



CITY OF FORT LAUDERDALE

**MEETING MINUTES
CITY OF FORT LAUDERDALE
MARINE ADVISORY BOARD
100 NORTH ANDREWS AVENUE
CITY COMMISSION CHAMBERS
1ST FLOOR CITY HALL
THURSDAY, JULY 7, 2022 – 6:00 P.M.**

**Cumulative Attendance
January-December 2022**

Ted Morley, Chair	P	5	1
Steve Witten, Vice Chair	P	5	1
Robyn Chiarelli (arr. 6:13)	P	4	2
Bob Denison	P	4	2
Barry Flanigan	P	6	0
Robert Franks	P	3	0
James Harrison	P	6	0
Kitty McGowan (arr. 6:03)	P	3	3
Norbert McLaughlin	P	5	1
Noelle Norvell	A	4	2

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

None.

I. Call to Order / Roll Call

The meeting was called to order at 6:01 p.m. and roll was taken.

II. Approval of Minutes – June 2, 2022

Motion made by Vice Chair Witten, seconded by Mr. Franks, to approve. In a voice vote, the **motion** passed unanimously.

III. Statement of Quorum

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

IV. Waterway Crime & Boating Safety Report

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

- 80 waterway calls for service, including five burglaries from vessels
- 63 citations
- 1 minor accident

Sgt. O'Neil advised that the burglaries targeted Garmin devices.

Ms. McGowan arrived at 6:03 p.m.

Chair Morley asked if Fort Lauderdale's Noise Ordinance will apply to vessels on the waterway and whether or not the Marine Unit will enforce it. Sgt. O'Neil stated that at present, this Ordinance does not include vessels.

V. Dock Permit – 607 Cordova Road / SIPC LLC – Glenn Wright, Mgr.

Michelle Wilson, representing the Applicant, stated that the proposed dock is approximately 40 ft. in length and 8 ft. wide. The property owners do not have a boat at this time; however, once they have purchased a vessel, the Board will be informed of its specifications. County permits have already been acquired.

Chair Morley noted that Items V and VI are both development projects, and the party requesting permits will not be the owner of the property once it has been completed. Ms. Wilson confirmed that the Applicant was aware that permits cannot be transferred from one owner to another.

There being no further 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.

Chair Morley pointed out that the seawall cannot be penetrated or structures attached to it. This would result in loss of permit, as the seawall on Cordova Road is publicly owned and intended for flood maintenance. Ms. Wilson confirmed that there are no plans for attachment to the seawall. Marcus Buerosse, who is employed by the Applicant, added that he also understands the applicable rules and regulations regarding use of the seawall, including Ordinances C21-12 and C19-22.

Mr. Flanigan asked if the Board has previously approved a permit for an unfinished building. Mr. Cuba stated that a dock may not occupy a property that does not have a principal upland structure adjacent to it: the dock can be built once work on the upland

structure has been permitted. Mr. Buerosse confirmed that construction has begun on this property.

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

VI. Dock Permit – 601 Cordova Road / 1550 Ponce de Leon LLC – Glenn Wright, Mgr.

Ms. Chiarelli arrived at 6:13 p.m.

Ms. Wilson, representing the Applicant, explained that this request is also for a 40 ft. x 8 ft. dock.

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. Franks, seconded by Ms. McGowan, to approve. In a voice vote, the **motion** passed unanimously.

VII. Dock Waiver – 777 SW 6th Street – Edwin Kirwin III

John Piotrowski, representing the Applicant, stated that the two properties seeking dock waivers, 777 SW 6th Street and 801 SW 6th Street, are adjacent to one another. This request is for the installation of four sets of dolphin clusters at 62 ft. from the seawall. Any boats docked at the property will be for the owner's personal use. The Applicant is currently in the process of reconstructing the seawall and docks.

Edwin Kirwin, Applicant, explained that his property is located at the widest section of the New River. When large boats pass by quickly, their speed creates a significant wake that can damage vessels moored nearby, even though the area is a No Wake Zone. This is a constant problem that has resulted in over \$4000 in damage to his vessels.

Mr. Harrison requested clarification of the size of the Applicant's boats. Mr. Kirwin replied that his two vessels are 42 ft. and 48 ft. Mr. Harrison explained that his concern was for the two properties together at 777 SW 6th Street and 801 SW 6th Street, which he felt could serve as a marina. Mr. Kirwin advised that the subject property is a family home. He owns four properties in the subject area.

Mr. Harrison reiterated his concern with a potential marina, recalling that dolphin pilings have previously been requested for other properties owned by the Applicant, with some opposition from the surrounding neighborhood. Mr. Piotrowski stated that the footprint of the site is not changing aside from the raising and reinforcement of the seawall.

Mr. Harrison explained that there are issues with enforcement of marine regulations in the City. The Board has expressed concerns in the past with the docking of larger vessels than what was approved for specific properties. Use of private properties as marinas was one other such concern. Mr. Kirwin reiterated that his intent is to protect his boats from damage.

Mr. Harrison continued that boatyards and other marine industries are located farther up the New River, and emphasized the river's use as a commercial waterway. He expressed concern for large boats passing one another on the waterway. Mr. Kirwin noted that his request is made at the same waterway width as a property for which a waiver was previously granted.

Mr. Harrison referred to a previous application which the Board had recommended against, recalling that the furthest dolphin pilings at that structure were at 49 ft. He had opposed that application due to navigational concerns, although it was ultimately approved by the City Commission. Mr. Kirwin stated once again that there is no intent to use the property for commercial purposes.

Chair Morley stated that the surrounding neighborhood has reacted "in overwhelming negative response" to the Applicant's request, which is being taken into consideration by the Board. Mr. Kirwin repeated that his request is the same as a request made by a property across the waterway at the widest point in the river.

A question was asked regarding the ownership of other boats docked at properties owned by the Applicant. Mr. Kirwin replied that these boats also belong to family members and have been at that location for many years.

Chair Morley stated once again that the Board's concern was that the requested dock and others owned by the Applicant could become equivalent to a commercial marina operation within the residential neighborhood, as there are several large vessels that could impede navigation. He pointed out that this is a different situation from the property across the river, as boats turn from a canal onto the New River near the subject location.

Mr. Piotrowski noted that the waiver request is identical to a property across the waterway in its distance into the canal, and the Board had voted unanimously to approve that request. He cited other nearby properties with different conditions, reiterating that the Applicant's intent is for personal use of the proposed dock.

Mr. McLaughlin observed that commercial vessels often lay over in the subject area when waiting for the bridge to open and for incoming boat traffic to pass. He also recalled that the Board has approved a number of requests in the past with conditions based on the size of the vessels to be docked at those locations, but these conditions were often not met.

Mr. McLaughlin concluded that commercial operators do not want to lose any of the area in which they lay over. Mr. Kirwin replied that he has seen commercial vessels congregating to the north and west rather than in front of his property. The proposed pilings would be located further to the east.

Mr. Piotrowski advised that the subject property differs from the site for which the Board had not recommended approval, as that site proposes a more substantial use with concrete docks and pilings in a narrower are. The Applicant's request is for wooden dolphin clusters. He also addressed the mention of commercial opposition to the Application, pointing out that these operators received notice of tonight's meeting but were not present to oppose the Application.

Mr. Cuba explained that notice of tonight's meeting was sent to all properties within 300 ft. of the 777 and 801 SW 6th Street addresses. He received a total of three emailed responses stating concern with the Applications, one of which had believed the Applications to refer to a property that previously came before the Board for approval. He clarified that he does not send notice to all commercial operators unless they have requested it.

Chair Morley recalled that the Board had received roughly seven letters, primarily from tow boat operators, in opposition to the nearby property not recommended for approval by the Board. He felt if they had been aware of the Applications before the Board tonight, they would have similarly expressed opposition, as he did not recognize a substantial difference between the requests. Mr. Piotrowski characterized this as speculation, stating that he had also spoken with several tow boat operators, none of whom expressed opposition to the previous project or the current Application. Chair Morley asserted that this was not correct, stating again that the lack of opposition from tow boat operators suggested those individuals were not aware of the Application.

Mr. Franks requested clarification of the legality of renting dock space in the Applicant's zoning district. Mr. Cuba replied that the Applicant's zoning is RD-15, which permits the renting of slips. Mr. Piotrowski stated again that while this may be permitted, it is not the Applicant's intention.

Mr. Harrison asked if the Applicant had considered widening the slips at his dock to prevent damage to his boats. Mr. Kirwin replied that the existing slips at the 801 SW 6th Street property are being widened. He noted that the proposed dolphin pilings are not within the normal navigable channel of the river, and that speeding and/or large boats create damaging wakes.

Mr. Harrison requested clarification of the greatest depth of the river in front of the Applicant's property. Mr. Kirwin stated that this depth is approximately 150 ft. into the middle of the New River. Mr. Harrison commented that there are deep and shallow areas within a river, which change from one side of the waterway to the other. Mr. Kirwin added that the river is shallower near his property and the current is less strong.

Vice Chair Witten observed that he has not seen a substantive change in boat traffic on the river, and asked what change has necessitated the Applicant's request. Mr. Kirwin explained that his daughter purchased the property at 801 SW 6th Street roughly three years ago and work is underway at the seawall on her property. A contractor would be brought in to do all the work on the two properties at once rather than in a piecemeal fashion. He pointed out that most of the surrounding properties have newer seawalls, and it is his wish to improve his property as well.

Vice Chair Witten explained that although previous similar applications may have been approved by the Board, conditions may change over time. He also requested clarification of whether or not the Board is considering the two waivers for 777 and 801 SW 6th Street separately or together. Mr. Cuba clarified that the two Applications are separate from one another.

Mr. McLaughlin asserted that he would be more comfortable if the Applicant had support from the marine industry, as he wished to emphasize the river's importance as a commercial waterway. He did not believe commercial operators were aware of the Applications before the Board at tonight's meeting.

Mr. McLaughlin also suggested that notice be sent in the future to commercial operations that could be affected by structures on the New River. He asked if it would be possible for those entities to request notice. Mr. Cuba explained that the Marine Advisory Board's (MAB's) Agenda is mailed to several homeowners' associations as well as to the Marine Industries Association of South Florida (MIASF). He recalled that with the recent application denied by the Board, those entities had provided significant opposition and had asked to be kept apprised of developments regarding that property, which he had done.

Mr. McLaughlin stated that he felt "the system is not working" if tow boat and other commercial operators had not been notified, citing marine industries on the New River which had indicated to him that they were not aware of the Applications before the Board tonight. Mr. Cuba pointed out that he does not provide notice to every operator.

Mr. Piotrowski noted that he has seen notice forwarded from MIASF, of which most tow boat operators are members, to tow boat captains. He felt this meant it was probable that MIASF members had seen tonight's Agenda. Mr. Harrison noted that MIASF members are provided with MAB meeting Agendas rather than detailed information.

Mr. Harrison advised that he would be more comfortable with the Application if the dolphin clusters were limited to the same distance into the waterway as that previous application, and if the slips at the subject property were widened, which he felt would improve the safety of vessels docked there.

Mr. Piotrowski observed that the previous project discussed tonight was separate from the Applications. He pointed out, however, that the dolphin piles' proposed distance is exactly the same as that of another property across the waterway, which was unanimously approved by the Board. He requested clarification of the difference between these two projects.

Chair Morley addressed this question, noting that one significant difference between the Application and the property across the waterway is the alignment to the bridge span. He noted that from a navigational standpoint, the property across the waterway does not enter into a "swing area" used by boats lining up to pass beneath the bridge, while the Applicant's property is within this area.

Chair Morley continued that the Board's concerns are with the issues facing not only the Applicant, but with neighbors and commercial marine operations on the New River, as well as overall public safety. He added that the Board's membership represents decades of different types of marine industry expertise, which may not be widely known to recreational boaters.

Chair Morley asked if the Applicant wished to withdraw the Application to consider some of the changes Mr. Harrison had proposed, or if he wished to continue toward a vote at tonight's meeting. Mr. Kirwin requested additional clarification of the navigational hazard to which the Chair had referred. Chair Morley explained that the subject property is located on a curve in the river, near which outbound larger vessels, including tow boats, must align themselves to pass beneath the clear span opening of the bridge. Mr. Kirwin advised that boats do not make this turn in front of his property: they are still moving straight when they pass his home. He identified the point of alignment to which the Chair had referred as lying "east of our property." He reiterated that his home lies at the widest point of the waterway.

Chair Morley replied that vessels are being passed in the portion of the river on which Mr. Kirwin's property is located. Mr. Kirwin asserted that vessels regularly pass each other in this area with no problem.

Mr. Flanigan stated that the U.S. Coast Guard has identified the New River as a commercial river "more so than a pleasure river." He pointed out that there is greater activity on the New River from large vessels being serviced by marine industries, and stated that this increased activity should be protected. He suggested that it might be possible to restrict the length of boats to be docked in the subject area, or to move the proposed pilings back by a few feet.

Mr. Franks commented that barges are required for any type of construction upriver, and that barges require additional room to maneuver. He also noted that there must be places on the river where vessels can safely pass one another, which may be near the Applicant's property and would be affected by the proposed dolphin pilings. Mr. Franks concluded that he did not see how placing pilings further out into the waterway would

prevent damage to vessels, and agreed that widening the slip could be more useful in protecting the Applicant's boats.

Mr. Kirwin explained that there is no way to secure the bows of his boats when they are hit by a wake. He likened this difficulty to securing a 50 ft. boat at a 25 ft. dock. He stated again that the subject property is a family home and not a marina. Mr. Piotrowski added that the proposal is for a cluster of three piles: the existing configuration includes older single dolphin piles, which are less strong.

There being no further 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 Vice Chair Witten, seconded by Mr. Harrison, to deny. In a roll call vote, the **motion** passed unanimously (9-0).

Chair Morley observed that the Applicant may wish to address concerns regarding commercial river traffic in front of the Applicant's property so the Item would have support from commercial operators if it came back before the Board at a later date. He recalled that at least one Board member had indicated he would be supportive of the issue if tow boat and other commercial operators agreed the proposal would not constitute a risk to their operations. He also wished to hear additional input from marine industries.

Mr. Cuba advised that he would speak with the Applicant regarding whether or not he wished the Application to proceed to the City Commission with a recommendation of denial from the Board.

Mr. Harrison stated that a colleague at MIAFS had contacted him during the meeting to indicate that organization had not received tonight's meeting Agenda, nor had they received other notice of the Application.

VIII. Dock Waiver – 801 SW 6th Street – Christina Kirwin

Mr. Piotrowski, representing the Applicant, advised that his presentation would be the same for this property as for 777 SW 6th Street. The two properties are aligned and adjacent.

Chair Morley asked if the Applicant had a slide or measurement showing the setback from the parcel of land to a peninsula that extends into the New River. Mr. Piotrowski referred the Board to a slide showing survey information. It was clarified that Google Earth shows the width of the waterway at 310 ft. from the subject parcel and 160 ft. from the peninsula across the waterway.

Mr. Harrison stated that his concerns for this parcel would be the same as for 777 SW 6th Street, as the issue is distance, as well as the possibility of placing very large boats on the property.

Mr. McLaughlin commented that small boats coming from the mouth of the Tarpon River would have to go out further into the New River to turn and move east if pilings were constructed on the subject property. He recalled that this had been cited as an objection to a previous application that had come before the Board. Chair Morley added that one of the emails received in opposition to the Application had raised this concern.

Mr. Piotrowski reviewed the letter of opposition, stating that the property to which the letter had referred was "130 ft. away" and should not be an issue.

There being no further 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 Chair Morley, seconded by Ms. Chiarelli, to approve. In a roll call vote, the **motion** failed 1-6 (Chair Morley, Vice Chair Witten, Mr. Denison, Mr. Graves, Mr. Harrison, and Mr. McLaughlin dissenting). (Mr. Flanigan and Ms. McGowan were not present for the vote.)

Mr. Cuba advised that he would work with the Applicant to determine how they wished to proceed.

IX. Old / New Business

Mr. Franks recalled that at the June 2, 2022 meeting, a member of the public had addressed the Board to report that his fuel barge was having difficulty finding a place to dock. He expressed concern for dockage of commercial boats, noting that in the past month, charter boats have been asked to move from the south side to the north side of the Bahia Mar marina. Mr. Franks concluded that many charter boats have not purchased their own properties and have had limited involvement in the marine industry.

Mr. McLaughlin added that the New River has narrowed over the last 10 years, which means there is less space in which larger boats can maneuver. He also stated his concern for the Riviera Isles area, noting that some pilings in this location may extend further than 30% into the canal. This creates difficulty for barges and other commercial vessels working in that area.

Vice Chair Witten stated that the Board is aware of the economic impact that commercial boating brings to the New River. He felt they are addressing waiver applications more strictly due to their concern for the marine industry.

Chair Morley recalled that an application that might have been approved easily in the past may not be approved by the Board at present due to changing conditions. He agreed that the New River is becoming smaller, and added that the logic applied to an application in the past may not be applicable now. He noted that there may be clashes between commercial industry and recreational boating on the New River, which makes it more difficult to evaluate waiver and permit requests.

Ms. McGowan commented that while the Board may come to a consensus based on safety issues as well as marine knowledge, it is not always possible to ensure that their views are represented before the City Commission. She emphasized the importance of making sure a representative of the Board is present when an application moves forward.

Chair Morley requested that Mr. Cuba inform the Board of when the applications heard at tonight's meeting will go before the City Commission for a vote so the Board can ensure there is a presence at that Commission meeting. Mr. Cuba noted that three dock permits are on the Commission's Consent Agenda on August 16, 2022. The two dock permits approved at tonight's meeting would be heard at the Commission meeting of September 6, 2022. He was not certain of whether or not the applicants for the dock waivers denied at tonight's Board meeting would wish to move forward to the City Commission.

Chair Morley asked what might be a path forward for the applicants denied at tonight's meeting if they choose not to proceed to the City Commission level. Mr. Cuba replied that the applicants may come back before the Board with different plans.

Ms. McGowan asked if any updates are available regarding the Board's concerns with the SALT7 restaurant. Mr. Cuba stated that boats will not be docked at that site, although alternative sites may be identified for dockage. Ms. McGowan noted that there is no signage on that property.

Ms. McGowan recalled that the SALT7 property had applied to the U.S. Army Corps of Engineers for a new permit, which took the issue out of the City's hands. She added that some Board members had sent letters to the Army Corps expressing concern with this possibility, but have not heard a response.

Chair Morley observed that there had also been a potential issue with the number of boat slips within Broward County. Mr. Luscomb replied that the southern zone of Broward County has no more dock slips to allocate at this time. This issue depends upon how the County views the proposed pier: if it is a separate facility, it might be allocated four slips without a marine facility operating license, as the definition of marine facility refers to five or more slips.

Ms. McGowan recalled that the area in question was originally considered a walkway rather than a dock. Mr. Luscomb advised that the entity is seeking to amend its permit.

Mr. McLaughlin stated that the original permit had included a railing, and pointed out that it is unlikely the facility can obtain a Certificate of Occupancy (CO) unless a railing has been constructed.

X. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 7:58 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.]