

**MINUTES OF THE MARINE ADVISORY BOARD
100 NORTH ANDREWS AVENUE
8TH FLOOR CONFERENCE ROOM
FORT LAUDERDALE, FLORIDA
THURSDAY, DECEMBER 5, 2013 – 6:00 P.M.**

<u>Board Members</u>	Attendance	Cumulative Attendance May 2013 - April 2014	
		<u>Present</u>	<u>Absent</u>
Barry Flanigan, Chair	P	6	1
James Harrison, Vice Chair	P	6	1
F. St. George Guardabassi	P	6	1
Norbert McLaughlin	P	7	0
Jim Welch	P	6	1
Robert Dean	P	5	2
John Holmes	P	5	2
Bob Ross	P	7	0
Joe Cain (dep. 8:10 p.m.)	P	4	3
Tom Tapp	P	3	4
Herb Rassing (dep. 8:24 p.m.)	P	7	0
Frank Herhold	P	6	1
Zane Brisson	A	3	3
Erik Johnson	P	5	2
Jack Newton	P	2	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

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

Communications to City Commission

Motion made by Vice Chair Harrison, seconded by Mr. Herhold, to send the following communication to the Commission on the subject of the north seawall: Recognizing the age, deteriorating condition, and lack of common amenities along this seawall, and because the length of time from grant requests to project completion can take up to 2 ½

years, the Marine Advisory Board respectfully requests that funds be allocated to meet grant criteria so Staff can make formal grant applications within the proper agencies and provide the anticipated costs of improvement projects. In a voice vote, the **motion** passed unanimously.

I. Call to Order / Roll Call

Chair Flanigan called the meeting to order at 6:05 p.m. and roll was called.

II. Approval of Minutes – November 7, 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 at the meeting.

IV. Waterway Crime & Boating Safety Report

Sgt. Todd Mills reported that during the month of November, the Marine Unit documented eight miscellaneous incidents and one minor vessel accident, wrote 10 citations and 50 warnings, and conducted 48 safety checks. Four burglaries were documented, one of which was only an attempt. He concluded that the Marine Unit is prepared for the Winterfest Boat Parade.

The following Item was taken out of order on the Agenda.

V. Waiver of Limitations – ULDR Sec. 47-19.3 C, D, & E – Grupo Alco International LLC / 1100 & 1120 Seminole Drive

Robert Lochrie, representing the Applicant, stated that the request is for dock waivers on a condominium project. The project itself was approved by the Planning and Zoning Board in November 2012. The Applicant has met with the property's neighbors, but has not reached resolution with them.

Tyler Chappell, also representing the Applicant, showed a PowerPoint presentation to the Board. A marginal dock on the subject property has been removed and a new seawall has been constructed. The proposed T-dock configuration includes 12 slips ranging in length from 30 ft. to 70 ft. Fourteen waiver distances, ranging from 41 ft. to 105 ft., have been requested. Extraordinary circumstances include the width of the waterway and the fact that the Applicant owns the submerged land beneath the proposed structures. None of the proposed structures extend beneath the property line, although the City Attorney's Office has confirmed that a waiver must be requested.

Mr. Chappell noted that waivers have been granted for nearby and adjacent properties. Permits have been received from the Broward County Environmental Protection and Growth Management Department and the Florida Department of Environmental Protection (FDEP); a permit from the Army Corps of Engineers is pending. The Corps has reviewed navigation in the surrounding area and indicated that none of the proposed structures would obstruct navigation in the bay. The Applicant's team has also reviewed the design to ensure that no radius circles for the proposed slips would affect adjacent structures or vessels.

Jeff Rembaum, attorney representing the Coral Cove Association, provided copies of a letter from the Association and a graphic depiction of the proposed structure. He explained that the Association objects to the docking of vessels too large for the subject area, which creates the condition from which the Applicant is seeking relief.

Mr. Rembaum continued that multiple parties along the waterway were involved in litigation in 1993, resulting in a settlement that would be violated if the Application is granted. The settlement grants each party easements over the others' property, and refers to "reasonable rights" of ingress and egress to each party's land, which would be obstructed if the proposed structures are built. He asserted that the request would allow the Applicant to use the Association's property in order for its vessels to access the waterway. He concluded that further litigation could be avoided by reducing the scale of the vessels allowed.

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

William Wheeler, private citizen, expressed concern with the scope of the Application, which he felt was an intrusion on the property rights of owners in the Coral Cove neighborhood. While the proposed dock structure would be built over submerged land owned by the Applicant, the remaining submerged land in the subject area belongs to Coral Cove. He pointed out that the Application would not be considered reasonable if the land in question was not submerged, as it would involve the Applicant's use of privately owned property.

Frank Gilmartin, private citizen, stated that residents of Coral Cove would no longer be able to view the inland waterway if large vessels are allowed to dock at the proposed structure. He also felt the proposed project would create noise and odor that would adversely affect the area and its wildlife.

Mr. Cuba advised all present that the Board's purview is limited to navigational and safety issues.

Jay Wetzel, private citizen, requested that the City deny the Application, which he asserted was an aggressive marine configuration and too ambitious for the remaining open water in the bay.

Beverly Cowan, private citizen, provided photographs of the view from her property in Coral Cove, which would be obstructed by allowing 70 ft. vessels to dock in the bay.

Captain Elaine Sacco, private citizen, advised that it can be difficult for large vessels to move in and out of the bay in a strong wind, which she felt constituted a safety hazard.

Knud Smal stated he is on the board of the condominium located south of the project. He asserted that the Applicant and his builders have been very considerate of their neighbors.

Andy Ziffer, private citizen, said he represented the marketing for Adagio on the Bay. He noted that the proposal is not for a marina and would not allow live-aboard vessels at the subject property. He added that 70 ft. vessels are not considered mega-yachts, and clarified that there will be two 40 ft. slips, four 30 ft. slips, and two 70 ft. slips on the proposed structure.

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.

The Board members discussed the Application, noting that med mooring would have allowed for the docking of larger vessels at the proposed structure. They observed that the issue appeared to be one of view versus boats rather than navigational safety, and that another condominium in the area must use the waterway over the Applicant's submerged land for ingress/egress. It was suggested that denying the Application would deny the Applicant's right to maximum development of the project, but would not affect future development of the Coral Cove property.

Mr. Chappell replied that the Applicant had initially offered to help design a new marina on the Coral Cove property so it could more easily coexist with the proposed structure. Mr. Lochrie added that a developer to the north of the project has received a permit for a 34 ft. dock, which was taken into consideration by the Applicant when the proposed dock was configured.

Mr. Chappell showed multiple designs that had been proposed by the Applicant in an effort to accommodate the project's neighbors, as well as a design that had not been presented to Coral Cove thus far. He requested that the Board review the latter design. Mr. Rembaum stated that he could not comment on the design, as it was not his decision to make; furthermore, he pointed out that the issue was not one of view but of preserving navigation rights.

Assistant City Attorney Robert Dunckel advised that in his opinion, the Board did not have jurisdiction to approve or disapprove the alternate design presented by the Applicant until it had been made available to members of the public who might wish to comment on it. In addition, the Application is a waiver, not a variance, which meant

there is no hardship involved. He also confirmed that the Board's purview was navigation and not visual obstructions. Mr. Dunckel concluded that there should be no confusion between ownership of submerged lands and navigation on the waterway atop them, as all members of the public have the right to navigate the waterway. The Board is charged with determining whether there are reasonable rights of ingress/egress and navigability, given the proposed structures.

The Board discussed alternative configurations for the development of the dock, including the possibility of providing fewer than 12 slips. It was noted that the most movement of vessels would occur across Sunrise Harbor's property, although Mr. Cuba pointed out that there is also necessary ingress and egress across Coral Cove's property.

The members also discussed what could occur if Coral Cove wished to build a dock in the future that extended to the widest point of the bay. Chair Flanigan cautioned that the Board may only address the Application before them rather than future plans. Mr. McLaughlin observed that there should be sufficient room in the center of the bay for vessels to maneuver, and that there are already boats in the area greater than 70 ft. in length, which have not been cited as creating a navigational hazard.

Motion made by Mr. McLaughlin, seconded by Mr. Cain, for approval. In a roll call vote, the **motion** passed 8-6 (Mr. Guardabassi, Mr. Holmes, Mr. Newton, Mr. Rensing, Mr. Tapp, and Mr. Welch dissenting).

Mr. Rembaum requested a copy of the vote count for the Coral Cove Association.

VI. Waiver of Limitations – ULDR Sec. 47-19.3 D & E – Shawn and Jennifer Benyo – 704 NE 20th Avenue

Matt Mitchell, representing the Applicants, showed a PowerPoint presentation, stating that the request is for a waiver for cluster piles. He showed multiple views of the property, noting that the subject site currently consists of a marginal dock, two finger piers, and four sets of cluster piles. The current configuration can accommodate four large slips; the proposed design change would replace the wooden marginal dock with a concrete marginal dock, floating marginal dock, and two med style mooring slips. Each slip would be 150 ft. in length and have three sets of cluster piles spaced in 50 ft. increments from the property line. The northernmost cluster pile is over 320 ft. from the City's 30% width requirement. Mr. Mitchell concluded that no navigational issues are anticipated, and 11 neighbors along 20th Avenue have provided letters of support.

The members discussed the Application, noting that live-aboard vessels and dock rentals are prohibited by zoning in the subject area and no parking issues are anticipated. While the Application would place cluster piles 40 ft. further into the waterway than previous waivers, the location is at the widest portion of the waterway. The Applicant is aware that all slips at the site must be used by residents of the

household and must sign a letter to this effect as part of a permit requirement. The proposed vessels' beams are 21 ft. and 31 ft. The water depth at the subject location is 6 ft. to 8 ft. and may be dredged to a depth of 10 ft.

Mr. Dean observed that the proposed dockage would accommodate two 150 ft. yachts, both of which must be owned by the homeowner or individual renting the house. Mr. Chappell replied that the property owner plans to rent the house to an individual who owns two such yachts. Shawn Benyo, Applicant, advised that he is a banker and has met individuals in his professional capacity who own multiple yachts of this size. The occupant of the house may also provide quarters for the vessels' captain and crew.

Vice Chair Harrison pointed out that the economic impact of vessels of this size would be "enormous" to the City and the marine industry in particular. Mr. Herhold estimated the economic impact of a mega-yacht's visit to be approximately \$474,380, including yacht sales, repairs, and chartering. Mr. Cuba noted that it would be difficult to dock a vessel with a beam larger than 18 ft. at the City's docks.

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

Alex Johnson, private citizen, stated that the street on which the subject property is located consists of single-family homes, while the properties that have received variances in the past are commercial. He cited the example of a similar waiver in the past which resulted in the docking of up to three mega-yachts at a time at residential properties, which "turned the properties into a business."

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. Ross, seconded by Mr. Rensing, to approve.

Mr. Guardabassi stated he would abstain from voting on this Item due to a conflict.

Mr. Cain left the meeting at 8:10 p.m.

In a roll call vote, the **motion** passed 12-0. (Mr. Guardabassi abstained. A memorandum of voting conflict is attached to these minutes.)

VII. Presentation – Winterfest Boat Parade – John Healy

John Healy, Chairman of the Winterfest Boat Parade, reported that the 41st annual Parade will be held on Saturday, December 14, with roughly 80 vessels participating. The Boat Parade is the largest one-day spectator event in the state of Florida. Boaters are asked to dock before 4 p.m. The Parade begins at 6 p.m. for non-motorized boats and 6:30 for motorized boats. He pointed out the emphasis on safety during the event,

noting that six government agencies, including the Fort Lauderdale Marine Patrol, the U.S. Coast Guard, and Florida Fish and Wildlife, assist during the night of the Parade. Control vessels are used to define the channel, and a control room is established at the Riverside Hotel. Funds raised for the event go toward the operation of the Parade.

Chair Flanigan commended Mr. Healy on the success of the Boat Parade, and encouraged the Board members to attend the event if possible.

Mr. Ressing left the meeting at 8:24 p.m.

VIII. Discussion – Marine Advocacy and Environmental Awareness – Lauderdale Marine Center – Frank Herhold

Mr. Herhold explained that the Lauderdale Marine Center was recently presented with an Environmental Advocacy Award by the Greater Fort Lauderdale Chamber of Commerce. He emphasized the importance of this facility to the City's marine industry. The Lauderdale Marine Center contains 156 wet slips, which can accommodate vessels of up to 214 ft. on the water, and provides land storage for vessels of up to 150 ft. The facility also includes 50,000 sq. ft. of office space and nearly 200,000 sq. ft. of covered work space, and includes 47 tenant companies. The award recognizes the Lauderdale Marine Center as the first clean boatyard in Florida, particularly its development and application of environmentally friendly spray-painting.

The Board members discussed the economic impact of large vessels on the Lauderdale Marine Center, similar marine facilities, and the City as a whole.

IX. Discussion – New River North Seawall / Pump Out

Chair Flanigan stated that parts of the north seawall on the New River is over 60 years old. There are areas in which pedestrians may not walk, as well as spaces where the seawall has been patched in the past. Sewer hookup is not consistently available on the north side of the structure, which means yachts cannot pump out on this side.

Chair Flanigan asserted that the north side of the seawall should be replaced, and an adequate facility should exist on the south side as well. He pointed out that revenue generated from the New River goes into the City's General Fund, but does not seem to be used toward making significant improvements. He asked that the Board consider sending a communication to the City Commission, requesting that the situation be improved in a positive manner so Staff can operate the facility and apply for grants.

The Board discussed past attempts to have the seawall repaired, including requests to Broward County for matching funds and seed monies designated by the City that have since been reallocated. Mr. Cuba noted that the City's Engineering Department plans to make a presentation to the City Commission in January 2014 regarding dredging issues. He advised that he would bring information on this presentation back to the

Board. The members agreed that improvements to the north seawall should be a priority in the City's 2014-15 capital budget.

Motion made by Vice Chair Harrison, seconded by Mr. Herhold, to send the following communication to the Commission on the subject of the north seawall: Recognizing the age and deteriorating condition and lack of common amenities, and also due to the length of time from grant requests to project completion (plus or minus 2 ½ years), the MAB respectfully requests that funds be allocated to meet grant criteria so Staff can make formal application(s) within the proper agencies. Staff can provide projects' anticipated costs. In a voice vote, the **motion** passed unanimously.

The members also discussed the funding priority for capital improvements. Mr. Cuba explained that these projects are historically reviewed and prioritized annually by a committee consisting of City Staff members from various Departments. No funding is believed to be allocated specifically to the north seawall at present, and funding is necessary in order to provide seed money to seek grants. The Board also discussed the Florida Boating Improvement Program (FBIP), which could provide a grant to fund seawall improvements. It was further clarified that FBIP was currently identified as BBIP, and that the City has and will continue to apply for BBIP grants.

X. Reports

- **Reminder January 14th MAB**

Mr. Cuba advised that the next meeting will take place on Tuesday, January 14, 2014.

- **Commission Agenda Reports**

Mr. Cuba informed the Board that the 15th Street Boat Ramp will be known as Cox's Landing in honor of former Fort Lauderdale Mayor Bob Cox.

He continued that in January, the City Manager will receive a report from the City Engineering Staff regarding dredging. Mr. Cuba stated he will bring this report to the Board once it has been sent to the City Commission.

XI. Old / New Business

Mr. Herhold reported that the 2013 Fort Lauderdale International Boat Show was the largest show ever held, with attendance up 28%. The Boat Show is 100% self-sufficient, with no expense to the City, and 95% of exhibitors are small businesses.

Mr. Guardabassi requested an update on the timeline associated with the Las Olas Marina redevelopment. Mr. Dean replied that the City Commission will vote on the allocation of funds to the CRA in February 2014. He advised that he has met with City Commissioner Dean Trantalis to discuss the project, and the Commissioner is skeptical that it would have any positive economic impact on the City. Mr. Dean urged the Board

members to speak to their respective Commissioners to educate them on this issue. He cited an estimate provided by Bellingham Marine for 6000 sq. ft. of floating docks with necessary amenities, concluding that while past pro formas have been based on a cost of \$26 million to build the marina, he suspected \$16 to \$18 million was a closer estimate. He emphasized the potential economic impact of the proposed facility.

The Board discussed various cost and size estimates related to the proposed marina redevelopment, including the possibility of asking Staff to revisit costs. Mr. Dean stated that he plans to ask Bellingham Marine for written proposals for the costs of seawalls and dredging as well. The members agreed that realistic figures would be necessary in convincing the City Commission of the potential economic impact of the project.

Mr. Dean encouraged the Board once more to approach the City Commissioners regarding the importance of the proposed redevelopment, noting that the Florida Inland Navigational District (FIND) has invested \$24 million in dredging the Intracoastal Waterway, and has prepared a report including economic impact scenarios related to dredging on Broward County. The report concludes that jobs created, tax revenue collected, and other economic factors could total up to \$600 million per year.

Chair Flanigan commented that funds to pay for renderings of the proposed marina redevelopment should be sent to Falkanger, the company that provided them, via Mr. Cuba's office. Mr. Cuba stated that he would provide the members with his office address.

XII. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 9:21 p.m.

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