



CITY OF FORT LAUDERDALE

MEETING MINUTES
CITY OF FORT LAUDERDALE
MARINE ADVISORY BOARD
THURSDAY, MAY 5, 2022 – 6:00 P.M.

Cumulative Attendance
January-December 2022

Ted Morley, Chair	P	3	1
Steve Witten, Vice Chair	P	3	1
Robyn Chiarelli	A	2	2
Bob Denison (via Zoom)	P	2	2
Barry Flanigan	P	4	0
Robert Franks	P	1	0
James Harrison	P	4	0
Kitty McGowan	P	2	2
Norbert McLaughlin	P	3	1
Noelle Norvell	A	3	1

As of this date, there are 10 appointed members to the Board, which means 6 would constitute a quorum.

Staff

Andrew Cuba, Marine Facilities Manager
Sergeant Travis O’Neil, Fort Lauderdale Police Department
Carla Blair, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Ms. McGowan, seconded by Vice Chair Witten, to submit [the attached communication] to the City as well as the fact that each member of the Marine Advisory Board will be communicating directly with the Army Corps of Engineers and any other elected officials they see necessary that might impact this subject. In a voice vote, the **motion** passed unanimously.

I. Call to Order / Roll Call

The meeting was called to order at 6:01 p.m. and roll was taken. It was determined that Mr. Morley would serve as Acting Chair (A/Chair).

II. Approval of Minutes – April 7, 2022

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

New Board member Robert Franks introduced himself at this time.

III. Statement of Quorum

It was noted that a quorum was present at the meeting.

IV. Marine Advisory Board Elections – Chair / Vice Chair

A/Chair Morley briefly reviewed the purpose of the Marine Advisory Board (MAB).

Motion made by Mr. Witten, seconded by Ms. McGowan, that Ted Morley stay on as Chair. In a voice vote, Mr. Morley was unanimously elected Chair.

Motion made by Mr. Morley, seconded by Mr. Harrison, to nominate Steve Witten as our Vice Chair. In a voice vote, Mr. Witten was unanimously elected Vice Chair.

V. Waterway Crime & Boating Safety Report

Sergeant Travis O’Neil of the Fort Lauderdale Police Department’s Marine Unit reported the following activity from April 2022:

- 75 waterway calls for service
- 1 burglary
- 62 citations
- 1 boating accident

Sgt. O’Neil added that there were no issues at the recent Air and Sea Show.

Mr. McLaughlin asked if the Marine Unit and other Police Department patrols communicate regarding crimes. Sgt. O’Neil explained that if a vessel is touching water, the Marine Unit responds unless they are unavailable. If a vessel is stolen on land, land-based units typically receive this report and share information with the Marine Unit so they are aware of the incident.

VI. Dock Permit – 901 Cordova Road / Matthew and Kathryn Friedman

Matthew Friedman, Applicant, stated that when he purchased his property, there was an existing dock attached to a City-owned seawall. The seawall has recently been repaired by the City, and he now wishes to rebuild the dock.

Chair Morley asked if Mr. Friedman was aware of City restrictions on docks, including a prohibition on penetration of the seawall. Mr. Friedman replied that there are no plans to attach the dock to the seawall.

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

Motion made by Mr. Harrison, seconded by Mr. McLaughlin, to approve.

In a roll call vote, the **motion** passed unanimously (8-0).

VII. Dock Permit – 1038 SE 13th Terrace / Max Showker

Chair Morley advised that this Item was withdrawn and will appear on the June 2022 Agenda.

VIII. Old / New Business

Mr. McLaughlin recalled that at the April 2022 meeting, the Board had discussed structures extending 30 ft. or 30% of the width of the waterway, whichever is less. He had expressed concern that there are apparently no restrictions on the size of the vessels that can be docked at these structures, which means the boats may extend significantly into the waterway.

Mr. McLaughlin advised that in the past, applicants for dock permits or waivers have agreed they would not dock a vessel larger than a certain size at their docks; however, he had looked into some of the locations for which the Board had recommended limitations on the size of the vessels that may be docked there, and had determined that the former applicants were not abiding by these restrictions and were not being cited for these violations.

Mr. McLaughlin also expressed concern with the Ikon property, recalling that the Board had recommended that the owner provide a railing on their property as a condition of approval. They had also recommended that a dockage area be changed to a walkway. Neither condition has been met according to the permit issued to the contractor for the Ikon property.

Vice Chair Witten requested clarification of the process that occurs when a waiver is granted. Mr. Cuba explained that waivers are granted via Resolutions, which are signed by the Mayor. An enforceable restriction, such as the limitation on the size of boats that can be docked at the structure, is written into the Resolution as a condition. When the waiver is recorded, this means no future owner of the property may dock a vessel of greater size than that mentioned in the restriction.

Vice Chair Witten commented that the issue appears to be one of enforcement. Mr. Cuba replied that the City has typically avoided conditional Resolutions that include restrictions on vessel size, although there have been some restrictions of this nature over the years. He suggested that if Mr. McLaughlin provided him with the addresses at

which he had noted the violations, they can be reported to Code Enforcement and addressed.

Mr. McLaughlin requested more information on the conditions the Board had recommended for the Ikon property. Mr. Cuba stated that the Ikon property received a lengthy environmental permit, which includes the language to which Mr. McLaughlin had referred. This included a walkway rather than a dock, the installation of a fence and railing, and provision of a No Dockage sign at the location. He did not have information at this time on why these conditions have not been met, and is seeking answers from the appropriate City Staff.

Mr. Cuba continued that he agreed there should be a rail on the Ikon property to restrict dockage at that location. He noted that there has been a request for an adjustment to the permit that would allow four 40 ft. slips at the subject site. He had distributed copies of this request to the Board members for further discussion.

Mr. McLaughlin asked if the Board may request that the City Commission look into the fact that the railing was a condition of approval for the Ikon site but has not been provided. He asserted that the Commission would need to withdraw the stipulation of a railing at the site in order to provide the requested dockage. Mr. Cuba recommended that this request be sent via communication to the City Commission.

Mr. Flanigan agreed that the Board has always opposed any inclusion of a dock at the subject property, and observed that the entity applying to the City for the 40 ft. slips has requested a modification to Ikon's submerged land lease. The site is identified in this request as either a pedestrian walkway or a dock at different times. The permit under which the current configuration was constructed expired in July 2021.

Mr. Flanigan pointed out that the request also includes a comment by the U.S. Army Corps of Engineers which states all of the authorized work on the property has been completed. He stated that this was incorrect, as the conditions attached to the permit, including the Board's recommendation of a railing and No Mooring signs, have not been met. He added that there is no existing dock on the property, but only a walkway.

Mr. Flanigan also expressed concern with the permit request's assertion that the waterward edge of the proposed structure would be more than 100 ft. away from the bottom edge of the New River channel. He felt this distance was questionable. He pointed out that public notice related to the request was being issued based on information furnished by the applicant, which has not been verified or evaluated to ensure compliance with laws or regulations.

Mr. Flanigan continued that easements on this property were created as long ago as 2014. Upon reviewing some of these, he felt it was clear the entity requesting the 40 ft. dock slips would have control of dockage along the waterway, and would not permit the public access or use of the walkway if it became a dock.

Chair Morley also addressed public notice of the application for dock slips, which notes that a permit issued in July 2016 expired in July 2021. The applicant has requested modification to this permit. He pointed out that when a permit issued by the Army Corps of Engineers has expired, an applicant must re-apply for or reopen that permit, and asked why this was not the case for the dock slip application.

Chair Morley recalled that the railing had been recommended as a safety issue for pedestrians using the walkway. The railing and No Mooring signs were also intended to serve the purpose of keeping navigation open on the New River, and slips at the subject site would impede this navigation.

Mr. Flanigan was not certain there was sufficient time to send a communication to the City Commission expressing their concerns, and suggested that the members reach out to the City Commission individually. Mr. Cuba recommended emailing the applicant at the contact information provided and copying him on the email. He would gather these emails together and send them on to the appropriate party.

Mr. Harrison advised that he had written a prospective communication to the City Commission, which he distributed the document to the Board members, recommending that they all address similar points in their respective emails, including safety, navigation, and the history of the project.

Mr. McLaughlin commented that while they may see architectural renderings and plans for docks and similar structures, the Board does not typically see the final product when a structure is permitted. He asserted that a number of completed structures he had viewed did not resemble the proposals, again citing the railing recommended for the Ikon property as an example.

Mr. Flanigan provided photos of commercial traffic on the New River near the subject site, identifying the area for which the 40 ft. dock slips have been requested as well as other landmarks and facilities in the area. He pointed out an area provided by the City for the turning of commercial traffic on the waterway.

Chair Morley described the New River as the lifeblood of the marine industry in South Florida. He reiterated that the Board's purview is to study and make recommendations on every aspect of the City's waterways, not only on dock waivers and permits. For this reason, he felt the Board should communicate its concerns not only to the City Commission, but to the Army Corps of Engineers as well. He pointed out that communication received from the public may be the only communication received by the Army Corps before they vote on a project, and noted that the Army Corps does not typically see the type of commercial traffic on the New River shown in Mr. Flanigan's photographs. He agreed that docking vessels at the subject location would have a direct impact on the safety of navigation on the New River.

Mr. McLaughlin also provided photos of activity on the New River in proximity to the Ikon property, noting that the addition of slips in the area would encroach upon the space required by large commercial vessels. Chair Morley added that other concerns on the New River include the effects of extreme tides, currents, and heavy winds. He expressed concern that if larger dock projects are permitted in these areas, the result would be more accidents, injuries, and property damage.

At this time Chair Morley opened public comment.

Patience Cohn, representing the Marine Industries Association of South Florida (MIASF), advised that prior to public notice of the application, an attorney representing the Ikon property had arranged to walk the area with MIASF representatives. MIASF identified two areas which they felt could safely accommodate a total of two slips, but cited their concern that more spaces would result in encroachment into the navigable channel. They had left the meeting believing that both parties had reached an understanding, and were surprised when public notice showed that their recommendations had not been followed. MIASF had then objected to the project.

Ms. Cohn continued that MIASF has submitted a letter of comment on the proposed project, which has been shared with both the Board members and the City Commission. She advised that three City Commissioners have requested further input from MIASF. She emphasized her concern with the state of navigation on the New River in this area, stating that if commercial vessels cannot access boatyards, there will be a significant impact on the marine industry in Fort Lauderdale.

Chair Morley observed that in addition to the impediment of space on the New River, large vessel traffic creates an increase in current flow, which in turn increases the risk of accidents. Ms. Cohn added that another consideration is the overhead railroad bridge: when the bridge is closed, the collection area in which boats wait for it to open can become congested.

Chair Morley reiterated the importance of Board members reaching out not only to the Army Corps but to their City Commissioners as well, advising them of the cautions raised by individuals with expertise in the marine field. He suggested that providing photos would be helpful in making their point.

Vice Chair Witten asked how the Board can work with MIASF to communicate its concerns, particularly to the members' City Commissioners. Ms. Cohn replied that a representative of the Board should be present when the City Commission discusses this issue so they can answer any questions the Commissioners may have. Chair Morley suggested that the Board develop a schedule in which he, the Vice Chair, or another designated member attends City Commission meetings for this purpose.

Ms. McGowan stated that the City may not be able to have a significant effect on the proposed project at this point; however, the Army Corps of Engineers is answerable to

the U.S. Congress. She emphasized the importance of communicating the Board's concerns to that body as well as to the City Commission, as well as to members of the Florida Congressional delegation who have seats on the appropriate committees. Mr. Cuba agreed that sending the photos shared at today's meeting to the Army Corps could be helpful, along with a justification of the Board's objections to the project.

Chair Morley concluded that the Board members should reach out to the Army Corps of Engineers on this issue, and that they continue to communicate to the City Commission and attend Commission meetings in the future to ensure their concerns are heard.

Vice Chair Witten suggested that the members work together to become a more effective advisory entity. He had reached out to his appointing Commissioner following the April 2022 meeting and shared his thoughts on this. In response, the Commissioner had proposed a joint meeting between the City Commission and the MAB. He felt this could be a very important meeting so both parties could clearly understand one another.

Mr. Cuba advised that he would scan the photos shared at tonight's meeting and provide them to the members, who could then include them in their emails to the Army Corps.

Mr. Harrison also addressed enforcement, noting that the Marine Unit consists of five Officers who are responsible for patrolling the entire City. He pointed out that encroachment continues to increase, and the City cannot rely on enforcement alone to serve public safety, which was why the Board makes recommendations such as the requirement for a railing at the Ikon property.

Ms. McGowan asked if the Board should make an official communication to the City Commission. Mr. Harrison suggested that they send a communication to the Commission stating the members' intent to contact the Army Corps of Engineers.

Motion made by Ms. McGowan, seconded by Vice Chair Witten, that this Board puts together a formal communication with the Commission so that even though we understand from a timeline standpoint it's not going to necessarily directly impact this at this point.

It was clarified that the communication to the City Commission would attach the document composed by Mr. Harrison, as well as the photographs provided at tonight's meeting.

Ms. McGowan **restated** her **motion** as follows: **motion** to submit that to the City as well as the fact that each member of the Marine Advisory Board will be communicating directly with the Army Corps of Engineers and any other elected officials they see necessary that might impact this subject.

Mr. Harrison recommended that the communication begin with the statement that the Board unanimously objects to the application by Ikon.

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

IX. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 7:24 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.]