

**MINUTES OF THE MARINE ADVISORY BOARD  
100 NORTH ANDREWS AVENUE  
8<sup>TH</sup> FLOOR CONFERENCE ROOM  
FORT LAUDERDALE, FLORIDA  
THURSDAY, MAY 2, 2013 – 6:00 P.M.**

| <u><b>Board Members</b></u> | Attendance | <b>Cumulative Attendance<br/>May 2013 - April 2014</b> |                      |
|-----------------------------|------------|--|----------------------|
|                             |            | <u><b>Present</b></u>                                  | <u><b>Absent</b></u> |
| Barry Flanigan, Chair       | P          | 1  | 0                    |
| James Harrison, Vice Chair  | P          | 1  | 0                    |
| F. St. George Guardabassi   | P          | 1  | 0                    |
| Norbert McLaughlin          | P          | 1  | 0                    |
| Jim Welch                   | P          | 1  | 0                    |
| Robert Dean                 | P          | 1  | 0                    |
| John Holmes                 | A          | 0  | 1                    |
| Bob Ross                    | P          | 1  | 0                    |
| Joe Cain                    | P          | 1  | 0                    |
| Tom Tapp                    | A          | 0  | 1                    |
| Herb Rassing (arr. 6:10)    | P          | 1  | 0                    |
| Frank Herhold               | P          | 1  | 0                    |
| Lisa Scott-Founds           | A          | 0  | 1                    |
| Zane Brisson                | A          | 0  | 1                    |
| Erik Johnson                | A          | 0  | 1                    |

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**

Andrew Cuba, Manager of Marine Facilities  
Jonathan Luscomb, Supervisor of Marine Facilities  
Matt Domke, Downtown Facilities Dockmaster  
Levend Ekendiz, Intracoastal Facilities Dockmaster  
Sergeant Todd Mills, Marine Police Staff  
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Communication to City Commission**

None.

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

Chair Flanigan called the meeting to order at 6:08 p.m.

## **II. Approval of Minutes – April 4, 2013**

**Motion** made by Mr. Ross, seconded by Mr. Herhold, to approve. In a voice vote, the **motion** passed unanimously.

## **III. Statement of Quorum**

It was noted a quorum was present.

## **IV. Marine Advisory Board Election**

- **Chair**

**Motion** made by Mr. Cain, seconded by Mr. Guardabassi, to nominate Mr. Flanigan as Chair. In a voice vote, Chair Flanigan was unanimously re-elected.

- **Vice Chair**

**Motion** made by Mr. Herhold, seconded by Mr. Dean, to nominate Mr. Harrison as Vice Chair. In a voice vote, Vice Chair Harrison was unanimously re-elected.

## **V. Waterway Crime & Boating Safety Report**

Sgt. Todd Mills of the Marine Unit reported that nine burglaries occurred in which electronics and fishing gear were stolen from vessels. Work is ongoing in relation to the gas can thefts that occurred at the end of March. A kayak was also stolen from a dock.

Sgt. Mills continued that there have been four boating accidents, three of which resulted in only minor damage and no injuries. The fourth incident was a boat fire, which ultimately totaled three vessels. In addition, three vessels have sunk, two of which were re-floated. A barge that sank on April 29 resulted in a diesel fuel spill, to which the Coast Guard and the Florida Department of Environmental Protection (FDEP) responded. The barge was subsequently re-floated and driven away. He concluded that 17 tickets and 79 warning citations were issued during the month of April.

Mr. Ross noted that a small sailboat has been abandoned in Lake Sylvia for some time. Sgt. Mills said the Marine Unit would follow up on this.

Vice Chair Harrison asked if the burglaries occurred in the same general area. Sgt. Mills replied that the fuel thefts occurred in the same location, as it is believed they are the work of a single individual. The other thefts were spread throughout the City.

Chair Flanigan asked why the City had re-floated one of the sunken vessels. Sgt. Mills explained that FDEP had floated the boat to remove its fuel; the City had then kept it afloat so it could be tagged as a derelict vessel. The boat's owner will be held responsible for these costs.

Chair Flanigan asked if salvage companies were typically called in cases such as this. Sgt. Mills advised that this occurred when the vessel had value, which was not the case in this situation. The boat was towed to Riverbend Marina to be demolished.

Mr. Guardabassi recalled that at the April Board meeting, there had been discussion between the Board members and three homeowners regarding wakes on the New River. Sgt. Mills said enforcement in this area has been increased, and the Marine Unit is working with the Florida Fish and Wildlife Commission (FWC) to set up an operation in the subject area.

Vice Chair Harrison requested a report on the recent Air Show. Sgt. Mills replied that there were far more boats on the water on Saturday than on Sunday. He stated that while the promoter had originally disagreed with the Coast Guard regarding how many marker buoys and/or boats would be placed in the water, the event had gone very smoothly.

Chair Flanigan asked if progress had been made regarding the replacement of the Marine Unit fleet. Sgt. Mills said two sets of engines have been received, and the Unit hopes to secure grant funds so more can be purchased. He added that this year's proposed Marine Unit budget includes replacement of boats. The preferred replacement vessels are Intrepid hulls. There are currently eight boats in the fleet, one of which is unmarked. All vessels in the fleet are at least 10 years old.

#### **VI. Waiver of Limitations – ULDR Sec. 47-19.3 C&E – Robert LeClair & Vincent Gauthier – 777 Bayshore Drive**

Tyler Chappell, representing the Applicant, showed a PowerPoint presentation to the Board, stating that the property is located on the Intracoastal Waterway and has an existing marina. The waiver is for a proposed boat lift and is not related to any dock structures on the property. The boat lift would extend 4.5 ft. beyond the 25 ft. restriction. Both the boat and boat lift would remain within the confines of the existing marina.

He provided a survey and photographs of the marina, identifying the location of the proposed boat lift and the existing docks and mooring piles. The extension into the waterway would be 29.5 ft. in an area in which the waterway is 344 ft. across from the wet face of the seawall to the finger pier. The location faces

west, which means there are some effects from wind and waves. The high wave pitch coming from nearby accelerating vehicles leaving a No Wake Zone is one reason the Applicant's vessel should be on a boat lift.

Mr. Herhold requested clarification that the structure would remain within the footprint of the existing docks. Mr. Chappell confirmed this, noting that one of the slides showed the existing submerged land lease boundary. The location of the proposed lift was identified on the slide.

Vice Chair Harrison asked what size boat could be moored at the existing slip without a boat lift. Mr. Chappell said the vessel to be secured on the boat lift would be no larger than 35 ft.

Mr. Dean asked if the dock itself was 23.5 ft. in length. Mr. Chappell confirmed this, stating that the property line lines beneath the marginal dock. The Applicant has secured all necessary permits other than Building Department approval, which required the waiver of limitations.

As there were no further questions from the Board at this time, Chair Flanigan opened the public hearing. There being no members of the public wishing to speak on this Item, Chair Flanigan closed the public hearing and returned the discussion to the Board.

**Motion** made by Mr. Ross, seconded by Mr. McLaughlin, to approve. In a voice vote, the **motion** passed unanimously.

#### **VII. Waiver of Limitations – ULDR Sec. 47-19.3 C&E – Gilles Blondeau / Multimo LLC-3012 NE 20 Ct.**

Mr. Cuba advised that this Item has previously come before the Board for approval. Chair Flanigan stated that the owner wished to bring certain items discussed at a previous City Commission meeting to the Board's attention; there would be no need for a vote on the Item unless any member of the Board wished to change his previous vote.

Steve Tilbrook, representing the Applicant, noted that Mr. Chappell is also a consultant with the project being presented. He recalled that it was originally an after-the-fact application, and noted that mooring piles have been removed from the property. New materials and a proper site plan are being presented with the current Application.

He showed a PowerPoint presentation to the Board, stating that the request is for a waiver of limitations for two mooring pile clusters. The property is 11,875 sq. ft., with a south dock of 123.29 ft. in length. The waterway at the location is 200 ft.

wide. Mr. Tilbrook explained that the clusters would be located at 44.2 ft. and 43.4 ft. into the waterway, requiring a 19.2 ft. and 18.4 ft. waiver respectively.

He showed photos of the vessel and dock on the property, as well as a survey of the waterway including the surveyor's interpretation of the riparian lines. The Applicant's vessel is 115 ft. in length with a 25 ft. beam, and is moored parallel to the dock. Mr. Tilbrook identified the riparian line as 123.4 ft. and showed the proposed location of the mooring clusters. He noted that there may have been questions by the Applicant's neighbors regarding the accuracy of the riparian lines.

He concluded that the question is how to safely dock the Applicant's vessel. At the previous Board meeting at which the Application was presented, it was noted that pilings are necessary on the south side of the vessel in order to keep it off the dock. The Applicant has determined that the proposed solution would have a minimal effect on the waterway or the other property owners on the canal. Extraordinary circumstances include the damaging effect of excessive wakes in this portion of the Intracoastal Waterway, the need to keep the vessel off the dock, and the extraordinary width of the waterway.

Mr. Guardabassi asked how much space would remain in the waterway if a property owner across the canal submitted a similar Application. Mr. Tilbrook stated that the channel at this location, outside the 30% allowable width on either side, would be 110 ft. wide.

Mr. Dean requested clarification of whether the Application was being presented a second time for a vote or for informational purposes only. Chair Flanigan explained that some information has been added since the last time the Application was seen by the Board; when the Application went before the City Commission, it was suggested that the pilings were not in the locations described to the Board. The pilings have since been removed and the Applicant has provided a survey.

As there were no further questions from the Board at this time, Chair Flanigan opened the public hearing.

Paul Young, private citizen, stated that he owns property on the north side of the lake. He asked to know the east/west dockage length of the subject property. Mr. Tilbrook replied that the dock is 123.29 ft. and the vessel itself is 118 ft. in total length. Mr. Young asked if the vessel would be over its easement when moored on the property. Mr. Tilbrook said there is a riparian line and a 5 ft. setback at which the piling would be located on the east side; on the west side, the vessel will lie within the riparian line, although it is allowed to extend up to 30% into the length of the waterway.

Mr. Young asked what would occur if the tender was moored on the south side of the vessel. Mr. Tilbrook said it was the Applicant's intent not to moor the tender on this side. He noted that the Application was related only to the pilings. Mr. Young stated that the tender is always moored on the south side, although this is not part of the Application.

Tom Staworths, private citizen, showed the Board a photo of the subject property. He pointed out that the piling posts are very close to the dock, and asked how the vessel would crush the dock with these posts in place. Mr. Tilbrook reiterated that due to the prevailing winds and wake, the intent of the pilings was to keep the vessel off the dock to prevent damage.

Mr. Staworths continued that the boat in question weighs over 130 tons. He stated that other similarly sized vessels are docked on the Intracoastal Waterway without pilings, and he had been advised that boats of this size are hard to move, even when wakes are thrown. He declared that the cluster pilings are not needed, and added that the owners have said the vessel will not be on the property during hurricane season. He asserted that the Applicant had "created his own extraordinary circumstance" and that the company that installed the dock and the pilings without consideration for safety. Mr. Staworths concluded that the Applicant's neighbors would continue to speak out against the Application.

Charles Donnelly, private citizen, said he lives next to the subject property. He stated that he did not agree with the interpretation of the riparian lines as drawn by the Applicant's surveyor. He added that the Applicant had originally installed the pilings illegally, without permits. He advised that the Applicant's vessel is too big for the property, and reiterated that the pilings were unnecessary. Mr. Donnelly concluded that the riparian lines may be subject to litigation.

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

Chair Flanigan stated again that the Item would not be voted upon a second time, as the Board had previously recommended it for approval. He advised that the Board is charged with making recommendations on navigational issues only.

## **VIII. Reports**

- **Barge Load / Offload**

Mr. Luscomb reported that Staff has been researching this issue, including how riparian rights are determined for a given property. These lines do not extend from the property line to the navigable channel, but from the channel to the corners of the property. He showed a rendering that illustrated the riparian right

lines at Las Olas Marina, explaining that there is also a 25 ft. buffer line that must be respected.

He continued that in researching how the City's land lease might be expanded in order to accommodate barge loading/offloading, the option on the north side would require entering into an agreement with the Portofino, such as a setback waiver or a co-land lease. On the south side, the same issue occurred with the Venetian, as there would be no way to avoid encroaching on the condominium's riparian right lines. Staff has reached out to the property manager at Portofino to discuss this possibility and is awaiting a response.

Mr. Luscomb advised that another option is to allow loading/offloading within the existing submerged land lease of the Las Olas Marina. He pointed out, however, that in this case, the issue is the rust left behind by barges, which must be taken into consideration.

Staff has also looked into the possibility of loading/offloading at the ends of three streets to the north of the Marina. Because the City owns the rights-of-way on these streets, the City Attorney's Office is investigating this as a possible solution. They are also considering a nearby canal.

On May 6, the City will hold a conference call with the port to determine if they might have an area that could serve as both a super-yacht dock and a barge loading/offloading area. The final option is a City property located to the west of the Dania cutoff canal. Mr. Luscomb showed an aerial view of this site, noting that there are some challenges that would need to be considered, such as a right-of-way for nearby power lines. There are approximately 84 ft. of waterfront that could be developed into a lagoon in which a barge could load or offload. He noted that while no permanent structure could be built beneath the right-of-way, it could be possible to store materials at this site.

Mr. Herhold commented that the Marine Industries Association of South Florida (MIASF) had conducted an analysis at one time into potential marina development sites, which included the site included in the final option. He observed that it could be possible to construct a boat ramp on this property. Mr. Cuba noted that the primary issue in this case is the location of seven of the site's 10 acres, which lie beneath power lines, and the inability to erect a fixed structure.

Chair Flanigan pointed out that even if dry storage was not a possibility at this site, it would still be a good location for a boat ramp, as it would take on some of the traffic currently served by the 15<sup>th</sup> Street boat ramp.

Mr. Dean asked how long it would typically take to load or offload a barge. Mr. McLaughlin estimated that this takes two to three hours. Chair Flanigan proposed

that it could be possible to establish an area in which loading/offloading was allowed through the week, during specified hours; barge companies would need to call ahead to schedule the times when they would need to use the area, and would pay a fee. He noted, however, that the issue of the materials to be loaded or offloaded had not yet been addressed.

Mr. McLaughlin remarked that one reason the Las Olas Marina would be a good possibility was the proximity of a dockmaster, who could supervise the schedule and observe any incidents involving debris or unwanted activity. He noted that loading for the Boat Show, however, could take considerably longer than two to three hours.

Mr. Guardabassi asked if the prospective reconfiguration of Las Olas Marina would change its layout. Mr. Luscomb pointed out that another potential issue in this case was that super-yachts might not want the necessary equipment for loading and offloading to operate in their area. He explained that the problem with the Marina is that it is fully developed, while the potential Dania site is not.

Vice Chair Harrison pointed out that City Code prohibits loading and offloading from commercial vessels, and asked why amending Code was not an option. Mr. Luscomb explained that this is part of the legal research being conducted by the City Attorney's Office. Vice Chair Harrison asked if there have been complaints regarding illegal loading/offloading at vacant lots. Mr. Luscomb confirmed this.

The Board members discussed the possibility of other locations as temporary solutions to this issue. Mr. McLaughlin asked if any potential Code change would be brought before the Board. Mr. Cuba advised that Staff would keep the Board updated on the issue. Mr. Luscomb added that any Code change allowing loading/offloading in a given neighborhood would also require the approval of that neighborhood. It was not possible to estimate a time frame in which this issue might be resolved.

Chair Flanigan noted that the issue of loading/offloading may be included on the agenda of an upcoming marine industries strategy workshop, which was scheduled for May 13, 2013 at 7 p.m. at the Beach Community Center. This meeting will be open to the public.

Michael Morrison, member of the public, stated that he is the owner of a local company that operates a barge. He reported that his crew had been arrested for parking a barge on vacant land overnight, and confirmed that other local cities did not prohibit loading and offloading. He noted that the amount of boat traffic, particularly large yachts, and the configuration of sites such as the Dania cutoff made it difficult to turn around or go against the current. He felt the best option would be amending the Code so loading and offloading could take place at the Las Olas Marina.



Chair Flanigan recommended that Mr. Morrison attend the upcoming marine industries workshop to make sure his concerns were heard. Mr. Morrison stated that he was amenable to different options, such as entering into a contract with the City that would allow him to load or offload in a designated area, in order for his and other businesses to continue to operate.

- **Commission Agenda Reports**

Mr. Cuba stated that an application for a waiver, originally presented at the April 16 City Commission meeting, has been deferred to June 4.

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

Mr. Herhold said the City's Department of Sustainable Development had recently prepared a status report on the marine industry. Rather than discussing this report at a City Commission Conference Agenda meeting, the Mayor had suggested it be presented at the upcoming marine industries strategy workshop, which will be attended by all the City Commissioners. He advised that this was an opportunity for the marine industry to make its concerns known, and emphasized the importance of this upcoming event.

Mr. Cain stated that the City plans to issue a proclamation establishing a Fort Lauderdale Marina Day in conjunction with National Marina Day.

Vice Chair Harrison reported that MIAASF's Plywood Regatta will be held on Whiskey Creek in Dania over the weekend of May 4-5. He encouraged the Board members to attend this event if possible.

Mr. Guardabassi said while he planned to attend the upcoming marine industries workshop, he was sorry that the Board was not more involved in this event in a leadership role. He felt it would be more productive for the Board to schedule a meeting at which they discussed and developed their own list of priorities.

Mr. Herhold explained that in addition to the presentation of the status report, the upcoming workshop would allow ample time for discussion so the marine industry could make its concerns known to the City Commission. Chair Flanigan suggested that the Board's next meeting following this workshop could be dedicated to further discussion of these issues and concerns in lieu of regular business, such as waivers.

Mr. Herhold asked if Staff could provide the Board members with copies of the status report on the marine industry. Mr. Cuba said this would be done. He also pointed out that the Board's specific recommendations would drive the agenda at

the upcoming workshop. He advised that the workshop agenda would be sent to the Board as well.

He noted that while it is possible to inform an Applicant that a waiver may not be heard in a given month, this may not seem fair to the Applicant. It was suggested that an additional meeting could be scheduled in June or July rather than postponing the regular hearing of waivers at a meeting, if the Board felt this was necessary following the workshop.

Chair Flanigan asked if it would be possible to extend the idle speed zone to the north of the Middle River near George English Park, as paddleboarding and kayaking are allowed in this area. He explained that this concern was raised by another City advisory entity. Mr. Cuba said he would look into this issue with the FWC, as speed zones are within this organization's jurisdiction.

Mr. Rassing said Hospice by the Sea will hold its third annual regatta on May 18, and encouraged the Board members to participate in this event if possible.

## **X. Adjournment**

There being no further business to come before the Board at this time, the meeting was adjourned at 7:59 p.m.

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