



CITY OF FORT LAUDERDALE

**MEETING MINUTES  
CITY OF FORT LAUDERDALE  
MARINE ADVISORY BOARD  
VIRTUAL MEETING  
THURSDAY, MAY 6, 2021 – 6:00 P.M.**

		<b>Cumulative Attendance</b>	
		<b>May 2021 – April 2022</b>	
Grant Henderson, Chair	P	1	0
Ed Strobel, Vice Chair	P	1	0
Cliff Berry II	P	1	0
Deirdre Boling-Lewis	P	1	0
Robyn Chiarelli	P	1	0
Barry Flanigan	A	0	1
Richard Graves	A	0	1
James Harrison	P	1	0
Rose Ann Lovell	P	1	0
Kitty McGowan	P	1	0
Norbert McLaughlin	P	1	0
Ted Morley	P	1	0
Christopher Rotella	P	1	0
Bill Walker	P	1	0
Steve Witten	P	1	0

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

**Staff**

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

**Communications to City Commission**

**Motion** made by Mr. Morley, seconded by Mr. McLaughlin, to send the following letter as a communication to the City Commission:

By Ordinance C-2074, one of the Marine Advisory Board’s top responsibilities is that of waterway safety and traffic control on the waterways of Fort Lauderdale. As mitigation for the concerns of this Board, the U.S. Coast Guard, the Marine Industry Association, the DEP added the specific condition prohibiting dockage along this section of Riverwalk. DEP permit issued January 25, 2016 specific conditions operation and maintenance activities No. 15: Within 10 days of completion of dock construction, permit handrails and No Mooring signs shall be

installed along all portions of 3553 sq. ft. irregular shaped concrete boardwalk adjacent to non-mooring areas. Handrails shall be constructed to eliminate access to the pier by boaters and shall be maintained for the life of the facility.

For whatever reason, this was not done by the City and needs to be corrected. Handrails must be installed to eliminate access. This area of New River over the Kinney tunnel twists and turns, has strong currents, and is used as a holding passing area and turning basin by large vessels. The boats docked immediately to the west display evidence of the danger, with many dings, dents, scratches, and broken hardware along their hulls, as well as the extraordinary amount of fenders and bumpers hanging from their sides in anticipation of being hit.

Boats being damaged and, more importantly, people being injured by vessels colliding is the reason for not allowing vessels to dock at this location. The Marine Advisory Board is strongly opposed to allowing dockage at this location and strongly recommends full compliance of the DEP permit specific to Condition 15.

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

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

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

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

**IV. Marine Advisory Board Elections – Chair / Vice Chair**

**Motion** made by Mr. Morley, seconded by Mr. Harrison, to nominate Grant Henderson for Chair. In a roll call vote, Chair Henderson was unanimously reelected.

**Motion** made by Mr. Harrison, seconded by Mr. Morley, for Ed Strobel again. In a roll call vote, Vice Chair Strobel was unanimously reelected.

**II. Approval of Minutes – April 1, 2021**

**Motion** made by Mr. Morley, seconded by Mr. Witten, to approve the April 1 minutes. In a voice vote, the **motion** passed unanimously.

**III. Statement of Quorum**

It was noted a quorum was present at the meeting.

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

Sergeant Todd Mills of the Fort Lauderdale Police Department's Marine Unit reported the following activity from the month of April 2021:

- 62 citations
- 107 warnings
- 11 safety inspections
- 6 accidents
- 14 incidents

Sgt. Mills noted that several of the 14 incidents recorded in April occurred in relation to jet ski rental companies, while others involved vessel issues. A derelict vessel was removed from Lake Sylvia. The Marine Unit also towed away three vessels that were at risk of becoming derelict. They are currently working with the Florida Fish and Wildlife Commission (FWC) to retrieve a sunken boat.

Sgt. Mills continued that the Air and Sea Show begins today. The Marine Unit will be present during the show from 11 a.m. to 5 p.m. Air box restrictions are in place from 11 a.m. to 4 p.m. A large crowd is anticipated for the event.

Mr. Morley commented that sand bars are increasingly used by commercial vessels such as charter boats, and asked if there are any restrictions on this use. Sgt. Mills replied that sand bars are open to the public. He added that boating traffic has increased significantly since the pandemic.

#### **VI. Dock Waiver – 321 N. Birch Road / Lee J. & Patti A. Engler**

Steve Tilbrook and Kathryn Bongarzone, representing the Applicants, advised that this Application requests a boat lift on which a 40 ft. vessel will be raised. There are two existing waivers at the property for triple pile clusters that are 75 ft. from the property line as well as for another boat lift at 55 ft. Neighbors have provided letters of support.

Ms. Bongarzone showed a PowerPoint presentation on the Application. The requested boat lift is a "no profile" lift that would be placed 51 ft. from the property line. As the allowed distance from the property line is 25 ft., the request is for a 26 ft. waiver. She noted nearby properties that have received waivers. The waterway is 562 ft. wide in the subject area.

Extraordinary circumstances include:

- No structures will exceed 30% of the waterway
- Width of the waterway
- Location is a high wave energy/high traffic area
- Proposed structure does not exceed any previous resolutions issued for the subject site
- Boat lift will allow light penetration to benthic resources on the waterway floor

Mr. Morley asked if the Applicant could provide the dimensions from the proposed lift location to the eastern marker of the Intracoastal Waterway, as the distance to the navigational channel is more important than the width of the waterway. Ms. Bongarzone replied that they did not have these measurements on hand, although she estimated that this distance is more than 100 ft. The Army Corps of Engineers (ACOE) is expected to review the distance to ensure that the lift is at least 62.5 ft. from the edge of the channel. Mr. Morley recommended that this distance be provided in future presentations.

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

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

#### **VII. Dock Waiver – 141 Isle of Venice / Madison Abele, Casa Murano LLC**

Kathryn Bongarzone, representing the Applicant, showed a PowerPoint presentation on the Application. The facility at the subject location already has existing finger piers and mooring piles as well as nine authorized slips. The existing structures extend 37.1 ft. from the property line. The finger piers are 15 ft. from the edge of the existing seawall.

The Applicant proposes to change this to eight slips with additional mooring piles and finger piers. Only the mooring piles will be farther than 25 ft. from the property line. The authorized vessels at the site will range from 35 to 44 ft. in length. Ms. Bongarzone showed a rendering of the proposed changes, including upland development as well as the new seawall and dock. 21 mooring piles are proposed for the site at 49.4 ft., 44.7 ft., 39.8 ft., and 26.4 ft. from the property line. None of the piles or vessels will exceed 30% extension into the waterway.

The waterway is 164.6 ft. wide at the subject location. The greatest distance into the waterway requested by the Applicant is 49.4 ft., which would require a waiver of 24.4 ft. The mooring piles are necessary for vessels of the subject size at this location. The project is consistent with other waivers issued in the area. The location is an existing marina which is being revitalized by new development.

A Zoom neighborhood outreach meeting was held on April 14, 2021, with neighbors on Isle of Venice and Hendricks Isle invited to participate. Environmental permitting for the project has already been completed by the ACOE as well as Broward County.

Mr. Witten requested clarification of the location of the mooring piles proposed for the site. It was noted that the proposed piles would extend 7 ft. further into the waterway than the current piles.

Mr. Witten also noted that there are a number of derelict vessels and “live-aboard” vessels in the subject area which may impede navigation on the canals. Tyler Chappell, also representing the Applicant, advised that the condominium’s unit owners will have access to the slips at this site, which would bring a different clientele and type of vessel to the site than is currently present. The finger piers are being revised to accommodate boats with wider beams.

Ms. Bongarzone noted that the maximum vessel size will be 44 ft. Barbara Hall, attorney for the Applicant, stated that the location’s condominium documents will include a restriction to this size. The waiver may include this restriction on boat length as well.

Mr. Morley requested clarification of the distance between the vessels on the east and west sides of the canal. He explained that because the boats shown at the subject location are stern-moored, they would have to pivot and back directly into a slip. He added that during high wind events, increasing the size of the docks and decreasing the clear space could pose a risk to navigation. Mr. Chappell estimated that the remaining distance of the canal is approximately 64 to 65 ft. between the proposed structure and vessels docked on the other side of the waterway.

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

Frank Terzo, president of Venice Harbor Townhomes, stated that several property owners at this complex are also boat owners. He asserted that no notice of a waiver request was sent to these owners, and there is significant concern for any pilings extending beyond 35 ft. into the waterway. Boats of up to 50 ft. in size are situated in the water at Venice Harbor within the 35 ft. limitation. Mr. Terzo noted that a 58 ft. vessel docked further south on Hendricks Isle is moored within a 25 ft. outer piling.

Mr. Terzo continued that it is difficult for a condominium to incorporate rules or regulations limiting the size of vessels that may be docked at their facilities, and reiterated that larger vessels may be secured within a 50 ft. piling dock. He expressed concern for “clogging of traffic” on the canal at the subject location.

Ingrid and Neil Birenbaum, private citizens, advised that their block of town homes was not invited to attend the Applicant’s April 2021 Zoom meeting. Ms. Birenbaum stated that there is opposition to the waiver request by their property owners’ association, pointing out that the waterway serves several types of vessels, many of which cross each other. Any extension into the waterway would present a navigational hazard.

Ms. Birenbaum continued that they are unaware of any pilings that extend beyond 25 ft. into the waterway, and that further extension would impede boat traffic and force navigation onto the west side of the canal rather than its center. This would create higher wakes on the west side. While the proposed piles do not extend more than 30% of the width of the waterway, the boats to be moored at the subject location are

expected to encroach into the waterway. She also expressed concern for marine life in the waterway.

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.

Mr. McLaughlin questioned the safety of the proposed structures, pointing out that the proposed pilings would be at the maximum 30% of the crossing, which could create difficulty for boats turning in the area. He felt the existing mooring piles are already too far into the waterway, and suggested that 35 ft. is a more realistic distance than 49 ft.

Mr. Harrison noted that boats across the canal from the subject property are docked at 50 ft. into the canal; if the proposed pilings are placed at that distance, it could create a tunnel effect in the center of the canal. He concluded that the farthest pilings should be pulled in to a lesser distance.

Vice Chair Strobel observed that it can be difficult to maneuver certain types of single-engine vessels or sailboats in the subject location. He added that if the pilings are allowed at 49 ft., it could create an unwanted precedent for other applications in the future. He also felt the maximum distance for this portion of the waterway should be roughly 35 ft.

Ms. Boling-Lewis requested clarification of the distances of other waivers in the area. Vice Chair Strobel advised that an 80 ft. waiver would be more than 30% of the canal's width, which would be extreme, as boats could extend further than the pilings themselves. Any waivers of this distance would be in another location rather than the canal between Hendricks and Venice Isles.

Mr. McLaughlin stated that the property's neighbors seemed to have no issue with pilings 35 ft. into the waterway. Ms. Boling-Lewis pointed out that two other properties in the area have received waivers of 45 ft. and 39 ft. She also noted that waivers are intended to be granted under extraordinary circumstances, which are not clearly defined by law. She felt the Board may have created an unintended precedent by permitting some of the previous waivers. While they may make changes going forward, this suggests that the previously established precedent was wrong. She also expressed concern that this could be construed as changing the precedent each time a waiver is issued.

Vice Chair Strobel observed that the Board has been overridden by the City Commission in previous cases when the Commission felt the precedent was not correct. He was in favor of creating a more appropriate precedent going forward.

Mr. Morley asserted that the actual precedent is 25 ft. for fixed structures as set by Code: anything else requires an extraordinary circumstance. He did not feel there was any such circumstance presented by this application. He also did not believe the Board

could recommend the Applicant withdraw their request to a distance of 35 ft., but instead must vote on the Application as it is presented.

Mr. Cuba advised that the Board is tasked with reviewing the Application with its current dimensions. They may not vote to approve the Application with the waiver request at a lesser distance.

Mr. Witten advised that while the Applicant's presentation was well-done, it does not show all existing circumstances, including other large boats docked in the area. He pointed out that it is difficult for smaller vessels to pass each other on canals near the subject location.

Ms. Chiarelli asked if the Application could be approved contingent upon changes. Mr. Cuba replied that a different set of plans would be required if new dimensions are proposed. The Board has added certain restrictions on vessel size to previous motions, but has not made changes to actual plans.

Ms. Hall requested that the Application be continued so the Applicant's team may consider the comments heard at tonight's meeting and determine whether or not to amend the plans. The Board agreed to the continuance by consensus.

#### **VIII. Dock Waiver – 1207 Seminole Drive / William H. Jr. & Vicki L. Schaefer**

Tyler Chappell, representing the Applicants, explained that the homeowners would like to bring their vessel within the limits of their side yard setbacks as set forth by Code. The design created by the Applicant's team resulted in a waiver request. Adjacent property owners have expressed concern that the design will impede their navigation and use of the waterway.

Jena Robbins, also representing the Applicants, showed a PowerPoint presentation on the request. The property currently includes a wooden marginal dock. Previous structures at the property extended approximately 24 ft. from the property line, with mooring piles at a distance of roughly 30 to 33 ft. The current marginal dock is 550 sq. ft. in size and is 53.3 ft. long and 10.3 ft. wide.

The property has a unique configuration, as the two side property lines angle toward one another and come to a point within the waterway. There is also a 10 ft. side yard setback requirement for mooring vessels at the property, which is within an RS4.4 district. This leaves 33.3 ft. in which a vessel may be moored.

The proposed project consists of a new wooden finger pier that is 25 ft. long and 4 ft. wide, as well as the installation of a wooden mooring pile 25 ft. past the finger pier. The finger pier would be 33.3 ft. and the mooring pile 53.5 ft. from the property line. These distances exceed the 25 ft. limit from the property line as set forth in City Code. The Applicant requests a waiver of 8 ft. for the pier and 28.5 ft. for the mooring pile. These

structures are necessary to accommodate a 60 ft. vessel and a 25 ft. vessel and keep both outside the required side yard setback.

Ms. Robbins showed distances between other structures and property lines on Lake Seminole, pointing out that other structures on this waterway extend 15 to 24 ft. from their property lines while remaining within the limits set by Code. There was no record of waivers obtained at the City, or permits at the County or state level, for some of these structures. Several properties in the area have finger piers and mooring piles similar to those requested by the Applicant, which extend 35 to 55 ft. from the property lines into the waterway.

The waiver requested by the Applicant is 8 ft. for the finger pier and 28.5 ft. for the mooring pile. Extraordinary circumstances warranting this request include:

- All structures and piles proposed do not exceed 30% of the waterway width, which is approximately 330 ft. wide at the subject location
- The structures will not impede navigation
- Structures are necessary to moor vessels during high wind events and severe weather
- Due to the unique shape of the property, the angle of the Applicant's property lines do not provide adequate length along the existing dock to moor a 60 ft. boat parallel to the dock

Ms. Robbins stated that the proposed design is the most practical layout to accommodate the Applicant's boat. She showed an example of the turning radius of a 120 ft. boat on Lake Seminole, pointing out that there is sufficient room to turn around within the basin. Most vessels moored on this lake do not exceed 90 to 100 ft. in length. She concluded that the Applicant previously had mooring piles and a finger pier at the location and wishes to reconfigure his dock to accommodate his 60 ft. boat.

Four letters of support were obtained from neighboring properties, although one letter was revoked and the property from which it originated was sold. Existing waivers within the vicinity of the proposed project were obtained in Sunrise Bay, which is located to the east of the subject property. There are no records of waivers being obtained within Lake Seminole.

Mr. Morley expressed concern that the unique shape of the property may open it up to more interference issues than other properties on the lake, citing an adjacent property's ability to navigate in and out of its slip in proximity to the proposed 53 ft. mooring pile. He concluded that his concern was for the safety of a neighboring property's access to and from its dock.

Mr. Chappell replied that access for both the subject property and the adjacent property to which Mr. Morley had referred is configured into triangles. The neighboring property currently has a finger pier with a boat lift on one side and would continue to moor perpendicularly to the property rather than coming into the slip at an angle.

Mr. Morley asked if the Applicant currently owns the 60 ft. vessel he plans to dock at his property, and requested additional information on its dimensions. Mr. Chappell stated that the existing vessel is a 42 ft. center console Intrepid. The Applicant hopes to replace this boat with a 60 ft. Azimut.

Vice Chair Strobel commented that in order for the smaller vessel to leave the subject property, it would have to cross an adjacent property's riparian rights at approximately the 40 ft. mark. He noted that if similar plans were approved for a neighboring property, the subject property would find itself landlocked. Mr. Chappell did not agree, stating that the same geometry would apply: all riparian rights are drawn from the center point of the lake, and setbacks are drawn from property lines.

Vice Chair Strobel was not certain that the subject property, with such small frontage onto the water, could accommodate a vessel of the proposed size. Mr. Chappell advised showed a visual of the perpendicular mooring used on an adjacent property, pointing out that this vessel is roughly 60 ft. and does not impede the Applicant from accessing his existing marginal dock. He noted that City Code allows a dock to be located in a side yard setback at this location, but not a boat.

Mr. Witten stated that the property owner had purchased property with a 50 ft. waterfront and planned to put both a 60 ft. and a 25 ft. boat in this area, which seemed to be a significant footprint in a relatively small space. Mr. Chappell stated that the structure could be moved to the other side of the property so the 53 ft. mooring pile would be on the north side of the property rather than the south side.

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

Tika Van Den Hurk and Richard Peacey, private citizens, advised that they live in the subject area and oppose the project, as it would impede their and their eastern neighbors' access to their own docks. They reiterated that there are no extraordinary circumstances at the subject site, and the proposed project would be a navigational hazard. They felt the property's waterfront is too small to support a large boat.

Michael Strawbridge, private citizen, stated that he also owns property in the subject area and opposes the requested waiver. He felt the Application was made in a disingenuous fashion, as the Applicant did not previously have a boat on his property and did not own any structures that exceeded the 25 ft. limit into the waterway.

Mr. Strawbridge agreed that the extended pier and piling would make it very difficult for a neighbor to request the same variance, and concluded that some of the other vessels shown on the lake and described as unpermitted are derelict vessels that have not been identified as such by law enforcement. He expressed concern for the potential legal precedent that approval of the Application could establish.

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.

The Board discussed the Application, with Mr. Witten asserting that it is not the Board's role to determine the size of a boat an individual property owner may buy; however, he pointed out that the Applicant was aware he had only 50 ft. of frontage on his property. He clarified that his concern with mooring piles was greater than his concern over piers.

Mr. Morley suggested that the Applicant's representatives may wish to consider withdrawing their current Application and presenting a different orientation of the pier, which they had acknowledged was an option.

Mr. Chappell concluded that the Applicant's team would withdraw the current Application and bring back another proposal after changes are made.

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

Chair Henderson recalled that at recent meetings, the Board had discussed the area on the New River beside the Ikon building, including a restaurant and the new riverfront area. This area was described as in need of some type of railing, as boaters are docking their boats in what the Board members felt was not a dockable space. This area is also a holding basin for large boats passing one another or waiting for the 3<sup>rd</sup> Avenue Bridge. He recommended further discussion of this situation to ensure the area does not become more heavily used for dockage.

Mr. Harrison agreed that the lack of railings has been an issue for some time, and agreed that the area is very crowded, including large vessels that are being towed. He recalled that the Board had first expressed concern with this area in 2015, as had others in the marine industry and the U.S. Coast Guard. He also noted that the permit for this site had been issued over objection, and its terms included the condition that this area would not be used as a dock due to safety reasons. Once train service resumes, the area is intended to serve as a turning basin.

Mr. Harrison continued that the Marine Industries Association of South Florida (MIASF) wrote a letter to the City Commission expressing concern with the site. He suggested that the Board also send a communication to the Commission reiterating their previous concern for this location, and noted that he had drafted a letter to this effect.

Mr. Harrison read his letter into the record:

By Ordinance C-2074, one of the Marine Advisory Board's top responsibilities is that of waterway safety and traffic control on the waterways of Fort Lauderdale. As mitigation for the concerns of this Board, the U.S. Coast Guard, the Marine Industry Association, the DEP added the specific condition prohibiting dockage

along this section of Riverwalk. DEP permit issued January 25, 2016 specific conditions operation and maintenance activities No. 15: Within 10 days of completion of dock construction, permit handrails and No Mooring signs shall be installed along all portions of 3553 sq. ft. irregular shaped concrete boardwalk adjacent to non-mooring areas. Handrails shall be constructed to eliminate access to the pier by boaters and shall be maintained for the life of the facility.

For whatever reason, this was not done by the City and needs to be corrected. Handrails must be installed to eliminate access. This area of New River over the Kinney tunnel twists and turns, has strong currents, and is used as a holding passing area and turning basin by large vessels. The boats docked immediately to the west display evidence of the danger, with many dings, dents, scratches, and broken hardware along their hulls, as well as the extraordinary amount of fenders and bumpers hanging from their sides in anticipation of being hit.

Boats being damaged and, more importantly, people being injured by vessels colliding is the reason for not allowing vessels to dock at this location. The Marine Advisory Board is strongly opposed to allowing dockage at this location and strongly recommends full compliance of the DEP permit specific to Condition 15.

Mr. Morley asserted that he wished to **second** any **motion** by Mr. Harrison to send the letter as a communication to the City Commission, stating that he also felt very strongly about this issue. He noted that enforcement of the condition cited above would only become more important when Brightline passenger rail resumes service.

Mr. Witten requested clarification of the entity responsible for constructing a railing at the subject site. Mr. Cuba advised that had been a condition of the permit and he did not know why the railing was not put into place.

Chair Henderson stated that Mr. Morley, rather than Mr. Harrison, had made the **motion** regarding the letter to the City Commission. Mr. McLaughlin **seconded** the **motion** at this time.

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

Mr. McLaughlin recalled that a previous City Commission had informed the Board that discussion of upland variances or similar issues related to uplands were outside the Board's scope. He advised that the materials used to construct the dock would not be the Board's concern, but would be addressed by Code Enforcement. He continued that if the current City Commission agrees with this previously stated scope, it would mean issues such as noise, obstruction of views, boat ownership, or operating a private business at the dock the Board had discussed were not within the Board's purview. He observed that the current Commission may be in agreement with this limitation.

Mr. Cuba confirmed this, noting that Code Section 834 addresses the Board's duties, which do not include upland considerations. He concluded that copies of this section would be sent to the Board members the next day, as well as the Ordinance Mr. Harrison had cited in his letter.

**Motion** made by Mr. Berry, seconded by Mr. Walker, that the Board may want to think of crafting a letter of thanks to Sgt. Mills on his retiring and everything he has done for the City. [The **motion** was not voted upon.]

Ms. Lovell commented that the Board's robust discussion on the waivers presented to them at tonight's meeting indicated that they were not a "rubber stamp" entity, as suggested by the City Commission's remarks at their March 16, 2021 meeting. Chair Henderson observed that the Commission may not be aware of the waivers that come before the Board but are not recommended by them.

Ms. Boling-Lewis advised that one issue that may contribute to a misunderstanding of the Board's work is that the standards with which they make decisions are very vague: the phrase "extraordinary circumstances" could mean almost anything. She felt the City Commission should define this term more clearly. Ms. Lovell added that the Board should help determine this definition.

## **X. Adjournment**

There being no further business to come before the Board at this time, the meeting was adjourned at 8:05 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.]