway during the recent Air Show. An after-action review of the event will be held with the Coast Guard and all agencies involved on Tuesday, May 8.

Mr. Holmes observed that he receives a report on property crimes in his neighborhood, but marine crimes are not included. Sgt. Shults said he was not aware of how crimes included on the report are determined, but stated he would look into this.

Mr. Dean asked if additional night patrols are being performed. Sgt. Shults replied that because there is now night staffing available on six to seven nights each week, revisions have been made to the Enhanced Marine Law Enforcement Grant (EMLEG) and former Marine Unit Officers may now participate in night patrols. Officers who have not received formal marine training are excluded from these patrols.

Chair Flanigan recommended that the Board send a letter or other communication to the promoters of the Air Show, encouraging them to continue the event.

Motion made by Mr. Ressing, seconded by Ms. Scott-Founds, that the Air Show is a very important part of Fort Lauderdale, and that the Marine Advisory Board stands behind it as a great outreach, and they encourage them to come back again.

In a voice vote, the **motion** passed unanimously.

Mr. Herhold complimented Sgt. Shults for finding the grant money used to fund night patrols, as well as his outreach to former Marine Unit Officers who would like to participate. He recalled that this had been the topic of a recent communication to the City Commission, and suggested that the Board might thank the Commission for their attention to this issue.

Motion made by Chair Flanigan, and duly seconded, that the Marine Board would like to acknowledge to the Commission the resumption of the EMLEG program as reported this evening at the Marine Advisory Board meeting, relative

to nighttime patrols, and encourage that this program will be continued. In a voice vote, the **motion** passed unanimously.

It was noted that this **motion** would be sent as a communication to the City Commission.

VII. Application – Waiver of Limitations / ULDR 47.19.3 – 773 Middle River Drive – Steven Chase

Mr. Luscomb stated that the Applicant is requesting approval of the installation of a single mooring pile and two triple mooring clusters. He provided a survey that showed the distance of these structures' extensions into the Middle River. The mooring pile and clusters are each 60 ft. from the closest structure. He noted that distances in excess of 35 ft. require a waiver.

Mr. McLaughlin advised that he had a conflict with this Item, and recused himself from the Board at this time (6:28 p.m.).

Glenn Bryant of BK Marine Construction, representing the Applicant, explained that there is an existing perpendicular dock on the property. The Applicant hopes to purchase an additional boat, and would like to ensure safe mooring is available before he does so. City Code allows moorings to be placed at a distance of up to 25 ft. into the water; however, the center line of the Applicant's vessel would be beyond this length, which meant the dolphin piles must be extended further into the canal to allow for safe mooring. He asserted that moving the Applicant's mooring piles farther into the canal would be safer for both the Applicant and his neighbors.

Mr. Bryant concluded that the appropriate permits have been requested for the dolphin piles. The area is also a ski zone, which means wakes will occur and vessels may require additional stability.

Chair Flanigan asked if a letter provided by the Coast Guard had been updated. David Nutter of BK Marine said the Application had gone before the Coast Guard in "several different configurations," and the Coast Guard had requested that the Applicant finalize the configuration of the moorings and provide them with the appropriate coordinates for their placement. He stated that the Applicant will submit the configuration to the Coast Guard prior to obtaining the final City and County permits.

Mr. Rassing asked if the Applicant rents his dock space. Mr. Bryant said this was not the case, and explained that an individual leases the property and uses the dock space when the Applicant is out of town.

Mr. Guardabassi asked what size boat the Applicant planned to purchase. Mr. Bryant said this had not yet been determined, but the vessel would be no more than 60 ft. in length.

Mr. Herhold commented that he is familiar with the area, and there are often skiers on the canal. He stated he was concerned that the mooring structures might impede recreational activity, such as skiing or paddleboarding. Chair Flanigan added that the location is one of three areas inside the City that are designated for waterskiing.

Mr. Bryant pointed out that there is an existing no wake sign on the canal, which extends farther than the 60 ft. length of the mooring structures. He showed the location of the sign on a photo of the property.

Mr. Brisson asked if any boats moored across the canal have pilings that extend a similar length into the water. Mr. Bryant said some of these properties' pilings are 70 to 80 ft. into the canal.

Mr. Welch asked if there is a limit to the number of boats an owner may dock in a residential neighborhood. Chair Flanigan said there is no restriction on the number of boats that may be moored in the absence of boat lifts. Mr. Bryant said if an Applicant has more than three boats, he will be required to take measures for fire suppression.

Vice Chair Harrison advised that it would be possible to dock a 180 to 190 ft. vessel on the property while still remaining within 30% of the river. Mr. Bryant said the minimum width of the canal is 580 ft., which meant a vessel up to 174 ft. in length could be docked. Vice Chair Harrison observed that the amount of dockage on the site appeared to be "extreme." Mr. Bryant stated that the Applicant did not plan to put a vessel of the maximum allowed size on the property.

Mr. Ross said he was troubled by the neighbors' responses to the Application, noting that none of them appear to be in favor of the requested waiver. They also note that the area allows water sports. He recalled that a recent law allows boats to anchor "wherever they want for as long as they want," and boats anchor in this area. He felt the combination of anchorage and water sports constituted a safety issue.

Mr. Dean asked to know the depth of the water in the area. Mr. Rassing estimated it was 6 ft. to 10 ft.

Mr. Tapp observed that the Application suggests storage would be provided on the property for up to five vessels. He asked if the vessels are the private property of the owner, noting that the site is located in a residential area. He also

expressed concern with the emails from the Applicant's neighbors. He concluded that he was not sure the Board had sufficient information to grant the waiver without learning more about the neighbors' issues, as well as further research to clarify whether the homeowner was leasing dock space on his property.

Mr. Bryant said dockage is only set up for three slips, including one boat lift and two docked vessels. He asserted that the request was the best possible solution if a large vessel was to be moored on the property.

Mr. Rassing asked why the Applicant was not present at the meeting. Mr. Bryant said he was presently out of town. He added that the Applicant had assured him no dock space is rented.

Mr. Welch asked if anything would be done to mark the dolphin pilings. Mr. Bryant said they would be supplied with reflectors and must be at least 8 ft. above the water at high tide.

Mr. Guardabassi asked if the renter of the property rents the entire home, noting that some letters from neighbors suggest the renter occupies a single room on the property. He pointed out that this could present a zoning issue. Mr. Bryant said he did not have additional information on this. Chair Flanigan said the Board's purview with regard to the Application is strictly related to safety and navigational issues.

Mr. Guardabassi recalled that the Application had appeared on a previous Board Agenda, but was deferred. He asked if BK Marine was involved with the Application at this time. Mr. Bryant explained that the Applicant had changed his mind on what he wished to do. His original intent had been to place more dolphin pilings in the water.

There being no further questions from the Board at this time, Chair Flanigan opened the public hearing.

Ernest Constantino, private citizen, stated he lives directly across the street from the Applicant. He noted that exemptions to Code requirements are typically granted when the requirement presents an undue hardship on the Applicant and the exemption would have no negative impact on the common good. He felt the Application failed on both counts, as no hardship had been demonstrated, and some neighbors were concerned with the safety of placing dolphin pilings 60 ft. from the dock space. He also felt the Application would result in a negative cosmetic impact to the neighborhood.

Don Goldberg, private citizen, said he has been the Applicant's immediate neighbor to the south for over three years. He recalled that the original Application had been scheduled to come before the Board in December 2010

with a very similar request to the current Application. Mr. Goldberg explained that the previous year, up to five boats had been docked behind the Applicant's property. The property was eventually inspected and the tenants provided a lease showing they rented separate rooms "and the dock," after which time the Application was withdrawn. He also cited an incident in which an individual had stated his intent to rent a room and a slip.

He concluded that the nature of the neighborhood has changed due to the ability of boats to anchor at will, which is sometimes done for a month or months at a time. There is also a great deal of waterskiing, tubing, kayaking, and paddleboarding in the area. Mr. Goldberg felt the current situation was dangerous, and granting the Application would make it more hazardous.

There being no other members of the public wishing to speak on this Item, Chair Flanigan closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Cain, seconded by Mr. Rassing, that the Application be denied.

Mr. Ross remarked that the issues of room or slip rental were not part of the Board's responsibility, and he did not feel it was fair to categorize the Applicant in this manner. He said they should focus on issues such as safety factors and water uses.

Mr. Tapp agreed, but pointed out that the Board has some responsibility to the neighborhood, as some residents felt the Board did not have all the information they might need to make an informed decision on the Application. He said he was not ready to vote on the Application without further research on these issues.

Chair Flanigan agreed that while the issue of rental was not the Board's responsibility, they could not ignore the neighborhood's responses. Mr. Holmes concurred that safety is the primary issue. He also felt it was significant that the Applicant was not present.

Vice Chair Harrison agreed that the Applicant did not seem to have demonstrated an extraordinary circumstance that would necessitate a waiver. Mr. Herhold added that most Applications for variances before the Board are accompanied by letters of support; he noted that there were no such letters from the community, and reiterated his concern regarding the safety issue.

Mr. Dean stated that the photographs of the property resembled a commercial operation, although this might not be the case. He said if he were a neighbor, he would not be in favor of "expanding the nature of the commercial look."

Chair Flanigan asked if there was a dedicated fire line on the Applicant's dock. Mr. Nutter said the Applicant had spoken with the fire marshal, who had advised he could sign a waiver stating more than three boats would be on the property.

In a roll call vote, the **motion** to deny the Application passed 13-0. (Mr. McLaughlin abstained. A memorandum of voting conflict is attached to these minutes.)

VIII. Reports

Mr. McLaughlin rejoined the Board at this time (7:10 p.m.).

- **New River Seawall Repairs**

Mr. Luscomb reported that repairs are underway for a 300 ft. portion of this seawall. A tow wall is being erected by BK Marine Construction.

- **Sailing Program Update**

He continued that the prospective agreement between the City and the County, which was discussed at the April meeting, had not been enacted. The City had sent the County a draft memo requesting that the County create a beach and storage area at Delavoe Park; however, at present the County is not prepared to take these steps. The backup plan, which involves the use of the Las Olas Marina, will be used instead. The program will begin on June 19. and Seven boats are being ordered, and a part-time sailing instructor will be hired for the summer. Two additional Staff members are amassing as much time on the water as possible in order to qualify as level one instructors.

Mr. Rassing said while he applauds the sailing program, he was concerned with the use of the Intracoastal Waterway at Las Olas Marina, as there is a great deal of boat traffic and wave action. Mr. Luscomb advised that the program would take place along the east side of the channel in a no wake zone, and a lifeguard will be on duty. He added that the Marina includes the infrastructure to support the program, including shower facilities and classrooms.

The program will run from 9 a.m.-1 p.m. Monday through Friday. Boats will be white with colored sails for easy visibility.

- **ICW Dredging**

Mr. Luscomb advised that this project is back on track, as contract negotiations are now complete. Task order 3, which identifies potential mitigation sites, has been completed. Up to 16 potential sites within the County were identified, as

60% of mitigation is expected to occur within Broward County. The most likely sites for mitigation are as follows:

- Lake Sylvia
- South Lake
- Deerfield Island
- North Lake
- Hillsboro Bay
- George English Park

The next step will be coordinating with the Florida Inland Navigational District (FIND) to “piggyback” on the dredging of the Intracoastal Waterway. He estimated that the City’s segment of the dredging project would begin in September 2013 and last for approximately one year. The City must also work with regulatory agencies to establish a mitigation plan.

Mr. McLaughlin asked where the equipment involved in dredging would load or offload material. Mr. Luscomb said he did not know this at present. Mr. McLaughlin noted that if barges must travel to other cities to load/offload, a fuel surcharge was likely to be added.

Chair Flanigan requested that this issue be made an Agenda Item at next month’s meeting. He recalled that there have been previous discussions of asking barge owners to pay an annual fee to establish a coordinated area for loading and offloading by appointment.

Mr. Guardabassi asked how a location such as Lake Sylvia would oversee anchoring if it becomes a mitigation area. Mr. Luscomb said the lake has seagrass at present, which makes it viable from a mitigation perspective; he did not know how anchoring affects this growth. He suggested that anchoring may be restricted from certain areas, as the project will be regularly monitored.

- **Commission Agenda Reports**

Chair Flanigan recalled that the Board had recently sent a communication to the City Commission regarding the zoning regulations that would apply to the installation of multiple boat lifts on communally owned properties, such as condominiums. He estimated that a report on this issue would be available by the Board’s June meeting.

IX. Old / New Business

Mr. Rassing requested an update on the replacement or repair of the City’s Pollution Solution vessel. Mr. Luscomb said he look into this status.

Chair Flanigan noted that there have been no complaints from residents along the canals, as pontoon boats are cleaning these areas on a regular basis. Mr. McLaughlin stated that pontoon boats are ideal for cleanup use, and better suited to the City's environment than the Pollution Solution vessel, which was too large to maneuver on some canals.

Mr. Welch asked for an update on the use of jet packs, noting that the vendor of this operation is currently located in George English Park. He asked if this vendor had an agreement with the City. Mr. Luscomb said there is no such agreement; however, as no money is changing hands, it has not been addressed further. Mr. Luscomb advised that Staff had met with representatives of the venture, but the discussions have not been ongoing.

Mr. Herhold stated that the Marine Industries Association of South Florida is participating in a study of the super-yacht industry, which analyzes the impact of vessels of 100 ft. or greater. He thanked Chair Flanigan for his attendance at a kickoff luncheon earlier in the day.

Vice Chair Harrison recalled that he had seen a recent ad for a marina in West Palm Beach that charged \$1/ft. for dockage. He asked how occupancy at the City's docks appeared to be faring at present. Mr. Luscomb estimated that dockage is roughly 67% year-round, although he noted that the Las Olas Marina is restricted due to its submerged land lease and shading related to sea grass. Dockage at City marinas is expected to be 90% in May. He concluded that all City marinas' rates are reduced to less than \$1/ft. during the summer months. Pricing is the result of a survey of competition in the area.

Vice Chair Harrison asked if pricing is sufficiently flexible to maximize the rental of the City docks to the most boats at any given time. Mr. Luscomb confirmed this, noting that the City's rates are lower than those at other marinas; the difference is that they may not "make a deal on the spot," as private marinas may do. He recalled that there have been discussions of establishing a brokerage rate at City marinas, as there are some slips that are difficult to fill due to their location. A brokerage boat could be allowed to remain at one of these slips at a reduced rate.

He added that the City's operations are very simple and do not offer all the same amenities that a private marina may include. Another challenge lies in the size of the boats, as a 30 ft. boat is more market-sensitive than a 100 ft. boat. He concluded that the linear dockage concept proposed for the Las Olas Marina may address this issue.

Vice Chair Harrison said he felt there should be a greater focus on achieving 100% occupancy, as it was better for the marine industry if the docks are full, even at a reduced dockage rate. Chair Flanigan observed that this discussion

applies primarily to the Las Olas Marina, and added that the City requires a level of transparency regarding its rates, which is not required of private marinas.

Mr. Luscomb commented that in his experience, municipalities such as West Palm Beach are “annual-oriented,” offering annual leases, while demand in Fort Lauderdale is much more seasonal. He agreed it is important to create a higher level of demand, and noted that there is a lack of suitable dockage space for mega-yachts in Palm Beach and Miami as well as in Fort Lauderdale.

It was agreed that dockage rates would be discussed further at the Board’s June meeting.

Mr. Dean asked how the City’s marinas are advertised. Mr. Luscomb said this is done primarily via the internet and word of mouth. The City no longer advertises in print. While this year’s percentages are down less than 5% from 2011, the numbers are flat to last year.

Mr. Tapp said he felt the cost benefit of advertising in the *Waterway Guide* could not be overstated, particularly for boaters without local knowledge. Mr. Luscomb agreed, and advised he would reach out to Cate McCaffrey, Assistant Director of Parks and Recreation, to learn whether or not this might be an option once again in the future.

Chair Flanigan stated that the Beach Redevelopment Board will hold a meeting at 1 p.m. on Monday, May 7 to discuss the proposed redevelopment of the Las Olas Marina. Mr. Luscomb said Staff and the consultant teams will give a PowerPoint presentation on the economic impact this project could have. He noted that the marina’s redevelopment is one of the more controversial concepts for economic development, as it would involve the greatest change and is presently unfunded.

X. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 8:01 p.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]