



CITY OF FORT LAUDERDALE

**MEETING MINUTES
CITY OF FORT LAUDERDALE
MARINE ADVISORY BOARD
100 NORTH ANDREWS AVENUE
CITY COMMISSION CHAMBERS
8TH FLOOR CONFERENCE ROOM
THURSDAY, JANUARY 5, 2023 – 6:00 P.M.**

**Cumulative Attendance
January-December 2023**

Ted Morley, Chair	P	1	0
Steve Witten, Vice Chair	P	1	0
Michael Boyer	P	1	0
Robyn Chiarelli (arr. 6:09)	P	1	0
Barry Flanigan	P	1	0
Robert Franks	P	1	0
Elisabeth George	P	1	0
James Harrison	P	1	0
Brewster Knott	A	0	1
Norbert McLaughlin	P	1	0
Noelle Norvell	P	1	0

As of this date, there are 11 appointed members to the Board, which means 6 would constitute a quorum.

Staff

Andrew Cuba, Marine Facilities Manager
Jonathan Luscomb, Marine Facilities Supervisor
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

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

II. Approval of Minutes – December 1, 2022

Motion made by Mr. Harrison, seconded by Vice Chair Witten, 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 December 2022:

- 67 citations
- 40 calls for service
- A number of burglaries throughout the south end of the City, 4 of which occurred on 15th Street

Sgt. O'Neil added that there were no serious issues with the 2022 Winterfest Boat Parade.

Sgt. O'Neil further addressed the burglaries, explaining that the items most commonly stolen are Garmin GPS units. Some owners do not discover they have been burglarized until weeks or months after the theft occurred, as they do not access their boats every day. Arrests have been made in Fort Lauderdale as well as in Miami-Dade County, and investigations are ongoing. Most of the thefts appear to be land-based.

V. Dock Waiver – 321 N. Birch Road / Lee J. Engler – Trustee of the Lee J. Engler Qualified Personal Residence Trust & Patt A. Engler, as Trustee of the Patti A Engler Qualified Personal Residence Trust (PH 03), Brenda LaPointe (#901), Robert J. & Mary K. Berard (PH 01), & Robert & Lisa D. Verdun (#803)

This Item was deferred to a later date.

VI. Dock Permit – 1028 Cordova Road / Max Showker

Frank Mormando, representing the Applicant, provided visuals of the proposed project for the Board members, as well as the clearances and swales the Applicant would maintain. There are no plans to attach any items to the seawall cap.

Mr. McLaughlin commented that work was recently done near Cordova Road to prevent flooding from heavy rain events, king tides, or flood tides. He asked if the Applicant was aware of the location of a drain with a kick plate to prevent this flooding. The probable location of the drain and kick plate were discussed, with Mr. Mormando concluding that he would make the Applicant aware of this infrastructure. Mr. McLaughlin added that the drain will need to be cleaned regularly by the City.

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.

Mr. Cuba observed that in other locations, some homeowners have drilled through the new seawall to install conduit holes, or have attached electrical or plumbing infrastructure to the new seawall with screws, neither of which is permitted.

Motion made by Mr. Franks, seconded by Ms. George, to approve. In a voice vote, the **motion** passed unanimously.

Chair Morley requested an update on the City's landscaping plan for Cordova Road. Mr. Cuba replied that he has made Code Enforcement aware that there may be landscaping concerns in the same general area where some property owners have drilled into or through seawalls. He concluded that he would get more information on this in the future.

VII. Presentation – Las Olas Marina Update / Eric Metz

Eric Metz, representing Suntex Marine, provided an overview of the Las Olas Marina, recalling that a request for proposal (RFP) was awarded to Suntex in 2018-2019. Suntex formally broke ground on the marina in 2022. He showed a rendering of the project, which included restaurants and the main services building.

Mr. Metz continued that for the first four months of the project, the primary mission was installing sewer infrastructure, which met with several complications, including identification of existing pipeline and location of utility conduits. To date, Suntex has dredged a portion of the marina's basin which held over 40,000 cubic yards of material. The next phase, which will involve hauling this material away, will begin the following week.

There are roughly 650 to 700 ft. of seawall along the marina. Suntex is building a new pump station for the City, which will handle most of the sanitary sewer needs for a portion of the Fort Lauderdale Beach. Mr. Metz estimated that the new station will be functional by January or February 2023, with the old station to be demolished in March.

Suntex has determined that the soil in the marina area was not in as good condition as originally expected. To address this, they will install 75 ft. batter piles east/west on the site. This is expected to take roughly a month to complete. Suntex has also pulled a significant amount of debris out of the ground on the site. While they hope to remove 2500 to 2700 yards of material per day, they are currently removing approximately 1500 yards per day.

Mr. Metz showed aerial views of the property, including the dredging area. He noted that a seawall which extends south from the property's garage to the Las Olas Bridge is not

in suitable shape, which will require the placement of a new seawall in front of it. This part of the project is currently in the permitting phase.

Another impact will occur to circulation around Las Olas Circle, which will be closed for roughly two and a half months. Suntex is working with the City to determine how this project will go forward, possibly in February or March 2023.

The intent is for the marina's docks to be in place in time for the 2023 Fort Lauderdale International Boat Show, although utilities may not be available by that time. Mr. Metz explained that it is not certain that Florida Power and Light's (FPL's) installation schedule will allow for completion by August or September 2023. Sewer and water utilities are expected to be easier to address within this time frame. The buildings are anticipated to be complete in the first quarter of 2024, with tenant spaces to hopefully be open between April and June 2024.

Mr. Flanigan requested an estimate of the project's total linear footage. Mr. Metz estimated that there will be over 8500 linear ft. of dock space. Mr. Flanigan added that the Marine Advisory Board (MAB) may be able to help Suntex in the event that they need to go before the City Commission to request additional funding.

Mr. Metz continued that the City provided the majority of funding necessary for the new pump station, contributing \$2.5 million. Suntex provided \$400,000 toward this project.

Mr. McLaughlin asked for additional details on the partnership between Suntex and the City regarding the seawall on the south side of the marina. Mr. Metz stated that Suntex is still working to determine the best way to install the new seawall, as they do not want to use batter piles in that area. The City has a force main in the subject area, as well as principal water connections to the barrier island. Other utilities have joint trenches in the area, which could be damaged by a batter pile. Suntex also hopes to assess the potential upland impacts of the proposed seawall before installing it.

Mr. Harrison asked if it is possible to separate the costs of the landward portion of the development from the marina's costs. Mr. Metz estimated that the total cost of the marina, not including expansion costs, is \$67 million, while the upland buildings, not including tenant improvements or build-out, is \$24 million. These estimates do not include "soft" costs.

Mr. Harrison asked if there will be dockage space at the marina for restaurant patrons. Mr. Metz confirmed this.

Mr. Franks noted that a mooring field is located on the south side of the Las Olas Bridge. Mr. Metz advised that activity on that side of the bridge is not associated with Suntex or the marina project.

Mr. Metz noted that once dredging is concluded in the southern portion of the project, including the Las Olas Bridge area, the channel depth will be approximately 17 to 18 ft. low/low and 12 to 14 ft. elsewhere. The north side of the marina will also be dredged all the way to the mouth of the Intracoastal Waterway. He estimated that the total in-water dredge is calculated to be 103,000 cubic yards. Roughly 30,000 cubic yards of material have already been moved with no issues or complaints.

Mr. Metz concluded that the project includes a camera feed that is accessible at LasOlasMarina.com/camera. The feed updates every 10 to 12 minutes and allows viewers to look in on the project in real time.

Robert Washington, member of the public, asked for additional information on the installation process for pilings, including batter piles. Mr. Metz replied that Suntex will create a template for the installation of 75 ft. steel sheets. They use full vibration monitoring for the entire site. Because of the condition of the soil, the piles are expected to sink 45 ft. before any vibration is anticipated.

Andrew Cohen, member of the public, asked if dockage will be available for commercial boats. Mr. Metz replied that this has not been considered thus far, as most commercial dockage is focused on the Bahia Mar area. There is not sufficient space at the Las Olas Marina.

VIII. Discussion – New River Navigational Concerns

Chair Morley recalled that discussion of navigational concerns on the New River began at the December 2022 meeting and will continue to be on future Agendas until the Board has developed a communication to the City Commission.

Mr. Harrison commented that he has begun a draft outline for issues to be included in the communication to the City Commission, and distributed copies of the document to the Board members. He noted that the City is currently unable to enforce its existing Code, and that portions of the New River have become federally regulated navigational areas, which are managed by the United States Coast Guard. The Coast Guard and the Florida Inland Navigation District (FIND) measure the width of the New River's channel and encroachment from the edge of the channel to the banks, which is the opposite of the method used by the City.

Mr. Harrison continued that new seawalls can be placed outside of existing seawalls, which potentially encroaches an additional 2 to 3 ft. into the waterway if the measurement is made from the location of the seawall. He noted, however, that seawalls do not necessarily match the location of the property line. These are among the reasons why the Board may wish to request a moratorium on variances along the New River until a closer look can be taken at these issues.

Mr. Harrison noted that at least one dock waiver the Board has opposed will go before the City Commission at their Tuesday, January 10, 2023 meeting. There are also issues with the maximum allowable distance which a dock can extend into the river.

Mr. Harrison continued that a restaurant is proposed for the Huizenga Plaza area, and dockage could be valuable to this business. He continued that the Raintree property is currently under redevelopment, and dock space at this project's marina already extends into the river. It is possible that the property owner may seek a variance to allow these boats to extend further into the waterway.

Mr. Harrison asserted that these examples are among the reasons the Board may ask for a moratorium on variances on the New River. There are also commercial vessels within the City limits which perform illegal operations, such as operating without proper insurance, operating without a licensed captain, or using City docks for pick-up and drop-off activities. He concluded that the City is currently not able to adequately enforce its existing Code.

Other legal issues may include "bare boat" charters, which allow individuals to rent boats that are not chartered. In this case, the individual who rents the boat becomes the disponent owner and assumes legal authority of that vessel. They are responsible for all insurance and liability of the boat during the rental. These boats also pick up passengers at City docks, which means if an injury occurred to a passenger, the City would be the responsible entity.

Mr. Harrison continued that at present, liability for a commercial boat requires that the insurance cover the value of the boat only. A recent bill passed at the federal level will change this requirement, making the commercial boat owner liable for everything, which will raise the cost of insurance for commercial vessels.

Mr. Harrison advised that this and other changes will only heighten the need for the appropriate Code, enforcement, and laws governing commercial vessels. He suggested that the Board consider sending a communication to the City Commission citing a number of concerns and potential issues and recommending a moratorium on variances until these issues can be studied more closely. He emphasized that the moratorium would be limited to the New River corridor, and variances could continue along the City's canals.

Patience Cohn, industry liaison for the Marine Industries Association of South Florida (MIASF), stated that there are additional concerns along the New River, including the location of pilings and continued access to waterfront properties to install new seawalls.

Chair Morley commented that any communication to the City Commission should state the Board's goal of a temporary moratorium until there has been time to analyze the effects of further infringement on the New River.

Ms. George observed that if a communication is submitted to the Commission, their response may be to ask what the Board wishes to be done as well as the timeline for the moratorium. She recommended that the communication include time frames for certain accomplishments to help the process, as well as clarification of some responsibility to be taken by the Board. She concluded that the Commissioners may need to see some of the Board's concerns for themselves, including congestion on the waterway.

Mr. Harrison pointed out that the Board must operate under the restrictions of the Sunshine Law, and may only address these concerns during meetings; however, MIA SF is not limited by this law, and can take a more proactive stance. The Board may then support initiatives brought forward by MIA SF.

Ms. Cohn explained that every Commissioner has been invited to participate in a tour of the New River. The City Manager has also requested a tour for himself and his staff. MIA SF is working on a schedule for these activities. Not all City Commissioners have responded to this suggestion thus far.

Chair Morley commented that part of the issue is the need for education of the City Commissioners, as well as the education of laypersons and the involvement of both homeowners and commercial operators on the New River. He recommended that any communication to the Commission include a suggested "Town Hall" –style meeting which could invite people from all of these groups to participate in the discussion. He emphasized the importance of the river's economic impact on the marine industry, as well as the need for solutions that work for all parties.

Chair Morley continued that the Board's greatest concern is for public safety, noting that the New River is becoming increasingly busy. He emphasized the need for public engagement and education as part of the proposed communication, as the goal is a waterway that can be shared by the public and the marine industry. He echoed Ms. Cohn's earlier concern for the ability of industry professionals to access waterfront properties to install or repair seawalls, docks, and pilings, particularly as homeowners are required to raise their seawalls to a new height. In addition, both commercial and recreational vessels are growing significantly in size.

Mr. McLaughlin expressed concern that homeowners purchasing waterfront properties on the New River may be doing so with the expectation that they can secure a variance and fit a larger boat on their property. Chair Morley added that another issue is the desire of some homeowners on the New River to install multiple docks at the same residence.

Chair Morley asked if Fort Lauderdale's Code Enforcement vessel is regularly staffed. Sgt. O'Neil confirmed that this vessel is actively used by Code Enforcement.

Mr. McLaughlin noted that in the past, homeowners have accepted the limitations the Board has placed on the size of vessels that may be docked at a certain property; however, he asserted that this is not being followed by many of these homeowners, and Code Enforcement may not be aware that these properties are in violation unless they have reviewed the variance permits, particularly if the vessels are within 30% of the width of the waterway. Chair Morley agreed that while the 30% rule may be sufficient for the City's canals, circumstances are different on the New River due to its commercial traffic, and the same rule may contribute to problems there.

Mr. McLaughlin also asked how it is possible to know which properties' construction has been grandfathered, as there may not be records for the installation of structures on a property that were installed prior to the 30% rule. Mr. Cuba advised that most permitting records are on file with the City.

Chair Morley observed that while the average canal in Fort Lauderdale may include noncompliant structures, this is a separate issue from the Board's concerns with the New River, which should be the Board's area of focus.

Mr. McLaughlin recalled that in the past, City Code placed a restriction on how far into the waterway a boat lift may be installed, which led to numerous variance requests before the Board. As a result, the Board developed the solution of placing boat lifts within the same distance as allowed for boats, and submitted this discussion to the Commission, which adopted it.

Chair Morley noted that one of the Board's roles in an advisory capacity is to study issues such as these and make recommendations to the City Commission. Mr. Harrison asked how the Board can move forward between tonight's meeting and the February 2023 meeting to provide input on the proposed communication.

Mr. Cuba stated that while the Sunshine Law prohibits Board members from discussing Board business between themselves outside of meetings, their comments or input can be sent to his office for dissemination. He recommended that the members send him their priorities, which can be consolidated prior to the February 2023 meeting and distributed to the group with the backup materials for that meeting. Chair Morley also suggested that representatives of the marine industry should be encouraged to attend both MAB and City Commission meetings so their concerns are on record.

Mr. Harrison emphasized that the Board remained focused when sending its communication to the City Commission, listing the reasons for the proposed moratorium, what a moratorium would involve, and the expectation that the City will work with the marine industry to develop ideas. He added that the Board should also make it clear that they wish to be part of any advisory groups that might be created to discuss these issues further and possibly work toward crafting any changes to City Ordinances.

Vice Chair Witten advised that it was important for the Board members to meet with the Commissioners who appointed them to explain their concerns. He also emphasized the need to suggest a timeline for the proposed moratorium, as well as the impact of current conditions on commercial operations on the New River. He concluded that it may be necessary to make changes to Code that are not uniform, as the conditions found on the New River are not necessarily problems on the City's canals.

Vice Chair Witten recommended that the proposed moratorium be given a time frame, such as six to nine months, which would allow the Board to further discuss their concerns and possibly arrive at solutions for them.

Chair Morley suggested that a workshop on the New River issues could be scheduled in addition to regular Board meetings. Mr. Cuba pointed out that scheduling another public meeting would require authorization from the City Manager's Office or the Commission.

Ms. Chiarelli suggested that the Board consider scheduling a workshop for further discussion of New River issues. Mr. Cuba advised that a workshop for the purposes of creating a communication to the City Commission would first require Commission or City Manager approval. It was recommended that the New River discussion remain an Agenda Item for the next month so the Board can further discuss and finalize their communication on the topic of a moratorium on waiver requests for the New River.

Mr. McLaughlin noted that on January 10, 2023, a variance request for the New River would go before the City Commission and, if approved, would directly counter the Board's recommendation for a moratorium. Mr. Harrison pointed out that only one member of the MAB may speak on this issue at a Commission meeting, although more members may be in attendance. It was suggested that it may be more useful for members to reach out to their City Commissioners ahead of that meeting to express their concerns.

Chair Morley commented that it is important for the Board not to single out any individual application or applicant, but to convey their concerns about the growing regularity of variance requests on the New River. The Board discussed plans for attendance of the January 10 City Commission meeting, including attendance, restrictions on speakers, and the need to contact City Commissioners in advance of the meeting. Mr. Cuba again clarified that while the full Board membership may attend this upcoming meeting, only one Board member may speak on the item before the Commission. Individuals may also sign up in advance of the meeting to indicate their support for or opposition to any individual items on the Commission's agenda without speaking at the meeting.

Ms. Cohn asked if it would be possible for Board members to attend the MIAASF's waterway tour with Commissioners. Mr. Cuba stated that while members may be invited to attend, only one individual may address business on behalf of the Board, in a similar manner to City Commission meetings.

It was confirmed that this discussion would remain an Agenda Item until the Board has finalized its communication to the City Commission. Chair Morley concluded that he would encourage additional public discussion, including both commercial operators and homeowners.

IX. Old / New Business

Ms. George noted that one item on the upcoming City Commission agenda addresses the replacement of the seawall at Merle Fogg Park. Mr. Cuba explained that the seawall at this location has collapsed. This item did not come before the Board, as it is a Public Works issue.

Ed Rebholz, member of the public, advised that he has submitted a request for appointment to the MAB.

Robert Washington, member of the public, stated that he works in the marine industry and Mr. McLaughlin had invited him to attend tonight's meeting.

X. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 7:37 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.]