

**MINUTES OF THE MARINE ADVISORY BOARD  
100 NORTH ANDREWS AVENUE  
8<sup>TH</sup> FLOOR CONFERENCE ROOM  
FORT LAUDERDALE, FLORIDA  
TUESDAY, JULY 9, 2013 – 6:00 P.M.**

<u><b>Board Members</b></u>	Attendance	<b>Cumulative Attendance May 2013 - April 2014</b>	
		<u><b>Present</b></u>	<u><b>Absent</b></u>
Barry Flanigan, Chair	P	3	0
James Harrison, Vice Chair	P	3	0
F. St. George Guardabassi	P	3	0
Norbert McLaughlin	P	3	0
Jim Welch	P	2	1
Robert Dean	A	2	1
John Holmes	P	2	1
Bob Ross	P	3	0
Joe Cain	A	2	1
Tom Tapp	A	0	3
Herb Ressing (arr. 6:36)	P	3	0
Frank Herhold	P	3	0
Lisa Scott-Founds	P	2	1
Zane Brisson	A	1	2
Erik Johnson	P	2	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  
Officer Gene McCoy, Marine Police Staff  
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

**Motion** made by Mr. Ross, seconded by Ms. Scott-Founds, that the Marine Advisory Board has reviewed the criteria required by the dock waiver process, and has unanimously concluded that the current process is effective and should

continue, as described in the attached document. In a voice vote, the **motion** passed unanimously. **[A copy of the document is attached to these minutes.]**

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

Chair Flanigan called the meeting to order at 6:05 p.m. and roll was called. The Board observed a moment of silence in honor of former Mayor Bob Cox, who had recently passed away.

Mr. Ross proposed that the Board place a plaque in honor of the former mayor at the 15<sup>th</sup> Street Boat Ramp. Mr. Cuba recommended that a communication could be sent to the City Commission to suggest this; if the Board wished to create and pay for the plaque, he would look further into this possibility. Chair Flanigan asked that any other suggestions of a way to honor Mayor Cox be sent to Mr. Cuba for further consideration.

#### **II. Approval of Minutes – June 6, 2013**

Mr. McLaughlin requested a clarification regarding the percentage of the waterway into which a dock may extend, as discussed on p.5 of the June 6 minutes. Mr. Cuba clarified that the allowable distance is 25% or 25 ft. for a mooring structure, which may be either a dock or a boat lift; this distance may be 25 ft. or 30% for a dolphin piling.

Mr. McLaughlin also noted a correction on p.5, paragraph 3: in the case of a 100 ft. wide canal, the distance remaining down the center of the waterway would be 40 ft. rather than 60 ft.

**Motion** made by Mr. Ross, seconded by Ms. Scott-Founds, to approve as amended. In a voice vote, the **motion** passed unanimously.

#### **III. Statement of Quorum**

It was noted that a quorum was present.

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

Sgt. Todd Mills of the Marine Unit reported that since the last Board meeting, five minor vessel accidents have occurred, and the Unit has issued 12 citations and 75 warnings and performed 55 safety inspections. One incident of breaking and entering, involving the theft of two outboard motors, occurred between April and June 19.

Sgt. Mills continued that the Marine Unit has applied for a grant from the Florida Inland Navigation District (FIND) that would fund the purchase of engines for the

City's boat fleet. The City must provide matching funds for this grant, which would allow the purchase of at least two sets of engines by the end of the year.

Mr. Herhold asked for a report on 4<sup>th</sup> of July events. Sgt. Mills advised that this event had gone well, with 24-hour security around the fireworks barge. Mr. Herhold complimented the Marine Unit on its activity during the holiday.

Sgt. Mills continued that an arrest for boating under the influence (BUI) was issued by the Florida Fish and Wildlife Commission (FWC), which handles this type of arrest. He stated that in the future, he hoped to secure the funding for additional training so the Marine Unit can make these arrests as well.

Sgt. Mills introduced Officer Gene McCoy, who works with abandoned vessels and environmental issues for the Marine Unit. He noted that the abandoned vessel in Lake Sylvia, which was mentioned at an earlier meeting, appeared to be the subject of a scam in which the owner said he had sold the vessel to an individual with a fabricated address. The primary issue is defining the boat as an abandoned vessel: the boat is not taking on water, but lacks an anchor light and evidently has not been occupied in several months.

Mr. Ross expressed concern with what might happen to the vessel in the event of a hurricane, as it could damage nearby boats and docks. Sgt. Mills said the Marine Unit is seeking the paperwork for the sale of the vessel, but is having difficulty contacting the last registered owner, which would allow the cost of salvage to be transferred to the owner.

Mr. Rensing arrived at 6:36 p.m.

Officer McCoy observed that he typically follows a State Statute that pertains to illegal dumping of a vessel. The Statute requires that full restitution be made to the Marine Unit, including investigative costs.

Mr. Holmes asked to know if the Marine Unit or another entity should be contacted regarding a residential dock that is falling into disrepair and creating a navigation hazard. Sgt. Mills said if the structure is causing a hazard, it is within the Marine Unit's purview; if the dock is simply sinking into disrepair, Code Enforcement should be contacted.

Mr. Holmes advised that he had spoken to the Vice Mayor and a member of the City Attorney's Office to request that the dock be declared an unsafe structure; however, because the structure in question is attached to a seawall, Code Enforcement may neither enter the property without the owner's permission nor remove the dock. This means the property may not be accessed from either land or water.

Sgt. Mills advised that if the dock is off the seawall and floating in the canal, the Marine Unit could treat it as a navigational hazard and seek to tow the structure. He suggested that if the dock belongs to a house in foreclosure, it may be possible to reach out to the bank that holds title to the property.

#### **V. Resolution Amendment – 621 Cordova Road – Steven Merson**

Mr. Cuba explained that this was the first case in which the Board will issue a Resolution Amendment for a previously issued dock permit. The Board had approved a permit, in the form of a Resolution, for the private usage of public property for a dock at the above address. The Applicant is now seeking to place a boat lift on this dock, which requires a Resolution Amendment by the City Commission. Mr. Cuba concluded that the Board may recommend this Resolution Amendment to the Commission.

Kirk Loughgren of Ocean Consulting, representing the Applicant, stated that the boat lift will be adjacent to the dock but will not be attached to it. The lift will occupy the same space in which the boat would be moored.

Chair Flanigan said he had spoken to a member of the City Attorney's Office, who had advised there was nothing unusual about the Application. The Resolution Amendment would be added to the original Resolution allowing the Applicant to use the dock. No waiver is required.

There being no questions from the Board at this time, Chair Flanigan opened the public hearing. As there were no 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 Vice Chair Harrison, seconded by Mr. Ross, to recommend a Resolution Amendment. In a voice vote, the **motion** passed unanimously.

#### **VI. Discussion – Proposed FWC Speed Zone Changes**

Mr. Cuba stated that the Fish and Wildlife Commission (FWC) is requesting the Board's recommendation of a Resolution approving proposed speed zone changes. They have sought and received a similar Resolution of approval from the County, and are now reaching out to the cities to seek their approval as well.

Chair Flanigan requested clarification of the areas in which speed zones would change. Mr. Cuba noted that these four areas are identified in the members' background materials, and are concentrated near bridges on the Intracoastal Waterway. He clarified that this Resolution would have no impact on speed zones in the New River Sound.

Vice Chair Harrison asked for more information on what the changes would be, as the backup materials showed the proposed speed zones but not the existing speeds. Mr. Cuba explained that the Resolution would match the appropriate signage with the actual zones: signage had been placed in the area by the County, and the FWC is seeking to make all the signs uniform. Some signs would be moved slightly to the north, such as the signage at Las Olas Boulevard. He concluded that law enforcement did not perceive any significant changes associated with the proposal.

Mr. Guardabassi commented that he was opposed to any requirement for a No Wake zone, as he felt this was an erosion of boaters' rights. He felt this was an "impossible requirement."

Mr. Cuba advised that the Board was not required to make any motion recommending approval of the Resolution. If they made no such motion, this would be reflected in the minutes, which would be forwarded to the FWC. They could also make a motion to abstain from recommending the proposed changes.

The Board members decided by consensus to make no motion on this Item.

## **VII. Reports**

- **15<sup>th</sup> Street Boat Ramp**

Mr. Luscomb stated that the construction contract for this project was awarded on June 18, 2013, to a bid of \$1.69 million. The expected start date for construction is in August. He noted that the bid was roughly \$600,000 less than estimated, which could allow for funds to be used toward a plaque or other recognition of former Mayor Cox at the site.

Chair Flanigan asked if all Florida Power and Light (FPL) concerns in this area have been addressed. Mr. Luscomb confirmed this.

- **FIND Dredging Status**

Mr. Luscomb continued that he had shown a presentation to FIND regarding the dredging process, and had provided the agency with copies of a slide on the potential economic impact of the project. He had also discussed the issues surrounding mitigation efforts with FIND. City consultants have worked with FIND to locate potential mitigation sites, one of which is Deerfield Island. Because Broward County leases this island from FIND, there is a provision in the contract that FIND may use the island in connection with mitigation for dredging projects.

He noted that the incoming executive director of FIND had made it clear if a proposed park on the island is put into effect, there must be no conflict with any

projects that the County might have underway. Mr. Luscomb stated that these were good signs for the City. FIND is working with Fort Lauderdale to help the agency with its own mitigation for the Intracoastal Waterway dredging project. One to two acres on the island could be used to create habitat, which would reduce the cost of mitigation.

He concluded that the City is working on a bid package that would go out in August or September, which would seek to get the same unit costs that FIND received for the Intracoastal Waterway project. He stated that he was very confident the City would receive a FIND grant in October.

Mr. Luscomb advised that the County requires 60% in-County in-kind mitigation; the use of Deerfield Island would result in 100% in-kind mitigation. State regulators are pleased that there is a good chance of successful mitigation at this location.

- **Stormwater Single Family Tax**

Mr. Luscomb recalled that there had been a brief discussion of the City's stormwater tax the previous month. He advised that this tax does not fund the dredging of any canals: instead, it maintains repairs, changes, and capital expenses related to the existing stormwater drainage system. This fund collects approximately \$5 million per year, including a reserve fund which presently contains \$18 million. The reserve fund is used toward projects related to this system.

The cost of canal dredging comes from the City's General Fund, and the budget for this project is determined by the City Manager and the Director of Public Works. Roughly \$430,000 will go toward dredging this year. From 2010 to 2012, approximately \$600,000 was budgeted for dredging, of which \$300,000 was not used. In 2012-2014, \$284,000 was budgeted, and the cost of dredging went \$141,000 over budget.

Mr. Luscomb continued that Water Resources is seeking a way to dredge more quickly and less often, which would mean following a schedule rather than dredging on an as-needed basis. Some ideas for this include making dredging a utility, or establishing a special assessment for waterfront properties that could benefit from regular dredging.

Vice Chair Harrison asked who was responsible for the budgeting and expense of dredging from 2010-2012. Mr. Luscomb said he did not know, but pointed out that if permits are not issued within the appropriate fiscal years, this could lead to the lack of dredging.

Chair Flanigan asked if it might be possible to enter into a contract for dredging that is similar to the City's contracts for maintenance repairs. Mr. Luscomb explained that the question would then be how to fund this contract. The best way to dredge more regularly and less often would involve deeper digging and improving drainage as well as determining a funding source for dredging.

Mr. Guardabassi asked if a long-range plan for dredging is being considered. Mr. Luscomb said the number of houses located on canals, the width of canals, and other considerations would be part of this plan. Each canal is surveyed when it is placed on the list to be dredged.

Mr. Cuba said more information on the status of City dredging would be presented to the Board in September. He and Mr. Luscomb will reach out to the City's Engineering Department for this information, and will look further into how dredging would be funded.

- **Dock Waiver Process**

Mr. Cuba reported that he and Chair Flanigan had met with the City Attorney's Office to discuss some of the ideas on the dock waiver process raised by the Board at the previous meeting. One such idea was the establishment of a call-up process by the City Commission. He advised that there are some complications related to this suggestion, including the establishment of the Board as a quasi-judicial entity.

He noted that the existing dock waiver process works well, although some waivers have been sent to the Board more than once in recent months, and there has been an increase in the number of waivers.

Chair Flanigan recalled that the Board did not believe the existing system required any changes. He stated that he had written a prospective communication to the City stating the Board's position, which was that the current system is effective, and that the combined expertise of the Board members and City Marine Staff is a necessary aspect of the review process. Furthermore, many of the recent waivers brought before the Board were as-built approvals of actions and installations taken by previous owners without following appropriate procedure. **[A copy of the document is attached to these minutes.]**

**Motion** made by Mr. Ross, seconded by Ms. Scott-Founds, to submit [the document] as stated.

Mr. Guardabassi asked if the City Commission was encouraging the Board to make a change in the waiver process. Mr. Cuba replied that a City Commissioner had asked that the dock waiver criteria be examined, and whether waivers

should be issued in situations in which the criteria did not work. The Board had determined that the current system is successful.

Chair Flanigan asserted that the Board did not wish to be left out of the waiver process, as the City's waterways are unique and require individual consideration. Mr. Cuba added that there had been consideration of having the Board of Adjustment (BOA) become part of the waiver process; however, it was determined that this would require an additional step, and that members of the BOA may not have the same level of marine expertise as the Board members.

Mr. Guardabassi asked if making the Board a quasi-judicial entity would address the City Commission's concerns. Chair Flanigan said many waivers would not come before the Board if this change was made, but would instead go before the BOA. Mr. Cuba concluded that the primary issue was whether or not the criteria used in the waiver process were correct, and noted that he has received very few complaints from Applicants about the process during his time on City Staff.

Mr. Herhold observed that one recent addition to the waiver process was a requirement for Applicants to provide surveys rather than shop drawings. Chair Flanigan agreed, noting that a survey is required in order to obtain a building permit.

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

- **Commission Agenda Reports**

Mr. Cuba stated that a lease agreement submitted to the City Commission during their June 18 Conference Agenda meeting was now with the City's Legal Department. An invitation to bid for commercial space at Riverfront is likely to be issued. More information on this item will be forthcoming.

A communication to the City Commission from the Board, recommending that a subcommittee be formed regarding the Las Olas Marina redevelopment, was presented at the July 2 Commission meeting; however, the Commission had opted not to establish a subcommittee. The Commission had instead recommended that Chair Flanigan and Mr. Dean discuss the proposed redevelopment with the City Auditor.

Mr. Herhold commented that a new system allowing viewers to review video of City Commission discussions on an item-by-item basis was a great improvement. Chair Flanigan added that the trend toward paperless meetings was also positive, and advised that members who wished to have hard copies of the Agenda packets could receive them on request. It was noted that other City advisory bodies are moving toward paperless meetings as well.



### **VIII. Old / New Business**

Mr. Rassing suggested that a garbage collection vessel owned by the New River Marina could be purchased by the City at a low cost. He asserted that the City's Maintenance Department has not taken steps to maintain the Pollution Solution vessel properly, and that there is no consistent program for trash collection on the City's canals. Mr. Cuba said this could be discussed further outside tonight's meeting.

Mr. McLaughlin requested an update on the loading and offloading of barges within the City. Mr. Luscomb advised that previous discussions of loading and offloading at roadway endings had gone to the City Attorney's Office for further consideration. He stated he would follow up on this issue. Mr. McLaughlin expressed concern for loading and offloading during the hurricane season, as a storm might make this process a necessity for removal of debris.

Mr. Cuba advised that a Marine Workshop is scheduled for Thursday, July 18, to discuss this and other marine-related issues.

### **IX. Adjournment**

There being no further business to come before the Board at this time, the meeting was adjourned at 7:35 p.m.

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

The Marine Advisory Board reviewed the criteria and various options with dock waivers have come to unanimous conclusion that the current and recently updated process as specified under ULDR section 47-19-3E is effective and should be continued moving forward.

Specifically the Marine Advisory Board feels Fort Lauderdale waterways are unique, not identical in measure, configuration or use and the experience, background and counsel of the Board members and staff is required in the review process in determining numerous circumstances including, extraordinary, navigational, size of vessel and the right of protection for property and vessel.

A thorough review of the process and options, was conducted by the legal department with staff and the Chair participating, with the conclusion supporting the Board's earlier unanimous position.

A review of past applicants will reveal that many were seeking as-built approvals for actions taken by previous owners or contractors not following proper procedure. The recent applicant on NE 20<sup>th</sup> Street was clearly based upon neighborhood compatibility, or lack of, and went beyond navigational safety and the right to protect marine property.