



CITY OF FORT LAUDERDALE

**MEETING MINUTES
CITY OF FORT LAUDERDALE
MARINE ADVISORY BOARD
VIRTUAL MEETING**

THURSDAY, SEPTEMBER 3, 2020 – 6:00 P.M.

**Cumulative Attendance
May 2020 – April 2021**

Grant Henderson, Chair	P	2	0
Ed Strobel, Vice Chair	P	2	0
Cliff Berry II	P	1	1
Deirdre Boling-Lewis	P	2	0
Robyn Chiarelli	P	2	0
Barry Flanigan	P	2	0
Richard Graves	P	2	0
James Harrison	P	2	0
Rose Ann Lovell	P	2	0
Kitty McGowan (arr. 6:15)	P	1	1
Norbert McLaughlin	A	1	1
Ted Morley	P	2	0
Bill Walker	P	1	1
Steve Witten	P	2	0

As of this date, there are 14 appointed members to the Board, which means 8 would constitute a quorum.

Staff

Andrew Cuba, Manager of Marine Facilities
Jonathan Luscomb, Marine Facilities Supervisor
Sergeant Todd Mills, Fort Lauderdale Police Department
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. Call to Order / Roll Call

Chair Henderson called the meeting to order at 6:00 p.m. and roll was called.

II. Approval of Minutes – August 6, 2020

Motion made by Mr. Graves, seconded by Mr. Harrison, 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

Sergeant Todd Mills of the Fort Lauderdale Police Department's Marine Unit reported the following activity during the month of September 2020:

- 13 citations
- 80 warnings
- 13 safety inspections
- 2 accidents
- 3 burglaries
- 1 capsized vessel
- 2 oil/fuel spills in the water
- 1 assault at the Triangle
- 2 vehicles that slid into the water at the George English Park boat ramp
- Non-approved maintenance at Esplanade Park docks
- Vessel sinking on the Intracoastal Waterway

Sgt. Mills advised that the Broward County Emergency Orders which went into effect at the beginning of the COVID-19 pandemic included prohibition of anchoring at sandbars. While enforcement of this rule was diligent at first, the Marine Unit was later advised that they could return to the normal practice of enforcing this prohibition when possible. Because many complaints were then received regarding overloading of sandbars, the Marine Unit has enhanced this enforcement.

Other issues about which several complaints were received addressed boats rafting near each other and charter vessels operating above their maximum capacity, which made it impossible to follow social distancing guidelines set forth by the U.S. Centers for Disease Control (CDC).

Sgt. Mills noted that while the Marine Unit's response has consisted of written and verbal warnings, charter vessels that have already received warnings will be issued Notices to Appear (NTAs) for any further violations. Charter boat operators have been informed of the Marine Unit's interpretation of Emergency Orders so they are aware of what is being enforced.

Mr. Witten asked for clarification of regulations for boaters on Lake Sylvia. Sgt. Mills explained that while Lake Sylvia is open for anchoring, vessels must maintain 50 ft. of distance between one another. Capacity is also a safety issue for recreational boats.

Sgt. Mills concluded that the 2020 Tortuga Music Festival has been cancelled. He is still awaiting an update from the Fort Lauderdale International Boat Show, which must

secure permission from Broward County before going forward. Mr. Harrison confirmed that the Boat Show is awaiting clarification of its time frame at this time.

Ms. McGowan joined the meeting at 6:15 p.m.

V. Waiver of Limitations – Mark Tkach / 1776 SE 10th Street

Tyler Chappell, representing the Applicant, showed multiple views of the subject property, which is a corner lot with an existing concrete marginal dock and seawall. The request is for an 8-post boat lift on the marginal dock, which would be located 29 ft. from the property line. The boat to be placed on the lift will be 10 ft. from the property line. The Applicant requests a waiver of 4.9 ft.

The Applicant chose not to place the lift on the eastern side of the property due to insufficient depth in that area. No navigational constraints to the canal are anticipated. Extraordinary circumstances include:

- Piles and structures will not exceed 30% expansion into the waterway
- The waterway at this location is 980 ft. wide and the canal is 120 ft.
- The Applicant wishes to place his boat on a lift to avoid damage caused by wakes on the Intracoastal Waterway, as there are high wind events and large waves at the subject location

The Applicant has received seven letters of support from neighbors to the west, east, and across the canal. There are several existing waivers in the general vicinity of the subject property.

Ms. Boling-Lewis requested further clarification of the extraordinary circumstances creating the need for a waiver. Mr. Chappell replied that the property has an existing 10 ft. marginal dock, and the boat lift would exceed the 25 ft. limit from the property line. He characterized this as extraordinary due to the area's exposure to the Intracoastal Waterway, which prevents safe mooring of the vessel at the property without a boat lift. Ms. Boling-Lewis commented that this and the previously cited extraordinary circumstances are related to the size of the Applicant's vessel rather than the waterway itself.

Mr. Witten stated that while the 4.9 ft. request is reasonable, it is predicated upon the size of the boat. Mr. Harrison noted that the 50,000 lb. lift is very large; however, the vessel to be placed on the lift is permitted and pilings do not extend past 30% of the waterway.

There being no further questions from the Board at this time, Chair Henderson opened the public hearing. As there were no other individuals wishing to speak on this Item, the Chair closed the public hearing and brought the discussion back to the Board.

Motion made by Vice Chair Strobel, seconded by Mr. Witten, to accept as is. In a roll call vote, the **motion** passed 12-1 (Ms. Boling-Lewis dissenting).

VI. Waiver of Limitations – Kurt Zimmerman and Patricia Hooley / 1801 SE 7th Street

Mr. Chappell, representing the Applicants, reviewed the location of the subject property, which includes multiple docks and two sets of triple pile clusters. The request would remove a small floating dock as well as an L dock to make way for a “no-profile” boat lift for a third vessel. The smaller vessel would be moved onto a boat lift at a finger pier. The proposal is for three slips.

Mr. Chappell also referred to the proposed submerged land lease, noting that two of the triple pile clusters will remain in place. They were previously approved to a distance of 42 ft. through Resolution, as was the L dock. The clusters would be moved slightly west to make way for the new lift, reducing their distance from the property line to 41.4 ft. and 41.9 ft. The boat lift will be located at 46.9 ft. The fixed finger pier and proposed boat lift will be at 52 ft. from the property line, which requires a waiver of 21.9 ft. The additional finger pier will be 27 ft. from the property line and the no-profile lift at 27 ft. beyond the 25 ft. limitation.

Extraordinary circumstances for the waiver include:

- Structures and piles will not exceed 30% of the width of the waterway
- The waterway is approximately 400 ft. wide at the subject location
- The proposed relocation of triple pile clusters and the floating dock were previously authorized by the Marine Advisory Board (MAB) and City Commission to a distance of 42 ft.
- The existing submerged land lease is approximately 149 ft. from the edge of the channel, and the proposed distance would be 144 ft.

Letters of support were received from neighbors on each side of the property. The request is consistent with previous waiver authorizations.

Vice Chair Strobel commented that he supported the request, as boaters on the waterway travel at a very high speed near this location. The distance from the end of the dock to the southern channel is 144 ft. and 398 ft. across.

Ms. Boling-Lewis stated that she had not heard extraordinary circumstances for this request. Mr. Chappell noted that the reconfiguration of the vessels’ layout on the site requires an extension of the previously authorized waiver. The new vessel will be perpendicular to the shoreline so it can be raised from the water as quickly as possible.

Ms. Boling-Lewis pointed out that although the Applicant already had a waiver of considerable distance, the acquisition of a new boat requires another waiver. She asked if this is consistent with the Board’s legal requirement for extraordinary circumstances

when granting waivers. Mr. Witten characterized the issue as one of semantics, stating that the owner is entitled to purchase another boat and boat lift and noting that the conditions in the subject area make it wise to place the boats on lifts.

Mr. Morley noted that in addition to the letter of support, there is also a letter of opposition to the waiver which raised issues of navigational safety as well as the views of neighborhoods facing west. He asked if outreach was attempted to other neighbors. He also agreed with Ms. Boling-Lewis' point that the purchase of another boat does not constitute an extraordinary circumstance.

Mr. Chappell replied that adjacent neighbors are typically asked for letters of support, as they would be the most affected by a waiver. He added that the objection in this case comes from a neighbor who is 400 ft. away, and pointed out that there are multiple existing docks and vessels between this neighbor's property and the Applicant's property.

Mr. Morley continued that he also felt this type of request was concerning, as it could establish a precedent. He also noted that the Applicant has a seawall 175 ft. in length, which would provide significant dockage space for vessels. While he agreed with the request for a lift, he did not see an extraordinary circumstance for the lift being perpendicular instead of parallel due to the length of the seawall.

Mr. Chappell asserted that the reason for the current waiver request was not the acquisition of a new boat, but to raise the Applicant's existing boats out of the water due to conditions on this area of the New River. He pointed out that the no-profile lift's orientation will be perpendicular to wave action. Mr. Morley advised that this more closely fits the criteria for extraordinary circumstance.

Mr. Harrison emphasized that the Applicant is allowed to dock his boat perpendicular to the seawall, and that he would also be allowed by right to have vessels that may obscure another property owner's view.

There being no further questions from the Board at this time, Chair Henderson opened the public hearing. As there were no other individuals wishing to speak on this Item, the Chair closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Morley, seconded by Mr. Harrison, to approve. In a roll call vote, the **motion** passed unanimously.

VII. Discussion – Commercial Dock Rates

Mr. Flanigan recalled that at the August 2020 meeting, he had recommended the Board familiarize itself with commercial dock rates in the City. He explained that his intent was to determine if the City would be receptive to deferring or otherwise providing relief to

commercial vessels as long as they remain current in their payments, as there is very little charter business at present.

Mr. Cuba pointed out that City Staff has no authority to adjust rates. All dockage rates remain the same, which differs from the private sector, where individual deals may be made. Staff must have the City Manager's approval before rates may be changed.

Mr. Witten asked which charter vessels use City docks. Mr. Flanigan replied that the *Jungle Queen* and the *Carrie B* are among a very few charter operations affected. Mr. Cuba also noted that City Staff has not been approached by any of these operators regarding a reduction of dock rates; however, one to two operations have reached out to the City Manager and were granted extensions on their payments.

Mr. Morley stated that if the City has not been officially approached by operators, the Board should defer further discussion of this issue unless operators reach out as a group. The Board could then provide input to the City Commission.

Mr. Luscomb advised that the City Manager's position regarding all City tenants, both marine and otherwise, has been deferred rent. This policy was developed in March/April 2020 and permitted tenants to defer their rent payments with the expectation that they would be paid in full by the end of September 2020. All commercial dockage tenants except one are current. City tenants who have not caught up on their payments are now receiving letters of noncompliance.

Mr. Luscomb continued that the addition of discounts for commercial tenants would constitute a burden on the City's operations, as it would on any other facility. He pointed out that providing a discount to commercial operators would be unfair to private individuals who rent City dock space, as the City must treat all parties equally. City facilities continue to provide the same level of service that was provided prior to the COVID-19 pandemic.

VIII. Discussion – Gray / Blackwater Management

Mr. Cuba recalled that in February 2020, the Board had discussed water quality and sent a communication to the City Commission on this topic. In response, the Commission instructed the Board to come up with a plan to address gray and black water. Possibilities included adding a requirement to the City's Building Code for installation of a pump-out on newly constructed docks of 50 ft. or more

Mr. Cuba pointed out that there are approximately 70 to 100 locations in the City at which pump-out stations are available: the difficulty is in getting individuals to use these facilities. This can be a problem to enforce on the waterway, as some individuals will simply discharge used water at night, when there are no patrols. Mr. Luscomb advised that acquisition of a pump-out boat would be eligible for grant funding, although its operation could be expensive and would not be covered by a grant.

Vice Chair Strobel commented that boats in Lake Sylvia also present an issue, as these are small vessels and their owners are unlikely to agree to use a pump-out. He recommended greater communication with the state to show that current regulations have contributed to this serious environmental concern.

Mr. Berry noted that new laws have been proposed which would require better recordkeeping and enforcement for live-aboard vessels, including logs showing their use of pump-out facilities. He felt the City should provide more enforcement on its waterways. Mr. Graves asked if yachts or large vessels, which are more likely to have equipment to address waste, are likely to discharge into waterways. Vice Chair Strobel advised that while the equipment may make discharged material less noticeable, it is still an unwanted substance going into the waterway. In addition, there are no current laws regulating gray water, which should also be addressed.

The Board discussed the quality of treated or gray water, with Mr. Luscomb noting that there is little marketing to encourage the marine industry to do the right thing with regard to pump-outs. Ms. McGowan observed that the Clean Marina program and various marine industry associations provide detailed rules on dumping of water, which seem to be stricter in the northern parts of the country. Mr. Luscomb added that while the City receives materials related to its Clean Marina program, there is little available in the way of outreach to or education of boaters.

Mr. Morley pointed out that the entire Intracoastal Waterway and its tributaries are designated no-discharge areas by the state of Florida, regardless of whether effluent is treated or untreated. He asserted that the City and its Police Department must find a way to enforce the requirement that yachts have a waste management plan on board for the handling of treated waste while in port.

The Board further discussed the need for greater education, as some captains may feel that treated wastewater is safe to discharge. Mr. Witten suggested that the community be better informed of the availability and location of pump-out stations. Mr. Harrison added that he would bring information from tonight's meeting to the next meeting of the Marine Industries Association of South Florida for further discussion, focusing on education and enforcement.

IX. Old / New Business

Mr. Harrison requested an update on the removal of derelict and/or abandoned vessels. Mr. Luscomb replied that this process has become more challenging for law enforcement, as the state must identify the owner of a derelict vessel and schedule a hearing before any action is taken. In addition, once the state takes custody of an abandoned vessel, it assumes responsibility for that vessel's disposition. These requirements make it more difficult for the Police or the Fish and Wildlife Commission (FWC) to enforce regulations.

Ms. Boling-Lewis stated that Chapter 327 of Florida Statutes includes a subsection that would allow law enforcement to remove an at-risk vessel, as well as allowing municipal governments to establish programs to address vessels at risk of becoming derelict. She suggested that a summary of these changes could be presented at a subsequent Board meeting. Mr. Cuba advised that he would put together a presentation on this topic.

Mr. Harrison also raised the issue of requiring flags on kayaks, pointing out that lack of flags creates a hazard. He also noted that the definition of boats has been amended to remove a reference to minimum horsepower, which could mean that vessels such as kayaks, paddleboards, rafts, and other non-motorized items may be required to follow the same rules as boats with regard to licensing, safety, and other concerns.

X. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 7:39 p.m.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

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